

PROPOSED REVISIONS TO THE CHILDREN’S COURT RULES AND FORMS

The Children’s Court Rules Committee has recommended proposed amendments to Form 10-560 NMRA and proposed new Form 10-721 NMRA for the Supreme Court’s consideration.

If you would like to comment on the proposed amendments and new material 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://nmsupremecourt.nmcourts.gov/> or sending your written comments by mail, email, or fax to:

Joey D. Moya, Clerk
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
nmsupremecourtclerk@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 6, 2016, 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.

10-560. Subpoena.

[For use with Rule 10-143 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
IN THE CHILDREN’S COURT

STATE OF NEW MEXICO *ex rel.*
CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____

In the Matter of

_____, (a) Child(ren), and Concerning,
_____, Respondent(s).

SUBPOENA

SUBPOENA FOR¹

- [] APPEARANCE OF PERSON FOR
 - [] STATEMENT
 - [] DEPOSITION
 - [] ~~ADJUDICATORY HEARING~~ _____ *(type of hearing)*
- [] SUBPOENA FOR DOCUMENTS OR OBJECTS²

TO: _____

YOU ARE HEREBY COMMANDED TO:

appear to testify at the taking of a deposition in the above case:

Place: _____

Date: _____ Time: _____ (a.m.) (p.m.)

appear to testify at ~~[trial]~~ a hearing

Place: _____

Date: _____ Time: _____ (a.m.) (p.m.)

permit inspection of the following described documents or objects _____

Place: _____

Date: _____ Time: _____ (a.m.) (p.m.).

appear to give a statement

Place: _____

Date: _____ Time: _____ (a.m.) (p.m.)

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s)

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

_____, _____.

Judge, clerk, or attorney

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY

I certify that on the _____ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the ~~[subpoena, [a] subpoena]~~, a witness fee in the amount of \$ _____, and mileage in the amount of \$ _____³.

Deputy sheriff

**RETURN FOR COMPLETION BY OTHER PERSON
MAKING SERVICE**

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ____ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the [subpoena, a] subpoena[, a witness fee in the amount of \$ _____ and mileage as provided by law in the amount of \$ _____][³].³

Person making service

SUBSCRIBED AND SWORN to before me this ____ day of _____, _____
(date).

Judge, notary, or other officer
authorized to administer oaths

THIS SUBPOENA issued by or at request of:

Name of attorney of party

Address

Telephone

CERTIFICATE OF SERVICE BY ATTORNEY⁴

I certify that I caused a copy of this subpoena to be served on the following persons or entities by (delivery) (mail) on this ____ day of _____, _____:

(1) _____
(Name of party)

(Address)

(2) _____
(Name of party)

(Address)

Attorney

Signature

Date of signature

TO BE PRINTED ON EACH SUBPOENA

1. A command to produce evidence or to permit inspection may be joined with a command to appear for a deposition or trial.

2. A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing, or trial.

3. Payment of per diem and mileage for subpoenas issued by [~~the district attorney, attorney general, public defender~~] a children's court attorney or an attorney appointed by the court[~~; district attorney, attorney general or public defender~~] is made pursuant to regulations of the Administrative Office of the Courts or to policies or procedures of the Children, Youth and Families Department. The bracketed language should be deleted if the subpoena is issued by [~~the state or the public defender~~] a children's court attorney or an attorney appointed by the court.

A subpoena by a private party or corporation must be accompanied by the payment of one full day's per diem. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act.

4. To be completed only if the subpoena is commanding production of documents and things before trial. If the subpoena is commanding production of documents and things before trial, it must be served on each party in the manner provided by [Rules 5-103, 5-103.1 or 5-103.2] NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.

[Approved, effective April 1, 2002; 10-405 recompiled and amended as 10-560 by Supreme Court Order No. 14-8300-009, effective for all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. _____, effective _____.]

[NEW MATERIAL]

10-721. Subpoena.

[For use with Rule 10-143 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
IN THE CHILDREN'S COURT

In the Matter of _____, a Child. No. _____

SUBPOENA

SUBPOENA FOR¹

[] APPEARANCE OF PERSON FOR
[] STATEMENT

- DEPOSITION
 _____ (type of hearing)
 SUBPOENA FOR DOCUMENTS OR OBJECTS²

TO: _____

YOU ARE HEREBY COMMANDED TO:

- appear to testify at the taking of a deposition in the above case:

Place: _____

Date: _____ Time: _____ (a.m.) (p.m.)

- appear to testify at a hearing

Place: _____

Date: _____ Time: _____ (a.m.) (p.m.)

- permit inspection of the following described documents or objects _____

Place: _____

Date: _____ Time: _____ (a.m.) (p.m.).

- appear to give a statement

Place: _____

Date: _____ Time: _____ (a.m.) (p.m.)

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s)

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

_____, _____.

Judge, clerk or attorney

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY

I certify that on the _____ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena[, a witness fee in the amount of \$ _____, and mileage in the amount of \$ _____].³

Deputy sheriff

**RETURN FOR COMPLETION BY OTHER PERSON
MAKING SERVICE**

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ____ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena[, a witness fee in the amount of \$_____, and mileage as provided by law in the amount of \$_____].³

Person making service

SUBSCRIBED AND SWORN to before me this ____ day of _____, _____
(date).

Judge, notary or other officer
authorized to administer oaths

THIS SUBPOENA issued by or at request of:

Name of attorney of party

Address

Telephone

CERTIFICATE OF SERVICE BY ATTORNEY⁴

I certify that I caused a copy of this subpoena to be served on the following persons or entities by
(delivery) (mail) on this ____ day of _____, _____:

(1) _____
(Name of party)

(Address)

(2) _____
(Name of party)

(Address)

Attorney

Signature

Date of signature

TO BE PRINTED ON EACH SUBPOENA

1. A command to produce evidence or to permit inspection may be joined with a command to appear for a deposition or trial.

2. A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing, or trial.

3. Payment of per diem and mileage for subpoenas issued by a children's court attorney or an attorney appointed by the court is made pursuant to regulations of the Administrative Office of the Courts or to policies or procedures of the Children, Youth and Families Department. The bracketed language should be deleted if the subpoena is issued by a children's court attorney or an attorney appointed by the court.

A subpoena by a private party or corporation must be accompanied by the payment of one full day's per diem. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act.

4. To be completed only if the subpoena is commanding production of documents and things before trial. If the subpoena is commanding production of documents and things before trial, it must be served on each party in the manner provided by Rules 5-103, 5-103.1 or 5-103.2 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.

[Approved by Supreme Court Order No. _____, effective _____.]

