

**PROPOSED REVISIONS TO THE CHILDREN'S COURT RULES AND FORMS  
PROPOSAL 2023-001**

**March 24, 2023**

The Children's Court Rules Committee has recommended amendments to Rule 10-225 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 web site at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> 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  
[nmsupremecourtclerk@nmcourts.gov](mailto:nmsupremecourtclerk@nmcourts.gov)  
505-827-4837 (fax)

**Your comments must be received by the Clerk on or before April 24, 2023**, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's web site for public viewing.

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**10-225. Detention hearing; conditions of release.**

A. **Detention hearing.** A detention hearing shall be held within one (1) day from the time:

(1) the petition is filed if the respondent child is in detention at the time the petition is filed;

(2) the respondent child is placed in detention if the respondent child is placed in detention after the petition is filed; or

(3) the respondent child is placed in detention with or without a warrant for failure to comply with the conditions of release or failure to appear.~~[; or]~~

~~[(4) the respondent child moves the court for release after being placed in detention pursuant to a warrant for failure to comply with conditions of release.]~~

B. **Adult detention on Juvenile Warrant.** When a person who is eighteen years of age or older is taken into custody and transported to an adult facility and a juvenile warrant exists, a detention hearing shall be held within one (1) day from the time of compliance with NMSA 32A-2-12(F).

~~[B.]~~C. **Notice of detention.** If the respondent child is taken into custody and detained, the court shall give oral or written notice of the detention hearing to the children's court attorney, public defender and probation services. Probation services shall make a reasonable effort to give oral or written notice of the time and place of the detention hearing to the respondent child and, if they can be found, to the parents, guardian or custodian of the respondent child.

~~[C.]~~**D. Conditions of release.** The court shall review the need for detention pursuant to the Children's Code [32A-1-1 NMSA 1978]. If none of the criteria for detention exist, the court shall release the respondent child on the respondent child's written promise to appear before the court at a stated time and place or impose the first of the following conditions of release which will reasonably assure the appearance of the respondent child at the adjudicatory hearing or, if no single condition gives that assurance, any combination of the following conditions:

(1) place the child in the custody of a designated person or organization agreeing to supervise the child;

(2) place restrictions on the travel, association or place of abode of the child during the period of release;

(3) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the child return to detention as required.

~~[D.]~~**E. Review.** A denial of release may be reviewed at any time.

~~[E.]~~**F. Violation of conditions of release.** If the child fails to appear or violates a condition of release, the children's court may order the child taken into custody.

~~[F.]~~**G. Special master.** The provisions of Paragraphs A through D of this rule may be carried out by a magistrate or special master.

[As amended, effective November 1, 1995; February 1, 1997; Rule 10-211 NMRA, recompiled and amended as Rule 10-225 NMRA by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary.** — *See* Rule 10-107 NMRA for computation of time. This rule has been amended to provide for a release hearing when a child is placed in detention for violating conditions of release. Such a hearing was not required under the prior rule.

[As amended by Supreme Court Order No. 08-8300-042, effective January 15, 2009.]



New Mexico  
Courts

Amy Feagans <supajf@nmcourts.gov>

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## [nmsupremecourtclerk-grp] Correspondence from Chief Judge Marie Ward re: Proposed Rule Changes

4 messages

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**Matthew MacEachen** <albdmum@nmcourts.gov>

Mon, Apr 24, 2023 at 9:28 AM

Reply-To: albdmum@nmcourts.gov

To: nmsupremecourtclerk@nmcourts.gov

Good morning Ms. Garcia,

Please see the attached letter from Chief Judge Ward from the 2nd Judicial District Court.

If you have questions or need anything further regarding this, please let me know.

Thank you.

Matthew MacEachen  
Trial Court Administrative Assistant to  
Chief Judge Marie Ward  
Division XIV  
505-841-7392  
[albdmum@nmcourts.gov](mailto:albdmum@nmcourts.gov)



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**Correspondence from Chief Ward.pdf**  
246K

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**Elizabeth Garcia** <supeag@nmcourts.gov>

Mon, Apr 24, 2023 at 9:34 AM

To: Amy Feagans <supajf@nmcourts.gov>

Good morning Amy, and Happy Monday. Thank you Amy for acknowledging receipt at your convenience.

Liz

[Quoted text hidden]

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Elizabeth A. Garcia  
Chief Clerk of Court  
New Mexico Supreme Court  
[237 Don Gaspar Avenue](https://www.nm.gov/237-Don-Gaspar-Avenue)  
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**Correspondence from Chief Ward.pdf**  
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**Amy Feagans** <supajf@nmcourts.gov>

Mon, Apr 24, 2023 at 9:43 AM

To: Elizabeth Garcia <supeag@nmcourts.gov>

Will do. Thanks Liz!

[Quoted text hidden]

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**Amy Feagans**

Appellate Paralegal

Supreme Court of New Mexico

505.827.4704

237 Don Gaspar Ave | Santa Fe, NM 87504

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**nmsupremecourtclerk** <nmsupremecourtclerk-grp@nmcourts.gov>

Mon, Apr 24, 2023 at 9:45 AM

Reply-To: nmsupremecourtclerk-grp@nmcourts.gov

To: nmsupremecourtclerk <nmsupremecourtclerk-grp@nmcourts.gov>

Cc: Matthew MacEachen <albdmum@nmcourts.gov>

Mr. MacEachlen,

We are in receipt of your email and the attached comments from Judge Ward.

The Supreme Court Clerk's Office

[Quoted text hidden]



STATE OF NEW MEXICO  
SECOND JUDICIAL DISTRICT

MARIE C. WARD  
CHIEF JUDGE

April 24, 2023

505-841-7392  
POST OFFICE BOX 488  
ALBUQUERQUE, NEW MEXICO 87103

Elizabeth Garcia, Chief Clerk  
New Mexico Supreme Court  
P.O. Box 848  
Santa Fe, NM 87504-0848  
nmsupremecourtclerk@nmcourts.gov

**Re: Request for comment on:**

- **Proposal 2023-001 – Detention Hearings and Conditions of Release [Rule 10-225 NMRA]**
- **Proposal 2023-002 – Notification to Tribes of Change of Placement [Forms 10-565 and 10-566 NMRA]**
- **Proposal 2023-003 – Consent Decree Order [Form 10-714 NMRA]**
- **Proposal 2023-004 – Educational Decision Maker Form [Form 10-564 NMRA]**

Dear Ms. Garcia:

Thank you for the opportunity to provide commentary on the proposed changes to the above-referenced rules. I am writing as the Chief Judge of the Second Judicial District Court (“SJDC”) and as a Judge in the Children’s Court Division. The SJDC Children’s Court Division consists of four (4) District Court Judges and three (3) hearing officers/special masters. The daily work of our judicial officers is almost exclusively in delinquency and abuse/neglect, and we are well-positioned to understand the practical effect of the proposed changes.

On behalf of the SJDC, we support the Children’s Court Rules Committee’s recommendations to modify the above-referenced rules and forms. We believe they provide clarity to practitioners and properly capture the legal requirements.

Thank you for your time and consideration in this matter.

Respectfully,

Marie Ward, Chief Judge  
Second Judicial District Court