

**PROPOSED REVISIONS TO THE RULES OF CRIMINAL PROCEDURE FOR THE
DISTRICT COURTS, THE RULES OF CRIMINAL PROCEDURE FOR THE
MAGISTRATE COURTS, THE RULES OF CRIMINAL PROCEDURE FOR THE
METROPOLITAN COURTS, AND THE CRIMINAL FORMS
PROPOSAL 2026-018**

March 6, 2026

The Rules of Criminal Procedure for State Courts Committee has recommended amendments to Rules 5-208, 6-204, and 7-204 NMRA and Forms 9-210, 9-212, 9-212A, and 9-212B NMRA, and the withdrawal of Forms 9-210A and 9-212C 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.

5-208. Issuance of warrant for arrest and summons.

A. **Time.** On the docketing of any criminal action, the court may issue a summons or arrest warrant.

B. **Preference for summons.** The court shall issue a summons, unless in its discretion, the court finds that the interests of justice would be better served by the issuance of a warrant and if the requirements of Paragraph C of this rule are met.

C. **Basis for warrant.** The court may issue a warrant for arrest on an indictment or a sworn written statement of the facts showing probable cause for issuance of the warrant. The showing of probable cause shall be based on substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished. Before ruling on a request for a warrant the court may require the affiant to appear personally and may examine under oath the affiant and any witnesses the affiant may produce, but the additional evidence shall be reduced to writing and supported by oath or affirmation. The court may also permit a request for

an arrest warrant by any method authorized by Rule 5-211(F) NMRA for search warrants and may issue an arrest warrant remotely if the requirements of Rule 5-211(F) NMRA and this rule are met.

D. Form.

(1) **Warrant.** The warrant shall be signed by the court and shall contain the name of the defendant or, if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty. It shall describe the offense charged and shall command that the defendant be arrested and brought before the court. The warrant may set ~~[conditions of release]~~ bond for the defendant only for:

(a) penalty assessment misdemeanor charges; or

(b) traffic code misdemeanor charges, except for:

(i) driving under the influence of intoxicating liquor or drugs, contrary to Section 66-8-102 NMSA 1978; and

(ii) operating a motorboat while under the influence of intoxicating liquor or drugs, contrary to Section 66-13-3 NMSA 1978.

(2) **Summons.** The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before the court at a stated time and place. A summons or arrest warrant shall be substantially in the form approved by the Supreme Court.

[As amended by Supreme Court Order No. 12 8300 016, effective for all cases pending or filed on or after June 29, 2012; as amended by Supreme Court Order No. 19-8300-018, effective for all cases pending or filed on or after December 31, 2019; as amended by Supreme Court Order No. S-1-RCR-2024-00068, effective for all cases pending or filed on or after May 8, 2024; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary. — When a criminal action is docketed in a magistrate or metropolitan court by the filing of a complaint, either Rule 6-204 NMRA or Rule 7-204 NMRA, which are substantially identical to this rule, will govern the procedure.

Paragraph C of this rule requires a written showing of probable cause before an arrest warrant may be issued. The constitutional basis for this requirement is Article II, Section 10 of the New Mexico Constitution, although that provision does not expressly mention arrest warrants. *Cf. State v. Gibby*, 1967-NMSC-219, 78 N.M. 414, 432 P.2d 258.

Paragraph C of this rule codified case law allowing the issuance of a warrant on probable cause based on hearsay evidence. This provision was taken from Rule 4(b) of the Federal Rules of Criminal Procedure. *See* 48 F.R.D. 553, 55860 (1970); 62 F.R.D. 27172 (1974). Neither the proposed federal rule nor this rule attempts to establish what constitutes probable cause based on hearsay as that determination can only be made on a case by case basis, taking into account the unlimited variation and sources of information and the varying reliability of the information received by the affiant from others. 62 F.R.D. 271, 27374 (1974). The fact that the information may involve double hearsay does not mean that the affidavit fails to provide probable cause. *State v. Alderete*, 1975-NMCA-058, 88 N.M. 14, 536 P.2d 278.

Paragraph C was amended in 2012 to permit alternate methods for requesting and issuing arrest warrants. *See* Rule 5 211(F) and the related committee commentary for more information.

Paragraph D was amended in 2024 to prevent release of defendants arrested on warrants before the defendant's first appearance or other hearing, with exceptions for penalty assessment misdemeanor charges and certain traffic code misdemeanor charges.

