

**PROPOSED REVISIONS TO THE CHILDREN'S COURT RULES
PROPOSAL 2026-005**

March 6, 2026

The Children's Court Rules Committee has recommended amendments to Rule 10-312 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, 2026, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

10-312. Filing of petition; amendment of petition; appointment of guardian ad litem or attorney.

A. **Form and contents.** Petitions or amended petitions alleging abuse or neglect shall be in a form approved by the Supreme Court.

B. **Time limits.** If a child is taken into custody, a petition alleging abuse or neglect shall be filed by the department within [~~two (2)~~] three (3) days from the date that the child is taken into emergency custody by the department. If a petition is not filed within the time set forth in this paragraph, the child shall be released to the child's parents, guardian or custodian.

C. **Service.** A petition alleging abuse or neglect shall be served as provided by Rule 10-103 NMRA [~~of these rules~~]. A copy of the petition shall also be served on a parent who has not been made a party with a notice that the parent may intervene and request custody of the child.

D. **Appointment of guardian ad litem or attorney.** Upon the filing of a petition in an abuse or neglect proceeding, a guardian ad litem shall be appointed by the court to represent the best interest of any child under the age of fourteen (14). The court shall appoint an attorney to represent any child who is fourteen (14) years of age or older.

E. **Notice to Indian tribes.** If the alleged abused or neglected child is enrolled or eligible for enrollment in an Indian tribe, the Children, Youth and Families Department shall give notice of the filing of the petition to the child's Indian tribe. The form and manner of the notice

shall comply with the provisions of the New Mexico Indian Family Protection Act and federal Indian Child Welfare Act, [of 1978.]

F. **Amended petitions.** The department may file an amended petition alleging abuse or neglect:

- (1) once as a matter of course at any time within twenty (20) days after it is served; or
- (2) upon leave of court.

[Approved April 1, 1976, Children's Court Rule 42 NMSA 1953; recompiled and amended as Children's Court Rule 57 NMSA 1978; as amended effective February 1, 1982; Rule 10-305 SCRA 1986; as amended effective May 1, 1986; Rule 10-305 NMRA, as amended, effective August 1, 1999; as amended by Supreme Court Order No. 06-8300-004, effective March 15, 2006; Rule 10-305 NMRA, recompiled as Rule 10-312 NMRA by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as amended by Supreme Court Order No. 10-8300-041, effective January 31, 2011; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary. — Rule 10-312 NMRA sets the general procedure and time limits for filing of petitions alleging abuse or neglect.

The approved form of summons in abuse or neglect actions provides notice that the respondent's parental rights may be terminated. Form 10-502 NMRA; NMSA 1978, § 32A-4-29 (2022).

[~~See~~] The process for intervention for noncustodial parents is contained in Rule 10-122 NMRA and [Section] NMSA 1978, § 32A-4-27. [~~NMSA 1978 for rights of non-custodial parents to intervene. See also Section 32A-4-29 NMSA 1978.~~]. The committee views the right to intervene as procedural.

[As amended by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]