

SERVICE INFORMATION FOR STARTING A JUVENILE COURT ACTION

IMPORTANT! READ BEFORE USING THE SERVICE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees can't help you fill out forms.

If you're unsure how to proceed, unsure if this information suits your circumstances, or need legal advice or representation, consult a lawyer licensed to practice in North Dakota.

Carefully read this information and any instructions to which you're referred.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Juvenile Procedure;
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders;
 - Any local court rules.

Links to the laws, case law, and court rules can be found at www.ndcourts.gov.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help.

When you represent yourself, you're held to same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

- For more information about finding a lawyer, www.ndcourts.gov/legal-self-help/finding-a-lawyer.

These instructions and forms aren't a complete statement of the law. They cover basic information and process for serving the summons to start a North Dakota Juvenile Court action. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the information provided. Use at your own risk.

Laws and Rules for Service to Start a Juvenile Court Action

Chapters [27-20.1](#), [27-20.2](#), [27-20.3](#), and [27-20.4](#) of the North Dakota Century Code contain laws enacted by the North Dakota Legislative Assembly that apply in juvenile court actions.

The [North Dakota Rules of Juvenile Procedure](#) govern all juvenile court actions.

[Rule 6 of the North Dakota Rules of Juvenile Procedure](#) contains requirements for service of the summons to start a juvenile court action.

[Rule 4 of the North Dakota Rules of Civil Procedure](#) also applies to service of the summons to start a juvenile court action.

Juvenile Court Actions

Only certain types of actions can be brought to juvenile court.

- **Delinquent child**: A delinquent child is a child who has committed an act that is considered a crime and is in need of treatment or rehabilitation.
- **Child in need of services**: A child in need of services is a child who has committed an offense that only applies to a child, such as truancy, consuming or possessing alcohol, disobedience of parental commands, or using tobacco, and is in need of treatment or rehabilitation.
- **Child in need of protection**: A child in need of protection is a child who is “without proper parental care or control necessary for the child’s physical, mental or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child’s parents, guardian or other custodian.”
- **Guardianship**: A guardianship of a minor child is a juvenile court process where a judge or judicial referee appoints a guardian to act in the place of a parent of the minor child. A legal relationship is created between the guardian and the minor child, allowing the guardian to care for and make decisions on behalf of the minor child.
- **Termination of Parental Rights**: An order terminating parental rights of a parent terminates all the parent's rights and obligations with respect to the child and of the child to or through the parent arising from the parental relationship.

Definition of a “Child” for Juvenile Court Actions

The child who is the focus of the juvenile court action must be **either**:

1. Unmarried and under the age of 18; **or**
2. Under the age of 20 and committed the delinquent act while under the age of 18 and unmarried.

Parties in a Juvenile Court Action

Petitioner: The party who starts a juvenile court action with a petition is called the Petitioner.

- There may be more than one Petitioner, depending on the circumstances of the juvenile court action.

Respondent: The party who is served with a juvenile court summons and petition is called the Respondent.

- There may be more than one Respondent.

See [Rule 3 of the North Dakota Rules of Juvenile Procedure](#) for parties in a juvenile court action.

Before a Juvenile Court Summons Can Be Served

IMPORTANT: Petitions filed in juvenile court that aren't filed by a state's attorney, must be reviewed and approved by the juvenile court director, the juvenile court, or other person authorized by the juvenile court.

Only if the juvenile court director, the juvenile court, or other person authorized by the juvenile court determines that filing the petition is in the best interest of the public and the child, a juvenile court summons can be served on all parties to begin the juvenile court action.

Service of a Juvenile Court Summons and a Copy of the Juvenile Court Petition

If the petition is allowed to be filed, the Petitioner may be required to prepare the Juvenile Court Summons. The summons requires the Respondents listed in the petition to appear before the court at the time fixed to answer the allegations of the petition.