In 2019, this rule was amended to incorporate language from rules governing the courts of limited jurisdiction, which express a preference for the use of a summons when practicable. *See* Rule 6-204 NMRA; Rule 7-204 NMRA; Rule 8-203 NMRA. [As amended by Supreme Court Order No. 12 8300 016, effective for all cases pending or filed on or after June 29, 2012; as amended by Supreme Court Order No. 19-8300-018, effective for all cases filed on or after December 31, 2019; as amended by Supreme Court Order No. S-1-RCR-2024-00068, effective for all cases pending or filed on or after May 8, 2024.]

6-204. Issuance of warrant for arrest and summons.

A. **Issuance.** On the docketing of any criminal action the court may issue a summons or an arrest warrant.

B. **Basis for warrant.** The court may issue an arrest warrant only on a sworn statement of the facts showing probable cause that an offense has been committed. The showing of probable cause shall be based on substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing there is a factual basis for the information furnished. Before ruling on a request for a warrant, the court may require the affiant to appear personally and may examine under oath the affiant and any witnesses produced by the affiant, but the additional evidence shall be reduced to writing and supported by oath or affirmation. The court also may permit a request for an arrest warrant by any method authorized by Paragraph G of Rule 6-208 NMRA for search warrants and may issue an arrest warrant remotely if the requirements of Paragraph H of Rule 6-208 NMRA and this rule are met.

C. **Preference for summons.** If the offense is within magistrate court trial jurisdiction, the court shall issue a summons, unless in its discretion, the court finds that the interests of justice may be better served by the issuance of a warrant for arrest.

D. **Form.**

(1) **Warrant.** The warrant shall be signed by the court and shall contain the name of the defendant or, if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty. It shall describe the offense charged. It shall command that the defendant be arrested and brought before the court. The warrant may set ~~[conditions of release]~~ bond for the defendant only for:

- (a) penalty assessment misdemeanor charges; or
- (b) traffic code misdemeanor charges, except for:
 - (i) driving under the influence of intoxicating liquor or drugs, contrary to Section 66-8-102 NMSA 1978; and
 - (ii) operating a motorboat while under the influence of intoxicating liquor or drugs, contrary to Section 66-13-3 NMSA 1978.

(2) **Summons.** The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before the court at a stated time and place. A summons or arrest warrant shall be substantially in the form approved by the Supreme Court.

[As amended, effective July 1, 1988; as amended by Supreme Court Order No. 13-8300-011, effective for all cases pending or filed on or after July 15, 2013; as amended by Supreme Court Order No. 15-8300-008, effective for all cases pending or filed on or after December 31, 2015; as amended by Supreme Court Order No. 19-8300-018, effective for all cases filed on or after December 31, 2019; as amended by Supreme Court Order No. S-1-RCR-2024-00068, effective

for all cases pending or filed on or after May 8, 2024; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary.— Paragraph A was amended in 2013 to permit alternate methods for requesting and issuing arrest warrants. *See* Rule 6-208 NMRA and the related committee commentary for more information.

Paragraph C was amended in 2019 to be consistent with Rule 5-208 NMRA, which was amended at the same time.

Paragraph D was amended in 2024 to prevent release of defendants arrested on warrants before the defendant’s first appearance or other hearing, with exceptions for penalty assessment misdemeanor charges and certain traffic code misdemeanor charges.

[Adopted by Supreme Court Order No. 13-8300-011, effective for all cases pending or filed on or after July 15, 2013, as amended by Supreme Court Order No. 19-8300-018, effective for all cases filed on or after December 31, 2019; as amended by Supreme Court Order No. S-1-RCR-2024-00068, effective for all cases pending or filed on or after May 8, 2024.]

7-204. Issuance of warrant for arrest and summons.

A. **Issuance.** On the docketing of any criminal action the court may issue a summons or an arrest warrant.

B. **Basis for warrant.** The court may issue an arrest warrant only on a sworn statement of the facts showing probable cause that an offense has been committed. The showing of probable cause shall be based on substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing there is a factual basis for the information furnished. Before ruling on a request for a warrant, the court may require the affiant to appear personally and may examine under oath the affiant and any witnesses produced by the affiant, but the additional evidence shall be reduced to writing and supported by oath or affirmation. The court also may permit a request for an arrest warrant by any method authorized by Paragraph F of Rule 7-208 NMRA for search warrants and may issue an arrest warrant remotely if the requirements of Paragraph G of Rule 7-208 NMRA and this rule are met.

C. **Preference for summons.** The court shall issue a summons, unless in its discretion, the court finds that the interests of justice may be better served by the issuance of an arrest warrant.

