

7-603.1. Order of trial.

The order of trial shall be as follows:

A. a qualified jury shall be selected and sworn to try the case;

B. initial instructions as provided in Rule Set 14 NMRA, Uniform Jury Instructions - Criminal shall be given by the court;

C. the state may make an opening statement. The defense may then make an opening statement or may reserve its opening statement until after the conclusion of the state's case;

D. the state shall submit its evidence;

E. out of the presence of the jury, the court shall determine the sufficiency of the evidence, whether or not a motion for directed verdict is made;

F. the defense may then make an opening statement, if reserved;

G. the defense may submit its evidence;

H. the state may submit evidence in rebuttal;

I. the defense may submit evidence in surrebuttal;

J. at any time before submission of the case to the jury, the court may, for good cause shown, permit the state or defense to submit additional evidence;

K. out of the presence of the jury, the court shall determine the sufficiency of the evidence, whether or not a motion for directed verdict is made;

L. the instructions to be given shall be determined in accordance with Rule 7-609 NMRA. The court shall then instruct the jury;

M. the state may make a closing argument;

N. the defense may make a closing argument;

O. the state may make a rebuttal argument.

[Adopted by Supreme Court Order No. 21-8300-020, effective for all cases pending or filed on or after December 31, 2021.]

Committee commentary. — This rule was added in 2021 to promote consistency in the framework within which a jury trial proceeds in New Mexico courts having criminal jurisdiction. *See* Rule 5-607 NMRA and the related committee commentary for more information; *see also* Rule 6-603.1 NMRA.

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