

Instructions For Making a Motion to Juvenile Court For An Order For Service by Publication

Important! Read Before Using this Packet of Forms.

ND Legal Self Help staff and court employees can't help you fill out the form(s). If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

ND Legal Self Help Center forms aren't official court forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. Go to ndcourts.gov/legal-self-help/finding-a-lawyer for information about finding a lawyer to represent you.

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 Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules are available at ndcourts.gov.

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

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

These instructions and forms aren't a complete statement of the law.** They cover the basic process for asking a North Dakota Juvenile Court to allow you to serve the Summons by publication in a Juvenile Court action. There's 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 these forms and instructions at your own risk.

Don't include these instructions when you file or serve the completed forms.

Who May Use this Packet?

An individual who filed a Petition with a North Dakota Juvenile Court **and**:

- The Petition was accepted for filing by the Juvenile Court after a person authorized by the court determined filing the Petition was in the best interest of the public and child; **and**
- The individual was unable, after reasonable diligence, to locate a party to serve the Juvenile Court Summons; **and**
- The individual wants to request permission from the Juvenile Court to serve the Summons on the party by publication in a newspaper.

Step 1:

Review North Dakota Court Rules Related to Asking a North Dakota Juvenile Court For Permission to Serve a Juvenile Court Summons by Publication.

Rule 6 of the North Dakota Rules of Juvenile Procedure contains the requirements for serving a Juvenile Court Summons. Rule 6 is available online at ndcourts.gov/legal-resources/rules/ndrjuvp/6. Read the entire rule, but specifically, **Rule (6)(b) Service by Publication**.

See also, **Rule 4 of the North Dakota Rules of Civil Procedure, specifically Rule 4(e)** for service by publication requirements. Rule 4 is available online at ndcourts.gov/legal-resources/rules/ndrcivp/4.

Rule 7 of the North Dakota Rules of Juvenile Procedure contains the requirements for serving Juvenile Court motions. Rule 7 is available online at ndcourts.gov/legal-resources/rules/ndrjuvp/7.

Rule 14 of the North Dakota Rules of Juvenile Procedure contains the requirements for making requests, also called motions, to a Juvenile Court. Rule 14 is available online at ndcourts.gov/legal-resources/rules/ndrjuvp/14

See also, **Rule 3.2 of the North Dakota Rules of Court** for additional motion requirements. Rule 3.2 is available online at ndcourts.gov/legal-resources/rules/ndrct/3-2.

North Dakota court rules can also be found in print in many North Dakota public and academic libraries. Notes of court decisions related to North Dakota court rules can be found in the print editions of the court rules.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

Step 2:

Complete The Forms For The Motion For An Order For Service by Publication

Form Title	Purpose
Notice of Motion for an Order for Service by Publication (JcT NoM Svc Pub)	Gives other parties in the Juvenile Court proceeding notice that you, the Petitioner, are asking for permission to serve the Summons to a party by publication.
Motion for an Order for Service by Publication (JcT Mot Svc Pub)	Briefly tells the Juvenile Court that you, the Petitioner, are asking for permission to serve the Summons on a party by publication.
Brief in Support of an Order for Service by Publication (JcT Brief Svc Pub)	Explains in detail to the Juvenile Court why you, the Petitioner, are making the Motion and why the Juvenile Court should allow you to serve the Summons to a party by publication.
Declaration in Support of an Order for Service by Publication (JcT Decl Svc Pub)	Your, the Petitioner's, written statement of the facts included in your Brief in Support of an Order for Service by Publication. (JcT Brief Svc Pub).
Order for Service by Publication (Proposed) (JcT Ord Svc Pub)	Proposed Order of the court for service of the Juvenile Court Summons by publication. The proposed Order isn't effective until it's signed by the judge or judicial referee (Complete the caption only .)

Complete the caption, or top, of each form with the same information from the caption of the Juvenile Court Summons.