D. **Form.**

(1) **Warrant.** The warrant shall be signed by the court and shall contain the name of the defendant or, if the defendant’s name is unknown, any name or description by which the defendant can be identified with reasonable certainty. It shall describe the offense charged. It shall command that the defendant be arrested and brought before the court. The warrant may set ~~conditions of release~~ bond for the defendant only for:

- (a) penalty assessment misdemeanor charges; or
- (b) traffic code misdemeanor charges, except for:
 - (i) driving under the influence of intoxicating liquor or drugs, contrary to Section 66-8-102 NMSA 1978; and
 - (ii) operating a motorboat while under the influence of intoxicating liquor or drugs, contrary to Section 66-13-3 NMSA 1978.

(2) **Summons.** The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before the court at a stated time and place. A summons or arrest warrant shall be substantially in the form approved by the Supreme Court.

[As amended by Supreme Court Order No. 13-8300-011, effective for all cases pending or filed on or after July 15, 2013; amended by Supreme Court Order No. 15-8300-008, effective for all cases pending or filed on or after December 31, 2015; as amended by Supreme Court Order No. 19-8300-018, effective for all cases pending or filed on or after December 31, 2019; as amended by Supreme Court Order No. S-1-RCR-2024-00068, effective for all cases pending or filed on or after May 8, 2024; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary. — Paragraph A was amended in 2013 to permit alternate methods for requesting and issuing arrest warrants. *See* Rule 7-208 NMRA and the related committee commentary for more information.

Paragraph C was amended in 2019 to be consistent with Rule 5-208 NMRA, which was amended at the same time.

Paragraph D was amended in 2024 to prevent release of defendants arrested on warrants before the defendant’s first appearance or other hearing, with exceptions for penalty assessment misdemeanor charges and certain traffic code misdemeanor charges.

[Adopted by Supreme Court Order No. 13-8300-011, effective for all cases pending or filed on or after July 15, 2013; as amended by Supreme Court Order No. 19-8300-018, effective for all cases pending or filed on or after December 31, 2019; as amended by Supreme Court Order No. S-1-RCR-2024-00068, effective for all cases pending or filed on or after May 8, 2024.]

9-210. Warrant for arrest.

[For use with District Court Rule 5-210 NMRA
Magistrate Court Rule 6-206 NMRA,
Metropolitan Court Rule 7-206 NMRA, and
Municipal Court Rule 8-806 NMRA]

STATE OF NEW MEXICO
[COUNTY OF _____]
[CITY OF _____]
_____ COURT

No. _____

[STATE OF NEW MEXICO]
[COUNTY OF _____]
[CITY OF _____]

v.

_____, Defendant

Alias: _____
Address: _____

DOB: _____ SSN: _____ Height: _____
 Weight: _____ License #: _____ State: _____ Sex: _____
 Eye color: _____ Hair color: _____
 Scars, marks, and tattoos: _____

 Vehicle (*make, model, year and color, if known*)

WARRANT FOR ARREST

THE [STATE OF NEW MEXICO] [CITY OF _____]

TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT¹:

BASED ON A FINDING OF PROBABLE CAUSE, YOU ARE COMMANDED to arrest the above-named defendant and bring the defendant without unnecessary delay before this court²: to answer the charge of (*here state common name and description of offense charged*):

contrary to Section(s) _____ (NMSA 1978) (OF THE MUNICIPAL ORDINANCE OF THIS MUNICIPALITY). [~~THIS WARRANT MAY BE EXECUTED:~~]

THIS WARRANT MAY BE EXECUTED:

- in any jurisdiction;
- anywhere in this state;
- anywhere in this county;
- anywhere in this city.

The person obtaining this warrant shall cause it to be entered into a law enforcement information system³:

- maintained by the state police.
- _____ (*identify other law enforcement information system*).

Bond may only be set in penalty assessment misdemeanor or traffic code misdemeanor cases (except for driving under the influence of intoxicating liquor or drugs, contrary to Section 66-8-102 NMSA 1978, and operating a motorboat while under the influence of intoxicating liquor or drugs, contrary to Section 66-13-3 NMSA 1978):

- Release on unsecured bond in the amount of \$ _____
- Release on secured bond in the amount of \$ _____ (cash or surety) (10% cash)
- Other: _____

If the defendant is a child, the child is not eligible for bond unless a notice of intent to seek adult sanctions has been filed.

Dated this _____ day of _____, _____.

Judge

Prosecuting attorney: _____

By: _____

Date: _____

Originating officer: _____

Originating agency: _____

RETURN WHERE DEFENDANT IS FOUND

I arrested the above-named defendant on the _____ day of _____, _____, and served a copy of this warrant on the _____ day of _____, _____ and caused this warrant to be removed from the warrant information system identified in this warrant.

Signature

Title

USE NOTES

1. An arrest warrant may be directed to a full-time salaried state or county law enforcement officer, a municipal police officer, a campus security officer, or an Indian tribal or pueblo law enforcement officer.

