

10-719. Probation order and agreement.

[For use with Rule 10-261 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
IN THE CHILDREN'S COURT

Cause No: _____

File No.: _____

In the Matter of

_____,
a Child.

PROBATION ORDER AND AGREEMENT

I. ORDER.

Child, _____ (*name of child*), is hereby placed on probation beginning _____ (*date*) and ending no later than _____ (*date*), for the following delinquent act(s) and/or probation violation(s):

_____.

Period of Probation:

- 6 month Consent Decree
- 6 month Consent Decree with no opposition to extend
- Extended Consent Decree not to exceed one (1) year
- 21
- Probation up to 1 year
- Probation up to 2 years
- Probation up to the age of

Time Reduction¹: _____

II. AGREEMENT.

Child:

I, _____ (*name of child*), agree to participate in developing a plan of care that will help support my success on probation, and I have the ability to earn early release.²

Standard Terms. I further agree to the following standard terms of probation:

_____ 1. **General Behavior.** I will obey all laws.

- _____ 2. **Reporting and Visits.** I will/understand:
- a. Report in person to the Probation Officer/designee as required;
 - b. Keep all appointments arranged by the Probation Office;
 - c. The Probation Officer/designee may visit me at any location, including my home, school, or work site.

- _____ 3. **Residence.**
- a. I will stay at _____.
 - b. I will be under the physical custody and care of _____
_____ (*Parent/Guardian/Custodian*).
 - c. I will not be under another person's custody and care without prior approval from the Probation Office.
 - d. I will notify the Probation Office within twenty-four (24) hours of any changes of location or residence.
 - e. I will first get permission from the Probation Officer/designee if I leave the County or the State or will be away from my location or residence for more than twenty-four (24) hours.

- _____ 4. **Weapons – Alcohol – Drugs.** I will not:
- a. Use or possess any firearms or other weapons,
 - b. Use or possess any alcohol,
 - c. Use or possess any illegal drugs,
 - d. Use or possess any illegal synthetic substances,
 - e. Use or possess any harmful mind or mood altering substances,
 - f. Use or possess medications not legally prescribed for my use,
 - g. Use or possess any drug paraphernalia.

- _____ 5. **Search and Seizure.** I will:
- a. Allow the probation department, with pre-approval from the Chief Juvenile Probation Officer, to conduct a warrantless search of my person and property upon reasonable suspicion to believe the search will produce evidence of a violation of probation.
 - b. Submit to drug and alcohol testing upon request by my Probation Officer/designee.

Special Terms. I agree to the following special terms of probation:

I further understand the following:

- a. The Probation Officer/designee may use incentives, interventions, and graduated sanctions to promote my progress on probation.

- b. Any changes to the terms of my probation will require approval; and
- c. If I do not follow these terms of probation, it can result in further action by the court up to and including a revocation or extension of my probation period or a commitment.

Parent/Guardian/Custodian:

I, _____ (*name(s) of P/G/C*), agree to support and help in my child's successful completion of all probation requirements, including creating and following his/her plan of care.

Initials

Initials

Approved and agreed to by:

Child Date

P/G/C Date

JPO Date

P/G/C Date

Child's Attorney Date

Children's Court Attorney Date

It is ORDERED that the above agreed to terms of probation be approved and adopted.

Children's Court Judge Date

Approved and Recommended by:

Special Master Date

USE NOTES

1. The court may order a time reduction to provide incentives to promote compliance and progress with the terms of probation. A time reduction conditions a shorter period of probation on the child's compliance with all standard terms of probation and with the incentive term(s) identified by the court. An incentive may be a term in addition to any standard or special term, or it may be a standard or special term completed in a specific period of time. The conditions of the time reduction should be specific and clearly stated. One example of using a standard term of probation as an

incentive could be ordering one month of time reduction for each month of sobriety. An example of using a special term could be allowing a child who is ordered to juvenile drug court to be released from probation upon completion. Because a time reduction is meant to encourage positive behavior, non-compliance with an incentive term cannot provide grounds for the court to extend or revoke probation or to impose other punitive sanctions.

2. The Probation Department, the child, and the child's family shall develop a plan of care for the child as soon as practicable after the entry of this order. The plan of care provides an individualized opportunity for the child to become invested in his or her probation and supports the child's success by providing an incentive for possible early release by the Probation Department. *Accord* NMSA 1978, § 32A-2-23(C) ("A child shall be released by an agency and probation or supervision shall be terminated . . . when it appears that the purpose of the order has been achieved before the expiration of the period of the judgment."). The plan of care should be narrowly tailored to address the specific child's risks and needs. Thus, the participation and input of the child and the child's family is critical in developing a plan of care that meets the child's individual needs. Full or partial compliance with the plan of care may result in early release at the Probation Department's discretion without judicial approval. *But see id.* ("A release or termination and the reasons therefor shall be reported promptly to the court in writing by the releasing authority."). Non-compliance with the plan of care, however, cannot provide grounds for the court to extend or revoke probation or to impose other punitive sanctions.

[Approved by Supreme Court Order No. 18-8300-011, effective for all cases filed on or after December 31, 2018.]