Step 3:

File The Original, Completed Motion Forms With The Juvenile Court.

Before filing the original, completed forms with the Juvenile Court:

- Make a copy of each completed form for each party in the Juvenile Court proceeding. Make an additional copy for your records.
- Contact the Juvenile Court and ask if the court will accept your Motion forms for filing **before** you serve copies on the parties in the Juvenile Court proceeding.
 - **If the court will file your Motion forms before** you serve copies on the parties, continue with Step 3.
 - **If the court won't file your Motion forms before** you serve copies on the parties, complete Step 4 first. Once you complete Step 4, go back and complete Step 3.

Take the original, completed forms to the Juvenile Court where the Petition was accepted for filing:

- Notice of Motion for an Order for Service by Publication (JCt NoM Svc Pub);
- Motion for an Order for Service by Publication (JCt Mot Svc Pub);
- Brief in Support of an Order for Service by Publication (JCt Brief Svc Pub);
- Declaration in Support of an Order for Service by Publication (JCt Decl Svc Pub); and
- Order for Service by Publication (Proposed) (JCt Ord Svc Pub).

You're not required to pay a filing fee. If you're asked to pay a filing fee, contact the Juvenile Court Supervisor or Director for assistance.

- Juvenile Court contact information is available at ndcourts.gov/other-courts/juvenile-court.

If you completed Step 4 **before** completing Step 3, file your completed Declarations(s) of Service of copies of the Motion documents with the Juvenile Court when you file your completed Motion forms.

Step 4:

Serve Copies Of The Completed Motion Forms On The Other Parties In The Juvenile Court Proceeding.

Service means giving a copy of each of the completed Motion forms from Step 2 to the parties in the Juvenile Court proceeding.

Unless the Juvenile Court orders otherwise, you don't serve copies of Motion forms on the party you can't locate.

Proof of service is an important step in the legal process and the document(s) showing proof of service must be filed with the Juvenile Court. If proof of service isn't filed, the Juvenile Court won't act on your Motion until you show that the parties in the Juvenile Court proceeding were served copies of the Motion forms.

Review Rule 7 of the N. D. Rules of Juvenile Procedure. Rule 7 includes the six different methods to serve Motion documents. You must decide which of the methods to use. No matter which method you choose, you must prove to the Juvenile Court that copies of the Motion forms were served as required by Rule 7.

The three most common methods of service of a motion are described below.

1. By Mail:

If you decide to serve copies of the completed Motion forms on a party by mail, you must:

- a. Have someone who is at least 18 years of age mail copies of the following completed forms to the party:
 - i. Notice of Motion for an Order for Service by Publication (JCt NoM Svc Pub);
 - ii. Motion for an Order for Service by Publication (JCt Mot Svc Pub);
 - iii. Brief in Support of an Order for Service by Publication (JCt Brief Svc Pub);
 - iv. Declaration in Support of an Order for Service by Publication (JCt Decl Svc Pub); and
 - v. Order for Service by Publication (Proposed) (JCt Ord Svc Pub).

Copies of the completed forms are mailed to the last known address of the party. Service is complete upon mailing.

- b. The person who mailed the forms must fill out and sign a Declaration of Service by Mail form.
- c. File the Declaration of Service by Mail form with the Juvenile Court. (Make a copy for your records.)

2. By Hand Delivery:

If you decide to serve copies of the completed Motion forms on a party by hand delivery, you must:

- a. Have someone who is at least 18 years of age **and** not a party to the case hand copies of the following completed forms to the party:
 - i. Notice of Motion for an Order for Service by Publication (JCt NoM Svc Pub);
 - ii. Motion for an Order for Service by Publication (JCt Mot Svc Pub);
 - iii. Brief in Support of an Order for Service by Publication (JCt Brief Svc Pub);
 - iv. Declaration in Support of an Order for Service by Publication (JCt Decl Svc Pub); and
 - v. Order for Service by Publication (Proposed) (JCt Ord Svc Pub).
- b. The person who handed copies of the completed forms to the party must fill out and sign a Declaration of Service by Hand Delivery form.
- c. File the Declaration of Service by Hand Delivery form with the Juvenile Court. (Make a copy for your records.)