2. If the judge is unavailable, defendant must be brought before designee for setting of conditions of release. A defendant accused of a bailable offense may not be held without the setting of conditions of release. (Rules 5-401, 6-401, 7-401, 8-401 NMRA.)

3. All district court, metropolitan court, and magistrate court felony, misdemeanor, and driving while under the influence of intoxicating liquor or drugs warrants must be entered into a law enforcement information system.

[As amended, effective July 1, 1999; March 1, 2000; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[WITHDRAWN]

~~[9-210A. Warrant for arrest; return where defendant is found.~~

~~[For use with District Court Criminal Rule 5-210 NMRA]~~

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

-
-
-

No. _____

Warrant No. _____

Judge _____

STATE OF NEW MEXICO

v.

_____, Defendant

WARRANT FOR ARREST

~~THE STATE OF NEW MEXICO TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT¹:~~

~~BASED ON A FINDING OF PROBABLE CAUSE, YOU ARE COMMANDED to arrest the above named defendant and bring the defendant without unnecessary delay before this court² to answer the charge of (here state common name and description of offense charged):~~

contrary to Section(s) _____ NMSA 1978.

Conditions of release in penalty assessment misdemeanor or traffic code misdemeanor cases (except for driving under the influence of intoxicating liquor or drugs, contrary to Section 66-8-102 NMSA 1978, and operating a motorboat while under the influence of intoxicating liquor or drugs, contrary to Section 66-13-3 NMSA 1978):

The court sets the following conditions of release upon the arrest of the defendant:

release on unsecured bond in the amount of \$ _____

release on secured bond in the amount of \$ _____ (cash only) (10% cash) (surety)

other: _____

Dated this _____ day of _____, _____

Judge

Description of defendant:

Name _____

Alias _____

Date of birth _____

Social Security No. _____

Address _____

Sex (male) (female) Height _____ Weight _____

Hair color _____ Eyes _____

Scars, marks and tattoos:

Vehicle (make, model, year and color, if known)

Extradition information:

The State will extradite the defendant: (check and complete)

from any contiguous state

from anywhere in the continental United States

from any other State

from anywhere

Prosecuting attorney: _____

By: _____

Date: _____

Originating officer _____

Originating agency _____

RETURN WHERE DEFENDANT IS FOUND

I ~~arrested the above named defendant on the _____ day of _____, _____, and served a copy of this warrant on the _____ day of _____, _____ and caused this warrant to be removed from the warrant information system identified in this warrant.~~

Signature

Title

USE NOTES

1. ~~An arrest warrant may be directed to a full-time salaried state or county law enforcement officer, a municipal police officer, a campus security officer, or an Indian tribal or pueblo law enforcement officer.~~

2. ~~If the judge is unavailable, defendant must be brought before designee for setting of conditions of release. A defendant accused of a bailable offense may not be held without the setting of conditions of release.]~~

[Approved, effective June 1, 1999; as amended by Supreme Court Order No. S-1-RCR-2024-00068, effective for all cases pending or filed on or after May 8, 2024; withdrawn by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

9-212. Bench warrant.

[For use with District Court Criminal Rule 5-209 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT

No. _____

STATE OF NEW MEXICO

v.

_____, Defendant

Alias: _____
Address: _____
DOB: _____ SSN: _____ Height: _____
Weight: _____ License #: _____ State: _____ Sex: _____
Eye color: _____ Hair color: _____
Scars, marks, and tattoos: _____

Vehicle (make, model, year and color, if known)

BENCH WARRANT

THE STATE OF NEW MEXICO TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

YOU ARE HEREBY COMMANDED to arrest _____ and bring (*him*) (*her*) forthwith before this court to answer the following charges:
(*check appropriate box or boxes*)

- grand jury indictment filed on _____ (*date*) on the following charges:
_____.
- failure to appear at the time and place ordered by this court.
- failure to appear as required by a subpoena issued by this court.
- failure to appear in accordance with the conditions of release imposed by this court.
- conditions of release previously imposed should be revoked or reviewed.
- contempt of court.
- failure to pay fines or costs previously imposed.
- failure to comply with conditions of probation.

other: _____
_____.

THIS WARRANT MAY BE EXECUTED:

- in any jurisdiction;
- anywhere in this state;
- anywhere in this county;
- anywhere in this city.

Bond provisions:

[Bond is set in the amount of \$ _____ (*cash bond 10% of bond*) (*surety*) (*property bond*).]

- Release on unsecured bond in the amount of \$ _____
- Release on secured bond in the amount of \$ _____ (*cash or surety*) (*10% cash*)
- Other: _____

If the defendant is a child, the child is not eligible for bond unless a notice of intent to seek adult sanctions has been filed.