Service to start a juvenile court action, also called service of process, requires delivery of the summons and a copy of the petition to each Respondent. The Petitioner is required to notify each Respondent of the claims, and to give each Respondent time to respond.

The summons and a copy of petition must be delivered in specific ways. [Rule 6 of the North Dakota Rules of Juvenile Procedure](#) and [Rule 4 of the North Dakota Rules of Civil Procedure](#) give the requirements for service to start a juvenile court action.

Review the Sections of Chapters 27-20.2, 27-20.4, and 27-20.4 that apply to your juvenile court action. If a North Dakota law tells the specific method of service that must be used, use that method of service.

Please note that, in general, copies of documents are served. The original documents are filed with the juvenile court.

Proof of Service tells the Juvenile Court How, When and Where Each Respondent Was Served and the Documents that were Served on Each Respondent

Proof of service is an important step in the legal process. If proof of service isn't filed, the juvenile court won't act on your petition.

Please note that in juvenile court actions, it's very common to have multiple Respondents. **You'll need to prove you served each Respondent.**

The proof of service to start a juvenile court action tells the juvenile court when, how, and where each Respondent was served.

- A certificate of service gives the court proof of service when a sheriff or other officer served the document(s).
- An affidavit of service gives the court proof of service when a person other than a sheriff or other officer served the document(s).

Affidavit of Service forms for starting juvenile court actions are available in the "Juvenile Court" section in the "[Service Instructions and Forms](#)" link at the [ND Legal Self Help Center](#) website.

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The Petitioner Must Locate the Addresses of the Respondents for Service.

Following are examples of ways to find people for service:

- Last known address.
 - Contact the U.S. Post Office for information on how to determine if the Respondent left a forwarding address.
- Friends, family, employers.
- Online search engines.
- Government entities, such as Department of Motor Vehicles or County Recorder.
- North Dakota business entity search, available at the ND Secretary of State website.
- Social Security Death Index.
- Utility companies.
- Social networking websites.
- Reverse directories.
 - A reverse directory allows someone to search by phone number to find an address. (Your local library may have access to reverse directories.)

In General, the Summons and Copy of the Petition May be Served As Follows: (Depending on Where Each Respondent Can Be Found)

Respondents Within North Dakota and Can Be Found: If a party is within North Dakota and can be found, the summons and petition must be served on the party at least **twenty-four hours before the hearing.**

The summons and petition may be served in ONE of the following TWO ways:

1. By Personal Service:

If you decide to serve the summons and petition by personal service:

- a. You can give the summons and petition to the sheriff for personal service on the Respondent. (You'll be charged a fee.) The sheriff will provide an affidavit of service.

OR

- b. You may have another person who is at least 18 years of age and not a party to nor interested in the action give the summons and petition to the Respondent. The person must serve the documents as required by [Rule 4\(d\) of the North Dakota Rules of Civil Procedure](#).

- c. The person who served the summons and petition must fill out an Affidavit of Service by Personal Delivery and sign the affidavit.
- d. File the Affidavit of Service by Personal Delivery with the clerk of court.
Keep a copy of the completed and signed Affidavit of Service by Personal Delivery for your records.

2. By Obtaining the Other Party's Signature:

You may ask the Respondent to admit to service of the summons and petition:

- a. Ask the Respondent to complete an Admission of Service and fill in the date the Respondent was given the summons and petition.
- b. Ask the Respondent to sign the Admission of Service. You or the Respondent must file the signed Admission of Service with the clerk of court.
Keep a copy of the signed Admission of Service for your records.
- c. If the Respondent doesn't agree to admit to service, you must serve the documents as required by [Rule 4 of the North Dakota Rules of Civil Procedure](#).

Respondents Within North Dakota and Cannot Be Found But the Address is Known Or Can Be Located: If the party is within North Dakota and can't be found, but the party's address is known or can be located with reasonable diligence, the summons and petition may be served upon the party at least **five days before the hearing**.