3. By Office Service:

If you decide to serve a party by leaving copies of the completed Motion forms at the party's office, you must:

- a. Have someone who is at least 18 years of age **and** not a party to the case leave copies of the following completed forms at the party's office:
 - i. Notice of Motion for an Order for Service by Publication (JCt NoM Svc Pub);
 - ii. Motion for an Order for Service by Publication (JCt Mot Svc Pub);
 - iii. Brief in Support of an Order for Service by Publication (JCt Brief Svc Pub);
 - iv. Declaration in Support of an Order for Service by Publication (JCt Decl Svc Pub); and
 - v. Order for Service by Publication (Proposed) (JCt Ord Svc Pub).

- b. The copies of the completed documents must be left with a clerk or other person in charge.
- c. If there is no one in charge of the office, the copies of the completed documents must be left in a conspicuous place.
- d. The person who left copies of the completed forms at the party's office must fill out and sign the Declaration of Office Service.
- e. File the Declaration of Office Service with the Juvenile Court. (Make a copy for your records.)

The following Declaration of Service forms are included with these instructions.

Service Form Title	Description
Declaration of Service by Mail (Juv Ct Rule 7 ASM)	Proof that copies of the completed Motion forms were served by mail on the party or parties listed in the Declaration of Service.
Declaration of Service by Hand Delivery (Juv Ct Rule 7 AHS)	Proof that copies of the completed Motion forms were served by hand delivery on the party or parties listed in the Declaration of Service by Hand Delivery
Declaration of Office Service (Juv Ct Rule 7 AOS)	Proof that copies of the completed Motion forms were served by office service on the party or parties listed in the Declaration of Office Service.

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Step 5:

After The Motion Forms Are Filed And Served.

Each party has 3 days to respond to the Motion.

This doesn't include the day of service. If a party responds to your Motion, the party states in writing whether they agree or disagree with your Motion for an Order for Service of the Juvenile Court Summons by publication.

The judicial referee or judge assigned to your Motion may decide to schedule a hearing, or to make a decision without a hearing.

If the judicial referee or judge decides to hold a hearing, you're notified by mail. If the judicial referee or judge decides to make a decision without a hearing, you receive copies by mail of documents signed by the judicial referee or judge. The documents tell you what the judicial referee or judge decided.

If Your Motion Is Granted

Review Rule 4(e) of the North Dakota Rules of Civil Procedure for service by publication requirements. Rule 4 is available online at ndcourts.gov/legal-resources/rules/ndrcivp/4.

Contact the official newspaper for the county where you'll publish the Summons. You need to publish the redacted Summons **one time per week for three consecutive weeks**.

Publication can be done in the print edition, the e-edition, or both.

To **redact** the Summons, remove the following information:

- Full names of the child, or children, and all parties. Leave **only** the initials of the child, or children, and all parties.
- Full date of birth of the child, or children. Leave **only** the year of birth.

The hearing can't be held earlier than five days after the date of the last publication.

State Of North Dakota

In Juvenile Court

County Of _____

_____ Judicial District

In The Interest Of _____, DOB _____, A Child.

_____)
_____)
_____)
_____)
_____)

Case No. _____

Notice Of Motion For An Order For Service By Publication

1. Please Take Notice that a Motion for an Order for Service by Publication has been submitted to the Juvenile Court, a copy of which is attached or accompanies this Notice and that the Motion will be decided on Briefs unless a hearing is timely requested under Rule 14 of the North Dakota Rules of Juvenile Procedure, and Rule 3.2 of the North Dakota Rules of Court.

