

1 **6-501. Arraignment; first appearance.**

2 A. **Explanation of rights.** Upon the first appearance of the defendant in response to a
3 summons, warrant, or arrest, the court shall determine that the defendant has been informed of the
4 following:

5 (1) the offense charged;

6 (2) the maximum penalty and mandatory minimum penalty, if any, provided
7 for the offense charged;

8 (3) the right to bail or the possibility of pretrial detention under Rule 5-401(G)
9 NMRA;

10 (4) the right, if any, to the assistance of counsel at every stage of the
11 proceedings;

12 (5) the right, if any, to representation by an attorney at state expense;

13 (6) the right to remain silent, and that any statement made by the defendant may
14 be used against the defendant;

15 (7) the right, if any, to a jury trial;

16 (8) in those cases not within the court's trial jurisdiction the right to a
17 preliminary examination;

18 (9) that, if the defendant pleads guilty or no contest, it may have an effect upon
19 the defendant's immigration or naturalization status, and if the defendant is represented by counsel,
20 the court shall determine that the defendant has been advised by counsel of the immigration
21 consequences of a plea;

22 (10) that, if the defendant is charged with a crime of domestic violence or a
23 felony, a plea of guilty or no contest will affect the defendant's constitutional right to bear arms,

1 including shipping, receiving, possessing, or owning any firearm or ammunition, all of which are
2 crimes punishable under federal law for a person convicted of domestic violence or a felony; and

3 (11) that, if the defendant pleads guilty or no contest to a crime for which
4 registration as a sex offender is or may be required, and, if the defendant is represented by counsel,
5 the court shall determine that the defendant has been advised by counsel of the registration
6 requirement under the Sex Offender Registration and Notification Act, NMSA 1978, Sections 29-
7 11A-1 to -10.

8 The court may allow the defendant reasonable time and opportunity to make telephone
9 calls and consult with counsel.

10 **B. Offense within the court’s trial jurisdiction.** If the offense charged is within the
11 court’s trial jurisdiction, the court shall require the defendant to plead to the complaint, under Rule
12 6-302 NMRA, and if the defendant refuses to answer, the court shall enter a plea of “not guilty”
13 for the defendant. If, after entry of a plea of “not guilty,” the defendant remains in custody, the
14 action shall be set for trial as soon as possible.

15 **C. Insanity or incompetency.** If the defendant raises the defense of “not guilty by
16 reason of insanity at the time of commission of an offense,”[⁷] after setting conditions of release,
17 the action shall be transferred to the district court. If a question is raised about the defendant’s
18 competency to stand trial, the court shall proceed under Rule 6-507.1 NMRA.

19 **D. Waiver of arraignment or first appearance.** With prior approval of the court, an
20 arraignment or first appearance may be waived by the defendant filing a written waiver. A waiver
21 of arraignment and entry of a plea or waiver of first appearance shall be substantially in the form
22 approved by the Supreme Court.

1 E. **Felony offenses; preliminary examination.** If the offense is a felony and the
2 defendant waives preliminary examination, the court shall bind the defendant over to the district
3 court. If the defendant does not waive preliminary examination the court shall proceed to conduct
4 such an examination in accordance with Rule 6-202 NMRA.

5 F. **Bail.** If the defendant has not been released by the court or the court's designee,
6 and if the offense charged is a bailable offense, the court shall enter an order prescribing conditions
7 of release in accordance with Rule 6-401 NMRA. However, the court may delay entry of
8 conditions of release for twenty-four (24) hours from the date of the initial appearance, not to
9 exceed the time limits in Rule 6-401(A) NMRA, if

10 (1) The defendant is charged with a felony offense

11 (a) involving the use of a firearm;

12 (b) involving the use of a deadly weapon resulting in great bodily harm
13 or death;

14 (c) which authorizes a sentence of life in prison without the possibility
15 of parole; or

16 (d) a public safety assessment instrument approved by the Supreme
17 Court for use in the jurisdiction flags potential new violent criminal activity for the defendant.

18 (2) The court shall immediately give notice to the prosecutor, the defendant and
19 defense counsel of record, or, if defense counsel has not entered an appearance, the local law office
20 of the public defender or, if no local office exists, the director of the contract counsel office of the
21 public defender, of the circumstances in Subparagraph F(1) above that warrant delaying entry of
22 conditions of release.

1 (3) If the prosecutor does not file an expedited motion for pretrial detention by
2 the date scheduled for the conditions of release hearing, the court shall issue an order setting
3 conditions of release pursuant to Rule 6-401 NMRA.

4 [As amended, effective March 1, 1987; October 1, 1987; September 1, 1990; October 1, 1996;
5 November 1, 2000; as amended by Supreme Court Order No. 07-8300-030, effective December
6 15, 2007; as amended by Supreme Court Order No. 18-8300-023, effective for all cases filed on
7 or after February 1, 2019; as amended by Supreme Court Order No. 20-8300-013, effective for all
8 cases pending or filed on or after November 23, 2020.]