Judge

[Description of defendant:

Name _____
Alias _____
Date of birth _____
Social Security No. _____
Address _____
Sex (*male*) (*female*) Height _____ Weight _____
Hair color _____ Eyes _____
Scars, marks and tattoos: _____

Vehicle (*make, model, year and color, if known*)

Extradition Information:

The State will extradite the defendant from:
(*check and complete*)

- any contiguous state.
- anywhere in the continental United States.
- any other state.
- anywhere.]

Prosecuting attorney: _____

By: _____
Date: _____
Originating officer: _____
Originating agency: _____

RETURN

I arrested the above-named person on the _____ day of _____, _____,
by taking such person into custody.

Signature

Title

[As amended, effective January 1, 1996; October 7, 1999; as amended by Supreme Court Order
No. _____, effective for all cases pending or filed on or after _____.]

9-212A. Bench warrant.

[For use with [Rule] Rules 6-207, 7-207, and 8-206 NMRA]

STATE OF NEW MEXICO
[COUNTY OF _____]
[~~IN THE METROPOLITAN COURT~~]
[CITY OF _____]
_____ COURT

No. _____

[STATE OF NEW MEXICO]
[COUNTY OF _____]
[CITY OF _____]

v.

_____, Defendant

[DOB: _____]

Address: _____

S.S.# _____]

Alias: _____

Address: _____

DOB: _____ SSN: _____ Height: _____

Weight: _____ License #: _____ State: _____ Sex: _____

Eye color: _____ Hair color: _____

Scars, marks, and tattoos: _____

Vehicle (*make, model, year and color, if known*)

BENCH WARRANT

THE [STATE OF NEW MEXICO] [MUNICIPALITY OF _____]

TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

YOU ARE HEREBY COMMANDED to arrest the above-named defendant and bring the defendant before this court to answer the following charges checked below unless released as indicated in the return:

(check applicable box and describe facts below)

- failure to appear as ordered by this court on _____;
- failure to appear as required by a subpoena issued by this court for _____;
- failure to appear in accordance with the conditions of release imposed by this court for _____;
- conditions of release previously imposed should be revoked or reviewed;
- contempt of court for _____;
- failure to pay fines or costs previously imposed by order entered _____ (date);
- failure to comply with conditions of probation as set forth in an order entered _____ (date);
- failure to appear at first offender program on _____;
- other _____ (*set forth any additional essential facts underlying issuance of this warrant.*)

(check and complete, if applicable)

~~The defendant failed to appear either on a traffic citation other than a citation issued for a violation listed in NMSA 1978, Section 66-8-122 or NMSA 1978, Section 66-8-125 or a citation issued by an official authorized by law and may be released on a plea of guilty and payment of \$ _____;~~

The defendant failed to appear either on a traffic citation (*other than a citation issued for a violation listed in NMSA 1978, Sections 66-8-122 or 66-8-125, or similar municipal ordinance*) or a citation issued by an official authorized by law and may be released on a plea of guilty and payment of \$ _____;¹

~~{OR}~~

The defendant failed to pay fines and costs as ordered by the court and the defendant may be released upon payment of the outstanding fine and court costs in the amount of \$ _____;

OR

other _____ (*set forth any additional essential facts underlying issuance of this warrant.*)

[OR]

[] The defendant may be released on bond in the amount of \$ _____.]

THIS WARRANT MAY BE EXECUTED:

[] in any jurisdiction;²

[] anywhere in this state;

[] anywhere in this county;

[] anywhere in this city.

Bond provisions:

[] Release on unsecured bond in the amount of \$ _____

[] Release on secured bond in the amount of \$ _____

[] Other: _____

[THIS WARRANT MAY BE EXECUTED:]

[] in any jurisdiction;²

[] anywhere in this state;

[] anywhere in this county;

[] anywhere in this city.]

The clerk of this court shall cause this warrant to be entered into a law enforcement information system^[+]³:

[] maintained by the state police.

[] _____ (*identify other law enforcement information system*).

Date

Judge

RETURN

The defendant was arrested and taken into custody on the _____ day of _____,

[] The defendant was released on bond in the amount set forth above.

[] The defendant was released upon receipt of the fine and court costs set forth above.

I have caused this warrant to be removed from the law enforcement information system identified in this warrant.

Signature

Title

USE NOTES

1. If the court checks this alternative, it must also check the alternative regarding bond.

2. The warrant may be executed in “any jurisdiction” only if it is a felony warrant.

[1-] 3. All metropolitan and magistrate court felony, misdemeanor, and driving while under the influence of intoxicating liquor or drugs warrants must be entered into a law enforcement information system.

