

**PROPOSED REVISIONS TO THE RULES OF THE DISTRICT COURT OF THE
ELEVENTH JUDICIAL DISTRICT
PROPOSAL 2025-021**

March 6, 2025

The Eleventh Judicial District Court has recommended the reinstatement of LR11-302 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 5, 2025, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

LR11-302. Automatic sanctions for technical violations by probationers.

A. **Technical Violation Program.** In accordance with Rule 5-805 NMRA, the Eleventh Judicial District Court establishes a technical violation program (TVP) for adult probationers on supervised probation allowing automatic sanctions to occur for technical violations of a probation agreement. Sex offenders (individuals on probation under Section 31-20-5.2 NMSA 1978) are not eligible for the TVP.

B. **Assignment to program.** The court, with the knowing and voluntary consent of the probationer, may order placement of a probationer into the TVP at any time during that person's period of supervised probation. A probationer consenting to participate in the TVP shall be advised by the court prior to being placed in the TVP that to participate the probationer must waive the right to any probation violation procedures and hearings under Rule 5-805 NMRA if the probationer is alleged to have committed a technical violation.

C. **Automatic sanctions adopted.** Under Rule 5-805(C) NMRA, automatic sanctions are hereby adopted for probationers who commit alleged technical violations of probation, who are not under the supervision of the Adult Drug Court, Treatment Court, or the Young Adult Court, or other Eleventh Judicial District Specialty Court Program, and who voluntarily agree, in advance, to the following:

- (1) to not contest the alleged technical violation of probation;
- (2) to submit to sanctions in accordance with this local rule; and

(3) to waive the provisions of Rule 5-805(D)-(L) NMRA.

D. Technical and non-technical violations defined.

(1) Technical Violations of a probation agreement consist of the following acts or events:

(a) urine tests positive for drugs, including spice and pep, or for alcohol if prohibited by order of probation, except where exempted by the judge in the notice and order authorizing TVP;

(b) possessing alcohol, if prohibited by an order of probation;

(c) missing a counseling appointment or group session;

(d) missing a community service appointment;

(e) missing an educational appointment;

(f) failing to inform the probation officer of a traffic citation received;

and,

(g) moving without permission from the probation officer;

(2) Non-technical violations of an order of probation consist of the probationer:

(a) Incurring new criminal charges, supported by probable cause;

(b) Possessing a firearm;

(c) Not reporting pursuant to New Mexico Corrections Department or Adult Probation and Parole Office (APPO) Standard Probation Condition on Reporting (#2); and

(d) All other violations are considered technical.

E. Sanctions. Sanctions for technical violations are as follows:

(1) First violation: up to eight (8) hours of community service;

(2) Second violation: up to sixteen (16) hours of community service;

(3) Third violation: up to forty-eight (48) hours in jail and up to twenty-four (24) hours of community service; and

(4) Fourth violation: up to seven (7) days in jail and up to thirty-two (32) hours of community service.

F. Discretion and additional services allowed. The TVP does not limit the APPO from referring the probationer to counseling or other services, nor does it prohibit the APPO from handling technical violations informally.

G. Failure to complete community service. If a probationer fails to complete any part of the community service imposed under the sanctions described in Paragraph E of this rule, the probationer may be incarcerated for the balance of time remaining under the sanction.

H. Removal from the program. After a hearing, a probationer may be subject to removal from the TVP so that subsequent violations may be prosecuted under Rule 5-805 NMRA for the following reasons:

(1) Committing a fifth technical violation;

(2) Incurring new criminal charges, supported by probable cause;

(3) Absconding or becoming a fugitive from supervision; or

(4) On motion by a party or the court.

I. Other sanctions for technical violations precluded. Sanctions imposed under the TVP for a particular probation violation preclude further sanctions for the probation violation, but the judge may consider the probationer's removal from the TVP at sentencing.

[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; withdrawn by Supreme Court Order No. S-1-RCR-2024-00067, effective February 23, 2024; as reinstated and amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

**No Comments
Received**