

# Administrative Office of the Courts

Supreme Court of New Mexico

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## Violation of Conditions of Release

The Administrative Office of the Courts Pretrial Justice Program provides oversight, guidelines and standards, as well as technical assistance to local pretrial supervision programs. The local pretrial supervision programs monitor the identified violations types and defined conditions of release below. All violations of conditions of release listed below are reported to the assigned Judge, prosecution, and defense in a notice of violation by the local pretrial supervision program.

Judges have the authority to set a hearing to review a violation report whenever they believe justice will be best served by this. Prosecutors have the authority to file a motion to review a defendant's conditions of release whenever they believe this is warranted and in the interest of justice.

**Technical Violations** - Technical violations, or infractions, are an act or omission by the defendant that violates a condition of release, but does not cause or present a risk of harm to themselves or others. Technical violations are considered less serious and may not require a hearing to mitigate pretrial risk. Technical violations are reported to the court and parties, but local programs do not request additional action from the court and these violations do not automatically result in a hearing. Prosecutors have the ability to file a motion for a hearing and Judges have the authority to set hearings whenever they believe justice will be best served by reviewing a defendant's conditions of release or when a prosecutor files a motion to revoke or modify conditions of release.

**Non-Technical Violations** - An act or omission by the defendant that is a willful violation of a condition of release that causes or presents a risk of harm to themselves or others. Non-Technical violations are reported to the court and parties with a request for hearing or bench warrant. Judges retain discretion as to the issuance of a bench warrant. A Judge shall either hold a hearing or file an order stating why a hearing is not necessary and consider revocation or modification of a defendant's conditions of release.

**New Felony Charge or Enumerated Misdemeanor** - A defendant previously released by any court in this state pending any felony charge or pending a charge for an enumerated misdemeanor, who is arrested and charged with a new felony or new enumerated misdemeanor defined in Rule 5-403.1 NMRA alleged to have occurred during the period of initial release, shall be held without conditions of release pending an initial hearing.

Technical and Non-technical Violations **if ordered** as a condition of release include:

Technical Violations	Non-Technical Violations
New charges for traffic infractions or petty misdemeanors	New Misdemeanor or Felony Charge
Missing a court ordered service appointment (treatment, assessment, community service)	Failure to comply with Domestic Violence Order of Protection
Failure to install ignition interlock device	Verified contact with alleged victim or witness on the case
Failure to maintain or commence an educational program	Verified return to the location of the alleged incident
Failure to reside at the court ordered address	Failure to report to PTS and unable to locate
Failure to maintain employment or actively seek employment	GPS dead battery or unable to track defendant
Failure to notify the court of change of address	Verified curfew violation
Positive drug or alcohol screen (1st or 2nd)	Leaving the State or County without permission
Missed random drug or alcohol screen (1st or 2nd)	Refusal to provide or falsifying a drug screen
	Positive drug or alcohol screen (3rd or subsequent)
	Missed random drug or alcohol screen (3rd or subsequent)