

**PROPOSED REVISIONS TO THE CHILDREN’S COURT RULES AND FORMS  
PROPOSAL 2019-003**

**March 4, 2019**

The Children’s Court Rules Committee has recommended amendments to Rule 10-212 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:

Joey D. Moya, Clerk  
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 3, 2019**, 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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**10-212. Joinder of ~~[offenses]~~ delinquent acts and parties; severance.**

A. **Joinder of ~~[offenses]~~ delinquent acts.** Two or more ~~[offenses may]~~ delinquent acts shall be joined in a single petition alleging delinquency, with each allegation stated in a separate count if the allegations~~[-]~~

- (1) are of the same or similar character, even if not part of a single scheme or plan; or
- (2) are based on the same conduct or on a series of acts either connected together or constituting parts of a single scheme or plan.

B. **Joinder of respondents.** A separate petition shall be filed for each respondent who is a child alleged to have committed a delinquent act. Two or more respondents may be joined on motion of a party, or by the filing of a statement of joinder by the state contemporaneously with the filing of the petitions charging ~~[such]~~ the respondents~~[-]~~

- (1) when each of the respondents is charged with accountability for each ~~[offense]~~ delinquent act included;
- (2) when all of the respondents are charged with conspiracy and some of the respondents are also charged with one or more ~~[offenses]~~ delinquent acts alleged to be in furtherance of the conspiracy; or
- (3) when, even if conspiracy is not charged and not all of the respondents are

charged in each count, the several [offenses] delinquent acts charged[:]

(a) were part of a common scheme or plan; or

(b) were so closely connected in respect to time, place, and occasion that it would be difficult to separate proof of one [charge] delinquent act from proof of others.

C. **Motion for severance.** If it appears that a respondent or the state is prejudiced by the joinder of [offenses] delinquent acts or of parties by the filing of a statement of joinder for trial, the court may order separate trials of [offenses] delinquent acts, grant a severance of respondents, or provide whatever other relief justice requires. In ruling on a motion by a respondent for severance, the court may order the state to deliver to the court for inspection in camera any statements or confessions made by the respondents which the state intends to introduce in evidence at the trial. [As amended and recompiled, effective May 1, 1998; Rule 10-204.1 NMRA, recompiled and amended as Rule 10-212 NMRA by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]



New Mexico  
Courts

Terri Saxon <suptls@nmcourts.gov>

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## Rule Proposal Comment Form

1 message

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mailservices@sk.com <mailservices@sk.com>

Sun, Mar 17, 2019 at 4:32 PM

To: supjdm@nmcourts.gov, suptls@nmcourts.gov

Your Name

Jeremiah J. Hall

Phone Number

3073214752

Email

jeremiah.hall@lopdm.us

Proposal Number

2019-003

Comment

Hello,

I represent almost 90% of the juveniles in Curry County. The State sometimes forgets to file certain counts on petitions to revoke probation. I see the proposed rule is about charges, but what about probation violations? I'd like the rule to address probation violation counts too because the current rule allows the state to avoid the statutory 30 speedy trail rule for children in custody. I think courts need some direction for charges and counts.

Thanks You,

JJ Hall

Upload

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MAR 18 2019

A handwritten signature in black ink, appearing to be "JJ Hall", written over the date stamp.

New Mexico  
CRIMINAL DEFENSE LAWYERS ASSOCIATION

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*President*  
Margaret Strickland  
Las Cruces

Joey D. Moya, Clerk  
New Mexico Supreme Court  
P O Box 848  
Santa Fe, New Mexico 87504-0848

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APR - 3 2019

*President-Elect*  
Molly Schmidt Nowara  
Albuquerque

*Vice President*  
Angelica Hall  
Albuquerque

April 3, 2019



Dear Mr. Moya,

*Secretary*  
Jennifer Burrill  
Santa Fe

As the President of the New Mexico Criminal Defense Lawyers Association (NMCDLA), I am submitting the following comments on proposed rule changes 2019-003, 005, 009, and 011.

*Treasurer*  
Richard Pugh  
Albuquerque

**Proposal 2019-003 - Mandatory joinder of delinquent acts in delinquency proceedings [Rule 10-212 NMRA]**

NMCDLA strongly supports mandatory joinder in delinquency proceedings. Piecemeal prosecutions of juveniles should be clearly prohibited in the rules of procedure.

*Executive Director*  
Cathy Ansheles

**Proposal 2019-005 - Juror questionnaires [Forms 4-602C and 9-513C NMRA]**

Jury selection is the most important part of trial. Parties must be allowed to gather as much information as needed from potential jurors to determine potential bias and to use preemptory strikes.

*Legislative Coordinator*  
Rikki-Lee Chavez

NMCDLA does not support removing any information gathering from juror questionnaires. NMCDLA is especially concerned with the proposal to eliminate the following questions, which will impede the parties' ability to get relevant information from jurors and slows down the jury selections process:

14) What other jobs have you had?

This information is frequently relevant to jury selection especially when a potential juror's former job involved social work, medical care, therapy, and/or working with drug/alcohol addiction.

19 & 20) Questions about spouses and children.

Information about a person's spouse and children helps parties uncover potential connections the juror might have with a witness or someone else connected to the case.

27) Have you or any member of your immediately family been the victim of a crime?

If a close family member has been a victim of a crime, that is information both sides need. Frequently potential jurors with those experiences have bias either against the defendant or the prosecution. This information frequently leads to follow up questions in jury selection that reveals bias.

34) Is there any reason you could not serve as a juror?

This is the only open question on the form that freely calls for jurors to express any bias. It frequently leads to successful cause excusals. It is very important to allow jurors to express bias on a form, rather than requiring they do so in a public jury selection.

**Proposal 2019-009 - Preference for summons [Rule 5-208 NMRA]**

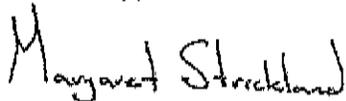
NMCDLA supports a preference for summons when practicable, especially for lower level offenses where there has been no probable cause determination, like there is in felony cases.

**Proposal 2019-011 - Life without the possibility of release or parole procedures [New Rule 5-705 NMRA]**

NMCDLA supports these procedural protections for defendants facing life without the possibility of parole, the highest penalty one can face in New Mexico Courts.

Please feel free to contact me with any questions.

Sincerely,



Margaret Strickland, President  
575-523-4321  
margaret@lawfirmnm.com