

**PROPOSED REVISIONS TO THE CHILDREN'S COURT RULES AND FORMS
PROPOSAL 2017-007**

The Children's Court Rules Committee has recommended adopting new Rule 10-216 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed new rule 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
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 5, 2017, 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.

[NEW MATERIAL]

10-216. Transfer of jurisdiction over child from other tribunals to Children's Court.

A. **Receipt of transfer order.** Upon receipt of an Order of Transfer to Children's Court from another tribunal, the clerk of the court shall forward the order together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony to the Juvenile Probation and Parole Office and the children's court attorney.

(1) **Child in detention.** If the child has not been released to the custody of a parent, guardian, or other person legally responsible for the child, the order of transfer shall immediately be forwarded to probation services for completion of a preliminary inquiry in accordance with Rule 10-211 NMRA and Section 32A-2-7 NMSA 1978. The child shall be released within twenty-four (24) hours of the filing of the order of transfer unless a petition is filed and the court determines that continued detention is necessary. A detention hearing shall be held within twenty-four (24) hours of the filing of the petition.

(2) **Child not in detention.** If the child has been released to the custody of a parent, guardian, custodian, or other person legally responsible for the child, within two (2) days, the clerk of the court shall forward the order of transfer together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony, to probation services for completion of a preliminary inquiry in accordance with Rule 10-211 NMRA and Section 32A-2-7 NMSA 1978. The preliminary inquiry shall be conducted within thirty (30) days of the receipt of the order of transfer.

B. **Time.** The time limits for commencing the adjudicatory hearing shall be governed by Rule 10-243 NMRA. The time the initial pleading was filed and pending in the other tribunal shall be included in determining the time in which to commence the adjudicatory hearing and shall

not serve as a basis for finding exceptional circumstances to extend time limits under Rule 10-243(D) NMRA.

C. **Further proceedings.** All other proceedings in the matter shall be governed by the Children's Code and the Children's Court Rules.

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