[Effective, January 1, 1993; as amended, effective January 1, 1995; January 1, 1996; July 1, 1999; as amended by Supreme Court Order No. 07-8300-034, effective January 22, 2008; as amended by Supreme Court Order No. S-1-RCR-2023-00038, effective for all cases pending or filed on or after October 9, 2025; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

9-212B. Juvenile traffic bench warrant.

[For use with Rules 6-207, 7-207, and 8-206 NMRA]

STATE OF NEW MEXICO
[COUNTY OF _____]
[CITY OF _____]
IN THE _____ COURT

No. _____

[STATE OF NEW MEXICO]
[COUNTY OF _____]
[CITY OF _____]

v.

_____, Defendant

[DOB: _____]

Address: _____

S.S.# _____]

Alias: _____

Address: _____

DOB: _____ SSN: _____ Height: _____

Weight: _____ License #: _____ State: _____ Sex: _____

Eye color: _____ Hair color: _____

Scars, marks, and tattoos: _____

Vehicle (make, model, year and color, if known)

JUVENILE TRAFFIC BENCH WARRANT¹

(check applicable box)

RESTRICTION ON WARRANT.² The defendant is a juvenile. Arrest the defendant only during court hours after confirming a judge is available for immediate appearance. Do not incarcerate this defendant.

UNRESTRICTED WARRANT.³ A children's court judge has approved the arrest and incarceration of this juvenile.

THE (STATE OF NEW MEXICO) (MUNICIPALITY OF _____)

TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

YOU ARE COMMANDED to arrest the above-named defendant and bring the defendant before this court to answer the following charges checked below unless released as indicated in the return:

(check applicable box and describe facts below)

failure to appear as ordered by this court on _____;

failure to appear as required by a subpoena issued by this court for _____;

failure to appear in accordance with the conditions of release imposed by this court for _____;

conditions of release previously imposed should be revoked or reviewed;

contempt of court for _____

failure to pay fines or costs previously imposed by order entered _____ (date);

failure to comply with conditions of probation as set forth in an order entered _____ (date);

failure to appear at first offender program on _____;

other _____.

(set forth any additional essential facts underlying issuance of this warrant.)

_____]

[check and complete, if applicable]

The defendant failed to appear either on a traffic citation (other than a citation issued for a violation listed in NMSA 1978, Sections 66-8-122 or 66-8-125) or a citation issued by an official authorized by law and may be released on a plea of guilty and payment of \$ _____];

[OR]

The defendant failed to pay fines and costs and defendant may be released upon payment of the outstanding fine and court costs in the amount of \$ _____];

other _____

(set forth any additional essential facts underlying issuance of this warrant.)

_____.

[OR

The defendant may be released on bond in the amount of \$ _____.]

THIS WARRANT MAY BE EXECUTED:

- in any jurisdiction;
- anywhere in this state;
- anywhere in this county
- anywhere in this city.

Bond provisions:

- Release on unsecured bond in the amount of \$ _____
- Release on secured bond in the amount of \$ _____ (cash or surety) (10% cash)
- Other: _____

The defendant is not eligible for bond unless a notice of intent to seek adult sanctions has been filed.

[THIS WARRANT MAY BE EXECUTED:

- in any jurisdiction;
- anywhere in this state;
- anywhere in this county;
- anywhere in this city.]

The clerk of this court shall cause this warrant to be entered into a law enforcement information system⁴:

- maintained by the state police.
- _____ (*identify other law enforcement information system*).

Date

Judge

Prosecuting attorney: _____

By: _____

Date: _____

Originating officer: _____

Originating agency: _____

RETURN

The defendant was arrested and taken into custody on the _____ day of _____,

- The defendant was released on bond in the amount set forth above;
 - The defendant was released upon receipt of the fine and court costs set forth above.
- I have caused this warrant to be removed from the law enforcement information system identified in this warrant.

Signature

Title

USE NOTES

1. This form may be used in municipal, magistrate, or metropolitan court traffic cases.
2. Check this alternative unless a children's court judge has authorized the incarceration of the juvenile. See NMSA 1978, Section 32A-2-29 for the procedure to be followed when a child is to be incarcerated.
3. Check this alternative if a children's court judge has authorized that the juvenile be arrested and incarcerated under NMSA 1978, Section 32A-2-29.
4. All metropolitan court and magistrate court felony, misdemeanor, and driving while under the influence of intoxicating liquor or drugs warrants must be entered into a law enforcement information system.

[Approved, effective March 1, 2000; as amended by Supreme Court Order No. S-1-RCR-2023-00038, effective for all cases pending or filed on or after October 9, 2025; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[WITHDRAWN]

[9-212C. Bench warrant.]

