

**PROPOSED REVISIONS TO THE RULES OF THE DISTRICT COURT OF THE
ELEVENTH JUDICIAL DISTRICT
PROPOSAL 2023-025**

June 30, 2023

The Eleventh Judicial District Court has recommended the withdrawal of Rule LR11-302 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 <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
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before July 31, 2023, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

[WITHDRAWN]

~~[LR11-302. Automatic sanctions for technical violations by probationers.~~

~~[Related Statewide Rule 5-805 NMRA]~~

~~_____ A. **Automatic sanctions adopted.** Under Rule 5-805(C) NMRA, automatic sanctions are hereby adopted for probationers who commit technical violations of probation, who are not under the supervision of the Adult Drug Court Program, and who voluntarily agree, in advance, to the following:~~

- ~~_____ (1) to not contest the alleged technical violation of probation;~~
- ~~_____ (2) to submit to sanctions in accordance with this local rule; and~~
- ~~_____ (3) to waive the provisions of Rule 5-805(D)-(L) NMRA.~~

~~_____ B. **Positive drug test.** Sanctions for probationers who test positive for illegal substances, or who fail or refuse to provide a sample for testing, shall escalate and shall be as follows:~~

- ~~_____ (1) first positive test: ten (10) days incarceration;~~
- ~~_____ (2) second positive test: thirty (30) days incarceration or admission to a treatment facility at the discretion of the probation officer with approval by the district court judge; and~~
- ~~_____ (3) third positive test: recommendation to the district court to revoke probation.~~

____ C. ~~Other technical violations.~~ As a sanction for all other technical violations, the probationer shall be incarcerated for five (5) days.]

[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as withdrawn by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]



[rules.supremecourt-grp] Comment on Proposal 2023-025

1 message

Stephen Wayne <stephen@505legal.com>

Wed, Jul 26, 2023 at 4:15 PM

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Comment on Proposal 2023-025

The Eleventh Judicial District Court is proposing to withdraw Rule LR11-302. This rule provides for automatic sanctions for technical violations of probationers. The Supreme Court should reject this proposal because it goes against evidence-based best practices.

This year the Legislature passed SB84, which was ultimately vetoed by the governor. SB84 would have required graduated sanctions statewide for probationers accused of technical violations of probation. In the Fiscal Impact Report for SB84 the Administrative Office of the Courts (AOC) provided the following in its analysis:

The idea of graduated sanctions is a justice system best practice and has been implemented with significant success in the various treatment court types within the drug court model.

The Eleventh Judicial District Court is proposing to eliminate graduated sanctions for technical violations and ignore justice system best practices. Best practices should be incorporated for all probationers, not just those in treatment courts. This rule should be updated and amended to meet the latest evidence-based best practices but not withdrawn.

The court rules should embrace best practices, not regress. The Supreme Court should deny this proposal and maintain this rule until a suitable amendment is proposed.



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