

# Temporary Detention of Certain Defendants

## Quick Guide on the Amendment to Rules 5-403, 6-403, & 7-403

### Qualifying Enumerated Misdemeanor Charges:

- Battery, 30-3-4 NMSA 1978;
- Aggravated battery, 30-3-5(B) NMSA 1978;
- Negligent use of a deadly weapon, 30-7-4 NMSA 1978;
- Battery against a household member, 30-3-15 NMSA 1978;
- Aggravated battery against a household member, 30-3-16 NMSA 1978;
- Stalking, 30-3A-3 NMSA 1978;
- Violation of an order of protection, 40-13-6 NMSA 1978;
- Criminal sexual contact, 30-9-12 NMSA 1978;
- Harassment, 30-3A-2 NMSA 1978;
- Driving under the influence of intoxicating liquor or drugs, 66-8-102 NMSA 1978; or
- Operating a motorboat while under the influence of intoxicating liquor or drugs, 66-13-3 NMSA 1978.

### In Custody:

**NC (401) Court:** The court in which the new charges have been filed.

- The NC (401) Court will review the BIR, run the CMR- 403 Pretrial New Charge Report, or conduct a thorough party search in Odyssey for pending charges with conditions of release (COR) with one or more felony or qualifying misdemeanor charges pending before any court.
- If the defendant is not on COR in any pending cases with a qualifying charge, the NC may proceed with setting COR and process the case as usual.
- If the defendant is on COR in a case with any felony or new qualifying misdemeanor charge, the NC (401) Court must issue a temporary hold order in all IC (403) cases.
- The NC (401) Court shall notify the detention center of hold(s).
- In cases where the defendant is on COR, the NC (401) Court shall send a copy of the temporary detention order to the IC (403) Court(s) to advise them of the holds and to schedule hearings.
- Once the Temporary Detention Order is issued to the detention center and distributed to the IC (403) Court(s), the NC (401) Court may proceed with setting COR and process the case as usual.
- Docket 4403 ORD – 403 Temporary Detention in the new case.

**IC (403) Court:** The court with pending enumerated misdemeanor or felony cases where conditions of release have been set.

- The IC (403) Court shall docket the hold(s) utilizing 4403 – ORDER: 403 Temporary Detention in the initial case.

- The IC (403) Court shall schedule the hearing as a Conditions of Release Violation Hearing (CRVH) hearing within 5 days if the defendant is in custody, or 10 days if not in custody.
- The IC (403) Court staff shall use the Admin-1037: Order on Violation of Conditions of Release Hearing form **OR** the Order Setting Conditions of Release (OSCR) form and docket the event code that documents the Judge’s finding regarding the COR. The IC (403) Court should indicate the outcome of the hearing on the Order used; example: no change, modified, or revocation.
  - If the Judge releases the defendant with no modification to the COR, the “no change” box should be checked on the Order on Violation of Conditions of Release Hearing **OR** the OSCR form. Update the conditions tab to reflect the conditions. Docket the 4408 ORD: Conditions of Release – No Change on the events tab of the case and scan the document into the event. A copy of the updated order should be sent to the detention center.
  - If the Judge releases the defendant with modified conditions of release, the “modified” box should be checked on the Order on Violation of Conditions of Release Hearing **OR** the OSCR form. Enter the new/modified conditions in the conditions tab. Docket the 4406 ORD: Conditions of Release – Modified in the events tab and scan the document to the event. A copy of the updated order should be sent to the detention center.
  - If the Judge revokes the conditions of release, the “revoked” box should be checked on the Order on Violation of Conditions of Release Hearing form. Update the conditions tab to reflect the ended conditions and any new or modified conditions. Docket 4407 ORD: Revoking Conditions of Release/Order of Detention in the events tab and scan the document to the event. A copy of the updated order should be sent to the detention center.

## **Out of Custody:**

### **NC (401) Court**

- The NC (401) Court will run the CMR—403 Pretrial New Charge Report, or conduct a thorough party search in Odyssey for pending charges with conditions of release (COR) with one or more qualifying charges pending before any court.
- If the defendant is on COR in a case with a qualifying charge, the NC (401) Court shall prepare and send a copy of the Notice of 403 Initial Finding to the IC Court.
- The NC (401) Court will docket the 4405 NTC - 403 Initial Finding event and scan the notice into the event in the new case.
- The NC (401) Court may set conditions of release and proceed with the case as usual.

## IC (403) Court

- The IC (403) Court shall docket the Notice of 403 Initial Finding using 4405, *NTC - 403 Initial Finding* in the initial case.
- The IC (403) Court shall issue a summons or bench warrant. If the defendant is not in custody the hearing shall be held no later than 10 days after the motion or notice of alleged violation.
- The hearing should be calendared as a Conditions of Release Violation Hearing (CRVH).
- The IC (403) Court shall use the Admin-1037: Order on Violation of Conditions of Release Hearing form **OR** the Order Setting Conditions of Release (OSCR) form and docket the event code that documents the Judge's finding regarding the COR. The IC Court should indicate the outcome of the hearing on the Order used; example: no change, modified, or revocation.
  - If the Judge releases the defendant with no modification to the COR, the "no change" box should be checked on the Violation of Conditions of Release Hearing form **OR** the OSCR form. Update the conditions tab to reflect the conditions. Docket the 4408 ORD: Conditions of Release – No Change on the events tab of the case and scan the document into the event. A copy of the updated order should be sent to the detention center.
  - If the Judge releases the defendant with modified conditions of release, the "modified" box should be checked on the Violation of Conditions of Release Hearing form **OR** the OSCR form. Enter the new/modified conditions in the conditions tab. Docket the 4406 ORD: Conditions of Release – Modified in the events tab and scan the document to the event. A copy of the updated order should be sent to the detention center.
  - If the Judge revokes the conditions of release, the "revoked" box should be checked on the Order on Violation of Conditions of Release Hearing form. Update the conditions tab to reflect the ended conditions and any new or modified conditions. Docket 4407 ORD: Revoking Conditions of Release/Order of Detention in the events tab and scan the document to the event. A copy of the updated order should be sent to the detention center.