[For use with Rules 6-207 and 8-206 NMRA]

~~STATE OF NEW MEXICO~~

~~[COUNTY OF _____]~~

~~[CITY OF _____]~~

~~_____ COURT~~

~~[STATE OF NEW MEXICO]~~

~~[COUNTY OF _____]~~

~~[CITY OF _____]~~

v.

No. _____

_____, Defendant.

DOB: _____
Address: _____
S.S.#: _____
Charging Police Department _____
Charges _____

BENCH WARRANT

THE (STATE OF NEW MEXICO) (MUNICIPALITY OF _____)

TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

YOU ARE HEREBY COMMANDED to arrest the above-named defendant and bring the defendant before this court to answer the following charges checked below unless released as indicated in the return:

(check applicable box and describe facts below)

- failure to appear as ordered by this court on _____;
- failure to appear as required by a subpoena issued by this court for _____;
- failure to appear in accordance with the conditions of release imposed by this court for _____;
- conditions of release previously imposed should be revoked or reviewed;
- contempt of court for _____;
- failure to pay fines or costs previously imposed by order entered _____
(date);
- failure to comply with conditions of probation as set forth in an order entered _____
(date);
- failure to appear at first offender program on _____;
- other _____

(set forth any additional essential facts underlying issuance of this warrant).

(check and complete, if applicable)

1. BOND: The defendant may be released on **bond** in the amount of \$ _____.

OR

2. PAYMENT: The defendant failed to appear either on a traffic citation (*other than a citation issued for a violation listed in NMSA 1978, Sections 66-8-122 or 66-8-125, or similar municipal ordinance*) or a citation issued by an official authorized by law and may be released on a plea of guilty and **payment** of \$ _____.¹

OR

3. PAYMENT: The defendant failed to pay fines and costs as ordered by the court and defendant may be released upon **payment** of the outstanding fine and court costs in the amount of \$ _____.

THIS WARRANT MAY BE EXECUTED:

- in any jurisdiction;²
- anywhere in this state;
- anywhere in this county;
- anywhere in this city.

The clerk of this court shall cause this warrant to be entered into a law enforcement information system³:

maintained by the state police.
 _____ (identify other law enforcement information system).

Date

Judge

RETURN

The defendant was arrested and taken into custody on the _____ day of _____,
_____.

The defendant was released on bond in the amount set forth above.

The defendant was released upon receipt of the fine and court costs set forth above.

I have caused this warrant to be removed from the law enforcement information system identified
in this warrant.

Signature

Title

USE NOTES

1. ~~If the court checks alternative 2, it must also check alternative 1.~~
2. ~~The warrant may be executed in “any jurisdiction” only if it is a felony warrant.~~
3. ~~All magistrate court felony, misdemeanor, and driving while under the influence of intoxicating liquor or drugs warrants must be entered into a law enforcement information system.]~~

[Approved by Supreme Court Order No. 07-8300-034, effective January 22, 2008; as amended by Supreme Court Order No. 13-8300-005, effective for all cases pending or filed on or after May 5, 2013; as amended by Supreme Court Order No. S-1-RCR-2023-00038, effective for all cases pending or filed on or after October 9, 2025; withdrawn by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]



**STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT**

Marie Ward
Chief Judge

400 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 841-7392

April 3, 2026

Elizabeth A. Garcia, Chief Clerk of the Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe NM 87504-0848

Via email only to nmsupremecourtclerk@nmcourts.gov

Re: Proposed Amendments to the Supreme Court Rules

Dear Ms. Garcia,

We wish to submit public comment to the proposed amendments to the Supreme Court Rules as outlined more specifically below.

Rule 23-118 Juror term of service.

A juror's term of service shall not exceed three (3) months. Each judicial district may, in its discretion ~~and in consultation with the Administrative Office of the Courts~~, establish terms of jury service not to exceed three (3) months based on the number of trials held, the availability of jurors, and the administrative and financial impact for that judicial district.

Comment: It is recommended that terms of jury service should be left to the discretion of the individual courts. While the SJDC does not have an issue with the term not exceeding three (3) months, it is aware that the more rural districts may be negatively impacted. Different districts will have different needs and considerations that impact what term makes sense in their district and the districts are in the best position to weigh those considerations.

Rule 5-602.1. Competency

G. Evaluation order.

(2) a provision requiring the evaluator to file a written report with the court in accordance with Paragraph H of this rule within a reasonable time period as ordered by the court. ~~thirty (30) days of the entry of the order, unless the court orders the report to be filed at another time [; and].~~

Comment: It is recommended to allow individual jurisdictions to determine a reasonable time for submission of the report after evaluation is ordered, based on the availability of resources in the jurisdiction.