The summons and petition may be served in ONE of the following TWO ways:

1. By Mail:

If you decide to serve documents by mail, the person who mails the summons and petition must be at least 18 years of age.

- a. Send the summons and petition by Certified Mail, Return Receipt Requested (Restricted Delivery). The envelope should be marked "Deliver to Addressee Only."
- b. The person who mailed the summons and petition must fill out an Affidavit of Service by Mail and sign the affidavit.
- c. File the Affidavit of Service by Mail, together with the green card receipt that's signed to show actual delivery, with the clerk of court.

Keep a copy of the completed and signed Affidavit of Service by Mail and green card receipt for your records.

2. By Third Party Commercial Delivery:

If you decide to serve the summons and petition by third party commercial delivery, the person who mails the summons and petition must be at least 18 years of age.

- a. Send the summons and petition addressed to the Respondent and require a signed receipt that resulted in delivery to the Respondent.
- b. The person who sent the summons and petition by third party commercial delivery must fill out an Affidavit of Service by Third Party Commercial Delivery.
- c. File the Affidavit of Service by Third Party Commercial Delivery, together with the receipt that's signed to show actual delivery, with the clerk of court.
- d. Keep a copy of the completed and signed Affidavit of Service by Third Party Commercial Delivery and a copy of the receipt for your records.

Respondent is Outside North Dakota But Can Be Found: If the party is outside this state but can be found or the party's address is known, or the party's whereabouts or address can be located with reasonable diligence, service of the summons and petition may be served upon the party at least **five days before the hearing**.

The summons and petition may be served in ONE of the following THREE ways:

1. By Mail:

If you decide to serve documents by mail, the person who mails the summons and petition must be at least 18 years of age.

- a. Send the summons and petition by Certified Mail, Return Receipt Requested (Restricted Delivery). The envelope should be marked "Deliver to Addressee Only."
- b. The person who mailed the summons and petition must fill out an Affidavit of Service by Mail and sign the affidavit.
- c. File the Affidavit of Service by Mail, together with the green card receipt that's signed to show actual delivery, with the clerk of court.

Keep a copy of the completed and signed Affidavit of Service by Mail and green card receipt for your records.

2. By Third Party Commercial Delivery:

If you decide to serve the summons and petition by third party commercial delivery, the person who mails the summons and petition must be at least 18 years of age.

- a. Send the summons and petition addressed to the Respondent and require a signed receipt that resulted in delivery to the Respondent.
- b. The person who sent the summons and petition by third party commercial delivery must fill out an Affidavit of Service by Third Party Commercial Delivery.
- c. File the Affidavit of Service by Third Party Commercial Delivery, together with the receipt that's signed to show actual delivery, with the clerk of court.
- d. Keep a copy of the completed and signed Affidavit of Service by Third Party Commercial Delivery and a copy of the receipt for your records.

3. By Personal Service:

If you decide to serve the summons and petition by personal service:

- a. You can give the summons petition to the sheriff for personal service on the Respondent. (You'll be charged a fee.) The sheriff will provide an affidavit of service.

OR

- b. You may have another person who is at least 18 years of age and not a party to nor interested in the action give the summons and petition to the Respondent. The person must serve the documents as required by [Rule 4\(d\) of the North Dakota Rules of Civil Procedure](#).
- c. The person who served the summons and petition must fill out an Affidavit of Service by Personal Delivery and sign the affidavit.
- d. File the Affidavit of Service by Personal Delivery with the clerk of court.

Keep a copy of the completed and signed Affidavit of Service by Personal Delivery for your records.

Service By Publication:

If, after reasonable diligence, the Petitioner is unable to locate a Respondent, the Petitioner may ask the Juvenile Court to order service by publication.

If the Juvenile Court orders service by publication, the hearing must not be earlier than five days after the date of the last publication.

A forms set for making a motion to a North Dakota Juvenile Court to request service by publication is available in the “Juvenile Court” section of www.ndcourts.gov/legal-self-help.