

N.M. Ct. R. 10-305

New Mexico Rules

State Court Rules

Children's Court Rules and Forms

Article 3. Abuse and Neglect Proceedings

Rule 10-305. Filing of Petition; Amendment of Petition; Appointment of Guardian *Ad Litem*

A. Form and Contents. Petitions or amended petitions alleging abuse or neglect shall be in a form approved by the Supreme Court.

B. Time Limits. If a child is taken into custody, a petition alleging abuse or neglect shall be filed by the department within two (2) days from the date that the child is taken into emergency custody by the department. If a petition is not filed within the time set forth in this paragraph, the child shall be released to the child's parents, guardian or custodian.

C. Service. A petition alleging abuse or neglect shall be served as provided by Rule 10-104 of these rules. A copy of the petition shall also be served on a parent who has not been made a party with a notice that the parent may intervene and request custody of the child.

D. Appointment of Guardian *Ad Litem*. Upon the filing of a petition in an abuse or neglect proceeding, a guardian *ad litem* shall be appointed by the court to represent the child.

E. Notice to Indian Tribes. If the alleged abused or neglected child is enrolled or eligible for enrollment in an Indian tribe, the Children, Youth and Families Department shall give notice of the filing of the petition to the child's Indian tribe. The form and manner of the notice shall comply with the provisions of the federal Indian Child Welfare Act of 1978.

F. Amended Petitions. The department may file an amended petition alleging abuse or neglect:

(1) once as a matter of course at any time within twenty (20) days after it is served; or

(2) upon leave of court.