

10-712. Plea and disposition agreement.

[For use with Rule 10-227 NMRA]

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

In the Matter of _____, a Child.

No. _____

PLEA AND DISPOSITION AGREEMENT

The state and the child agree to the following disposition:

PLEA:

The child agrees to (admit) (not contest) the following charges/delinquent acts:

TERMS:

There are no agreements as to disposition. A pre-disposition report will be prepared. The maximum penalties for these charges are: _____

_____ (Set forth maximum penalties).

A consent decree will be entered by the court for a period of _____ months, not to exceed six (6) months.

The child will not oppose an extension of the consent decree for an additional six (6) months.

The consent decree will end on _____ (date), unless discharged sooner by probation services.

Probation for a period of _____, not to exceed two (2) years in accordance with the probation order approved by the court.

The child will be committed to the Children, Youth and Families Department for predispositional diagnosis, rehabilitation, and education for a period not to exceed fifteen (15) days. Upon completion, the court shall set a disposition hearing.

The child will be committed to the Children, Youth and Families Department for a period of _____.

The child will be committed to the _____ detention center for a period of _____.

_____ (Set forth any other specific conditions).

Additional charges. The following charges will be dismissed, or not filed:

Restitution.¹ _____

Effect on petition:

This agreement, unless rejected or withdrawn, serves to amend the petition to charge delinquent acts to which the child pleads, without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.

Waiver of defenses and appeal:

Unless this plea is rejected or withdrawn, the child gives up any and all motions, defenses, objections or requests which the child has made or raised, or could assert hereafter, to the court’s entry of judgment and disposition consistent with this agreement. The child waives the right to appeal the judgment and disposition that results from the entry of this plea agreement.

Withdrawal permitted if agreement rejected:

If after reviewing this agreement and any predisposition report the court concludes that any of its provisions are unacceptable, the court will allow the withdrawal of the plea, and this agreement will be void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceedings shall be admissible as evidence against the defendant in any children’s court or criminal proceedings.

I HAVE READ AND UNDERSTAND THE ABOVE. I have discussed the case and my constitutional rights with my lawyer. I understand that by entering into this agreement I will be giving up my rights to a trial (jury or court), to confront, cross-examine, and compel the attendance of witnesses, my privilege against self-incrimination, and my right to an appeal. I agree to enter my plea as set forth above on the terms and conditions set forth in this agreement.

Child’s signature

Date

REVIEW BY CHILD’S ATTORNEY

I have reviewed the plea and disposition agreement with my client. I have discussed this case with my client. I have advised my client of my client’s constitutional rights and possible defenses.

Children’s Court Attorney

Date

COURT APPROVAL

Children’s Court Judge

Date

USE NOTES

1. If this option is selected, the juvenile probation and parole officer (JPPO) and the child shall promptly prepare a restitution plan, including a specific amount to be paid to each victim and a payment schedule. *Cf.* NMSA 1978, § 31-17-1(B) (setting forth the requirements for ordering restitution in a criminal proceeding). The child's restitution plan and the JPPO's recommendations shall be submitted promptly to the court. *Cf. id.* The court shall promptly enter an order approving, disapproving, or modifying the plan, taking into account the child's circumstances and the limitations on restitution set forth in NMSA 1978, Section 32A-2-3(G) (defining "restitution" under the Delinquency Act). See *also* § 32A-2-27(C) (providing that the court may order a child "found to be within the provisions of the Delinquency Act" to pay restitution).
[Approved, effective August 1, 1999; 10-423 recompiled and amended as 10-712 by Supreme Court Order No. 16-8300-017, effective for all cases pending or filed on or after December 31, 2016.]