(a) If ~~the defendant fails to appear for~~ a competency evaluation is cancelled, or the court and/or defense counsel is unable to locate the defendant or an address for the defendant, the evaluator or entity scheduling the evaluations shall notify the court, giving a reason for the cancellation, if known, and the court shall make a record of the reason, if known, for the failure to appear for the cancellation; and

Comment: It is recommended not to use the 'failure to appear' language as reasons for cancellation of an evaluation may include many different circumstances that may be beyond the control of the defendant.

(b) The court may issue a new or amended order for competency evaluation restarting the ~~thirty (30) day~~ time period to file a written report upon notification by the evaluator for the reason for failure to appear for cancellation of the scheduled competency evaluation or cancellation of a bench warrant for the defendant's arrest.

Comment: It is recommended to remove the thirty-day language to be consistent with the time period may have been originally ordered. It is also recommended to replace 'failure to appear' language with cancellation of a scheduled evaluation to include other circumstances for a cancellation beyond failure to appear.

5.602.2. Proceedings after a finding of incompetency.

C. Cases transferred to the district court and restoration to competency. If a defendant is restored to competency in a case that was transferred to the district court under Rules 6-507.1, 7-507.1, or 8-507.1 NMRA, the district court shall remand the case to the originating court within two (2) days of the finding of competency.

Comment: It is recommended to include the metropolitan rule as cases are also transferred to the district court following a finding of incompetency under 7-507.1(C)(5) NMRA.

F. Finding of dangerousness

(4)(a) If the court finds the defendant ~~[competent]~~ is restored to competency, the court shall set the matter for trial or, in a case transferred to the district court under Rules 6-507.1, 7-507.1 or 8-507.1, remand the case within two (2) days to the originating court. The court may order continued care or treatment until the conclusion of the criminal proceedings if the defendant is in need of continued care or treatment and the Department agrees to continue to provide it.

Comment: It is recommended to include the metropolitan rule as cases are also transferred to the district court following a finding of incompetency under 7-507.1(C)(5) NMRA.

H. Criminal commitment; hearing. If the court determines that there is not a substantial probability that a defendant charged with an offense set forth in ~~[Subparagraph (G)(1) of this rule is not likely to attain]~~ NMSA 1978, Sections 32A31-9-1.4(A) (or 32A31-9-1.5(A) will be restored to competency within nine (9) months of the original finding of incompetency, the court shall hold a commitment hearing to determine whether there is clear and convincing evidence [that] of the [defendant] defendant's guilt if the defendant is charged with one of the enumerated charges outlined in Section 31-9-1.5(A) [committed the criminal act charged]. The court shall decide the issue without a jury, and may admit hearsay or affidavit evidence on secondary matters as permitted by law.

Comment: It is recommended to correct the statute citation to conform to the competency statute.

9-210. Warrant for arrest.

9-212. Bench Warrant.

Comment: It is recommended to include extradition language in 9-210 and to retain the extradition language in 9-212, as it needs to be clear, whether extradition is sought and how the extradition is being authorized. The topic of extradition—and ensuring only defendants that the state intends to prosecute be extradited—has come up in the Second as a concern from the Bernalillo County Sherriff's Office on numerous occasions.

Extradition information:

The State will extradite the defendant:

(check and complete)

[] from any contiguous state

[] from anywhere in the continental United States

[] from any other State

[] from anywhere

Prosecuting attorney: _____

By: _____

Date: _____

Originating officer _____

Originating agency _____

Rule 11-515 U Visa, T Visa, VAWA Self-Petition, and Cancellation of Removal Application Privilege.

Comment: It is recommended to make the rule more expansive and explicit consistent with Ramirez v. Marsh, 2025-NMSC-050, to clarify and explain that the fact of an application for U/T Visa and VAWA self-petition is not privileged and to clarify the acceptable parameters for cross examination related to the information obtained regarding U/T Visa and VAWA self-petition, if any.

Rules 5-111, 5-117, 5-506, 22-201, 22-206, 22-301, 22-302 and 22-303 and withdrawal of Rule 1-092.

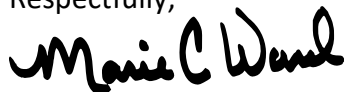
Comment: The Second Judicial District Court supports the recommendations/comments submitted by the Judicial Technology Council concerning proposed amendments pursuant to its letter of March 5, 2026 and recommends consistency as applied to Children and Criminal Rules of Procedure.

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

Comment: The Second Judicial District supports the proposed changes to Rule 10-312.

The Second Judicial District Court greatly appreciates the work of the Supreme Court and the Committees in drafting the proposed rule amendments. The Second Judicial District Court is grateful for the opportunity to provide public comment. Thank you for your consideration.

Respectfully,



Marie C. Ward

Chief Judge

Second Judicial District Court