2. Please Take Further Notice that you shall have three (3) days after service of a Brief supporting the enclosed Motion within which to serve and file an Answer Brief and other supporting papers and that upon the filing of Briefs, or upon expiration of the time for filing, the Motion is deemed submitted to the Court unless a party timely requests a hearing.

3. Please Take Further Notice that a request for a hearing must be made no later than three (3) days after service of a Brief supporting the enclosed Motion. The party requesting a hearing shall secure a time for the hearing and shall serve notice of the time for the hearing upon all other parties.

Dated _____.

(Petitioner's Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email Address: _____

State Of North Dakota

In Juvenile Court

County Of _____

_____ Judicial District

In The Interest Of _____, DOB _____, A Child.

_____)

_____)

_____)

Case No. _____

_____)

_____)

Motion For An Order For Service By Publication

1. **Petitioner** hereby moves the court for an Order in accordance with Rule 6 of the North Dakota Rules of Juvenile Procedure, Rule 4 of the North Dakota Rules of Civil Procedure, Rule 14 of the North Dakota Rules of Juvenile Procedure, and Rule 3.2 of the North Dakota Rules of Court providing as follows:

2. Granting Petitioner permission to serve a redacted Summons in the above case on _____ (*name of respondent*) by publication in the official newspaper for _____ County, North Dakota, one time per week for three weeks.

3. Rescheduling the hearing dated _____, if the last date of publication of the redacted Summons is less than five (5) days before the hearing date.

Dated _____.

(Petitioner's Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email Address: _____

State Of North Dakota

In Juvenile Court

County Of _____

_____ Judicial District

In The Interest Of _____, DOB _____, A Child.

_____)
_____)
_____)
_____)
_____)

Case No. _____

Brief In Support Of Motion For An Order For Service By Publication

Under Rule 14 of the North Dakota Rules of Juvenile Procedure, and Rule 3.2 of the North Dakota Rules of Court, the Petitioner submits this Brief in Support of the Motion for an Order for Service by Publication.

Facts

1. The facts are stated in the Declaration of _____
(*Petitioner's name*), which is filed with the Motion for an Order for Service by Publication and incorporated by reference.

Law And Argument

2. Rule 6 of the North Dakota Rules of Juvenile Procedure provides:

If after reasonable effort the party cannot be found or the party's post-office address ascertained, whether the party is within or without this state, the court may order service of the summons upon the party by publication:

(1) in a newspaper under Rule 4 of the North Dakota Rules of Civil Procedure. . . .

The hearing must not be earlier than five days after the date of the last publication in a newspaper or on the website.

(N.D.R.Juv.P. 6(b))

3. As stated in the Declaration of _____

(*Petitioner's name*), the Petitioner performed a diligent search to locate

_____ (*Respondent's name*) in order to comply with the

service requirements of Rule 6 of the North Dakota Rules of Juvenile Procedure.

4. The Petitioner, after making reasonable efforts, is unable to find

_____ (*Respondent's name*) or ascertain their post office

address for service of the Summons in this case.

Conclusion

5. The Petitioner respectfully requests that the court enter an Order consistent with the

Petitioner's Motion.

Dated _____.

(*Petitioner's Signature*)

(*Printed Name*)

(*Address*)

(*City, State, Zip Code*)

Telephone Number: _____

Email Address: _____

State Of North Dakota

In Juvenile Court

County Of _____

_____ Judicial District

In The Interest Of _____, DOB _____, A Child.

_____)

_____)

_____)

Case No. _____

_____)

_____)

Declaration Of _____ In Support Of Motion

I, _____ (*Petitioner's name*),

the undersigned, state as follows:

1. I am the Petitioner in the above entitled action.
2. I make this Declaration in support of my Motion for an Order for Service by Publication of the redacted Summons on the Respondent, _____, (*Respondent's name*) pursuant to Rule 6(b) of the North Dakota Rules of Juvenile Procedure, Rule 4(e) of the North Dakota Rules of Civil Procedure, Rule 14 of the North Dakota Rules of Juvenile Procedure, and Rule 3.2 of the North Dakota Rules of Court.
3. To the best of my knowledge, information and belief, the last reasonably ascertainable address of the Respondent is: _____
_____.

