7-506. Time of commencement of trial.

A. **Time limits for arraignment.**

(1) ***Defendant not in custody.*** A defendant who is not in custody shall be arraigned on the complaint or citation within thirty (30) days after the filing of the complaint or citation or the date of arrest, whichever is later.

(2) ***Defendant in custody.*** A defendant who is in custody within this state shall be arraigned on the complaint or citation as soon as practicable, but in any event no later than three (3) days after the date of arrest if the defendant is being held in the local detention center, or no later than five (5) days after the date of arrest if the defendant is not being held in the local detention center.

(3) ***After dismissal or discharge of felony charges.*** If all felony charges against the defendant have been dismissed or discharged, and the only remaining charges are within metropolitan court trial jurisdiction, the defendant shall be arraigned within thirty (30) days after the date of dismissal or discharge if the defendant is not in custody or two (2) days after the date of dismissal or discharge if the defendant is in custody.

B. **Time limits for commencement of trial.** The trial of a criminal citation or complaint shall be commenced within one hundred eighty-two (182) days after whichever of the following events occurs latest:

(1) the date of arraignment or the filing of a waiver of arraignment of the defendant;

(2) if an evaluation of competency has been ordered, the date an order [~~or remand~~] is filed in the metropolitan court finding the defendant competent to stand trial;

(3) the date an order and remand are filed in the metropolitan court finding the defendant has attained competency to stand trial;

[~~(3)~~](4) if a mistrial is declared by the trial court, the date that order is filed in the metropolitan court;

[~~(4)~~](5) in the event of a remand from an appeal, the date the mandate or order is filed in the metropolitan court disposing of the appeal;

[~~(5)~~](6) if the defendant is arrested for failure to appear or surrenders in this state for failure to appear, the date of arrest or surrender of the defendant;

[~~(6)~~](7) if the defendant is arrested for failure to appear or surrenders in another state or country for failure to appear, the date the defendant is returned to this state; or

[~~(7)~~](8) if the defendant has been referred to a preprosecution or court diversion program, the date a notice is filed in the metropolitan court that the defendant has been deemed not eligible for, is terminated from, or is otherwise removed from the preprosecution or court diversion program.

C. **Extension of time.** The time for commencement of trial may be extended by the court:

(1) on the filing of a written waiver of the provisions of this rule by the defendant and approval of the court;

(2) on motion of the defendant, for good cause shown, and approval of the court, for a period not exceeding sixty (60) days, but the aggregate of all extensions granted under this subparagraph shall not exceed sixty (60) days;

(3) on stipulation of the parties and approval of the court, for a period not exceeding sixty (60) days, but the aggregate of all extensions granted under this subparagraph shall not exceed sixty (60) days;

(4) on withdrawal of a plea by a defendant for a period of up to sixty (60) days;

(5) on rejection of a plea by the court for a period of up to sixty (60) days; or

(6) on a determination by the court that exceptional circumstances exist that were beyond the control of the state or the court that prevented the case from being heard within the time period and a finding, either on the record or in writing, that the defendant would not be unfairly prejudiced, the court may grant further extensions that are necessary in the interests of justice.

D. **Time for filing motion.** A motion to extend the time period for commencement of trial granted under Subparagraph (C)(6) of this rule may be filed at any time within the applicable time limits or on exceptional circumstances shown within ten (10) days after the expiration of the time period. At the request of either party, the court shall hold a hearing before the commencement of trial to determine whether an extension may be appropriately granted.

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

(1) The court may deny an untimely petition for extension of time or may grant it and impose other sanctions or remedial measures, as the court may deem appropriate in the circumstances.

(2) In the event the trial 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.

[As amended, effective August 1, 1999; August 1, 2004; as amended by Supreme Court Orders No. 08-8300-051 and No. 08-8300-053, effective January 15, 2009; as amended by Supreme Court Order No. 13-8300-019, effective for all cases pending or filed on or after December 31, 2013; as amended by Supreme Court Order No. 16-8300-002, effective for all cases filed on or after May 24, 2016; as amended by Supreme Court Order No. 17-8300-005, effective for all cases pending or filed on or after July 1, 2017; as amended by Supreme Court Order No. S-1-RCR-2023-00021; as amended by Supreme Court Order No. S-1-RCR-2023-00037, effective for all cases filed on or after December 31, 2024; as provisionally amended by Supreme Court Order No. S-1-RCR-2025-00143, effective for all cases pending or filed on or after September 30, 2025; provisional amendments approved as amended by Supreme Court Order No. S-1-RCR-2026-00200, effective for all cases pending or filed on or after December 31, 2026.]

Committee commentary. —

Exceptional circumstances. — "Exceptional circumstances," as used in this rule, would include conditions that are unusual or extraordinary, such as death or illness of the judge, prosecutor, or defense attorney immediately preceding the commencement of the trial; or other circumstances that ordinary experience or prudence would not foresee, anticipate, or provide for. The court may grant an extension for exceptional circumstances only if the court finds that the extension will not unfairly prejudice the defendant. The defendant may move the court to dismiss the case based on a particularized showing that the extension or impending extension would subject the defendant to oppressive pretrial incarceration, anxiety and concern, or the possibility that the defense will be impaired.

Speedy trial. — This rule is distinct from any speedy trial rights a defendant may have under the constitutions and laws of the United States and the State of New Mexico.

Duty of prosecutor. — It is the continuing duty of the prosecutor to seek the commencement of trial within the time specified in this rule.

Local detention center. — "Local detention center" is defined as "one that is commonly used by the metropolitan court in the normal course of business and not necessarily within the territorial jurisdiction of the court." Rule 7-401(A)(3) NMRA.

[As amended by Supreme Court Order No. 16-8300-002, effective for all cases filed on or after May 24, 2016; as amended by Supreme Court Order No. S-1-RCR-2023-00021, effective for all cases pending or filed on or after December 31, 2023.]