10-243. Adjudication in delinquency proceedings; time limits.

A. **Child in detention.** If the child is in detention, the adjudicatory hearing shall be commenced within thirty (30) days from whichever of the following events occurs latest:

(1) the date the petition is served on the child;

(2) the date the child is placed in detention;

(3) if an issue is raised concerning the child's competency to participate at the adjudicatory hearing, the date an order is entered finding the child is competent to participate at the adjudicatory hearing. The court may order periodic judicial reviews pending completion of the competency evaluation. At each judicial review the child's attorney shall advise the court of the status of the evaluation;

(4) if the proceedings have been stayed pursuant to Rule 10-242 NMRA on a finding of incompetency to stand trial, the date an order is filed finding the child competent to participate in an adjudicatory hearing;

(5) if a mistrial is declared or a new adjudicatory hearing is ordered by the children's court, the date such order is filed;

(6) in the event of an appeal, the date the mandate or order is filed in the children's court disposing of the appeal;

(7) if the child fails to appear at any time set by the court, the date the child is taken into custody in this state after the failure to appear or the date an order is entered quashing the warrant for failure to appear. If the child is taken into custody in another state, the thirty (30) days shall begin to run on the date the child is returned to this state;

(8) the date the court allows the withdrawal of a plea or rejects a plea; or

(9) if a notice of intent has been filed alleging the child is a "youthful offender," as that term is defined in the Children's Code [Chapter 32A NMSA 1978], the return of an indictment or the filing of a [~~bind over~~] bind-over order that does not include a "youthful offender" offense.

B. **Child not in detention.** If the child is not in detention, or has been released from detention prior to the expiration of the time limits set forth in this rule for a child in detention, the adjudicatory hearing shall be commenced within one-hundred twenty (120) days from whichever of the following events occurs latest:

(1) the date the petition is served on the child;

(2) if an issue is raised concerning the child's competency to participate at the adjudicatory hearing, the date an order is entered finding the child is competent to participate at the adjudicatory hearing;

(3) if the proceedings have been stayed on a finding of incompetency to participate in the adjudicatory hearing, the date an order is filed finding the child competent to participate in an adjudicatory hearing;

(4) if a mistrial is declared or a new adjudicatory hearing is ordered by the children's court, the date such order is filed;

(5) in the event of an appeal, the date the mandate or order is filed in the children's court disposing of the appeal;

(6) if the child fails to appear at any time set by the court, the date the child is taken into custody in this state after the failure to appear or the date an order is entered quashing the warrant for failure to appear. If the child is taken into custody in another state, the one-hundred twenty (120) days shall begin to run on the date the child is returned to this state;

(7) the date the court allows the withdrawal of a plea or rejects a plea; or

(8) if a notice of intent has been filed alleging the child is a "youthful offender," as that term is defined in the Children's Code, the return of an indictment or the filing of a [~~bind over~~]bind-over order that does not include a "youthful offender" offense.

C. **Multiple petitions.** If more than one petition is pending, the time limits applicable to each petition shall be determined independently.

D. **Extensions of time.** For good cause shown, the time for commencement of an adjudicatory hearing may be extended by the children's court, [~~provided that~~] but the aggregate of all extensions granted by the children's court shall not exceed ninety (90) days, except upon a showing of exceptional circumstances. [~~An order granting an extension shall be in writing and shall state the reasons supporting the extension.~~] An order extending time beyond the ninety (90)-day limit set forth in this paragraph shall not rely solely on circumstances that were used to support another extension, but the court may consider the totality of the circumstances existing at the time of the present motion seeking extension.

E. **Procedure for extensions of time.**

(1) **Motion seeking extension of time.** The party seeking an extension of time shall file with the clerk of the children's court a motion for extension concisely stating the facts that support an extension of time to commence the adjudicatory hearing. The motion shall be filed within the applicable time limit prescribed by this rule. [~~, except that it may be filed within ten (10) days after the expiration of the applicable time limit if it is based on exceptional circumstances beyond the control of the parties or trial court which justify the failure to file the motion within the applicable time limit.~~] A party seeking an extension of time shall [~~forthwith~~] serve a copy of the motion [~~thereof~~] on opposing counsel. Within five (5) days after service of the motion, opposing

counsel may file an objection to the extension setting forth the reasons for such objection. [~~No hearing shall be held except upon order of the children's court. If the children's court grants an extension beyond the applicable time limit, it shall set the date upon which the adjudicatory hearing must commence.~~]

(2) **Order extending time.** An order granting an extension of time shall

(a) be in writing,

(b) state the reasons supporting the extension, and

(c) set the date by which the adjudicatory hearing must commence.

F. **Effect of noncompliance with time limits.**

(1) The children's court may deny an untimely motion for extension of time, or the children's court may grant [~~it~~] an untimely motion for extension of time only if the moving party failed to act because of excusable neglect or exceptional circumstances. If the children's court grants the untimely motion for extension of time, it may impose other sanctions or remedial measures, as the court may deem appropriate in the circumstances.

(2) The children's court shall not grant any untimely motion for extension of time if that motion is filed more than ten (10) days after the expiration of the time limits provided in this rule.

[~~(2)~~](3)In the event the adjudicatory hearing of any person does not commence within the time limits provided in this rule, including any court-ordered extensions, the case shall be dismissed with prejudice.

G. **Time waiver.** These limits may be waived through a waiver of time limits under NMSA 1978, Section 32A-2-7 [~~NMSA 1978~~].

[As amended, effective February 1, 1997; May 15, 2000; as recompiled and amended by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as amended by Supreme Court Order No. 09-8300-003, effective April 6, 2009; as amended by Supreme Court Order No. 14-8300-015, effective for all cases filed on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-017, effective for all cases filed or pending on or after December 31, 2015; as amended by Supreme Court Order No. S-1-RCR-2025-00129, effective for all cases pending or filed on or after December 31, 2026.]

Committee commentary. — The adjudicatory hearing is sometimes described in the Children's Code as the "hearing on the petition" and is the equivalent to a trial in the adult criminal system.

In 2026, the committee clarified that because this rule contains its own specific procedures for extensions of time, it is excluded from the general procedures for extensions contained in Rule 10-107(B) NMRA. It also clarified what constitutes a timely motion and further addressed the procedures for ruling on motions for extension of time. The committee believes the provisions for resolving noncompliance with this rule's time limits both affirms the state's obligation to seek timely adjudication and the court's discretion to grant untimely motions, as well as the court's discretion to impose appropriate sanctions or remedial measures.

[As amended by Supreme Court Order No. 08-8300-042[~~, effective January 15, 2009~~]; as amended by Supreme Court Order No. 14-8300-015[~~, effective December 31, 2014~~]; as amended by Supreme Court Order No. 15-8300-017[~~, effective December 31, 2015~~]; as amended by Supreme Court Order No. S-1-RCR-2025-00129.]