4. I made the following diligent efforts to locate the Respondent in order to serve the Summons and Petition in the above entitled action (*list dates, names and results of contacts/attempts to locate Respondent. Attach supporting documentation*):

5. I made the following attempts to serve the Respondent (*list dates and results of service attempts. Attach supporting documentation*):

6. After diligent inquiry and attempts to serve the Respondent, service of the Summons and Petition cannot be made on the Respondent pursuant to Rule 6(a) of the North Dakota Rules of Juvenile Procedure.

7. I understand that if the court orders service of the redacted Summons by publication, I must arrange for a copy of the Summons and Petition to be mailed to the Respondent's last reasonably ascertainable address no later than fourteen (14) days after the first publication of the redacted Summons.

8. I declare, under penalty of perjury under the law of North Dakota, that the information contained in this Declaration in support of my Motion for an Order for Service by Publication, is true and correct.

Signed on _____ (Date), in _____ (City),
_____ (County), _____ (State), _____ (Country).

(Petitioner's Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

Telephone Number: _____

Email Address: _____

State Of North Dakota

In Juvenile Court

County Of _____

_____ Judicial District

In The Interest Of _____, DOB _____, A Child.

_____)
_____)
_____)
_____)
_____)

Case No. _____

Order For Service By Publication

- 1. The Petitioner, having moved the Court for an Order for Service by Publication, and
- 2. The Court having considered the Motion and the supporting Brief and Declaration of _____ (Petitioner's name),

3. **Now Therefore**, it is hereby **Ordered** that the Petitioner shall publish a redacted Summons in the official newspaper for _____ County, North Dakota, one time per week for a total of three consecutive weeks, and the Petitioner shall cause a copy of the Summons and Petition to be mailed to the Respondent's last reasonably ascertainable address no later than fourteen (14) days after the first publication.

Dated _____.

By The Court:

(Juvenile Court Judge/Judicial Referee)

State Of North Dakota

In Juvenile Court

County Of _____

_____ Judicial District

In The Interest Of _____, DOB _____, A Child.

_____)

_____)

_____)

Case No. _____

_____)

_____)

Declaration of Service by Mail

(A separate Declaration is required for each person served.)

The person serving court documents by mail states:

1. My name is _____ *(name of person who mailed documents)*. I am at least 18 years of age.

2. List of Juvenile Court Documents Served:

- Notice of Motion for an Order for Service by Publication
- Motion for an Order for Service by Publication
- Brief in Support of an Order for Service by Publication
- Declaration in Support of an Order for Service by Publication
- Order for Service by Publication (Proposed)

3. Date of Service by Mail:

Date Court Documents Were Served by Mail: _____

4. Person Served by Mail:

Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

5. **Service by Mail:** As required by Rule 7(c)(3) of the North Dakota Rules of Juvenile Procedure, I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person listed in Paragraph 4.

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (Date), in _____ (City),
_____ (County), _____ (State), _____ (Country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email Address: _____

State Of North Dakota

In Juvenile Court

County Of _____

_____ Judicial District

In The Interest Of _____, DOB _____, A Child.

_____)

_____)

_____)

Case No. _____

_____)

_____)

Declaration of Service By Hand Delivery

(A separate Declaration is required for each person served.)

The person personally serving court documents states:

1. My name is _____ *(name of person who personally served documents)*.

2. I am at least 18 years of age. **I am not a party or interested in the above named juvenile court matter.**

3. List of Juvenile Court Documents Served:

- Notice of Motion for an Order for Service by Publication
- Motion for an Order for Service by Publication
- Brief in Support of an Order for Service by Publication
- Declaration in Support of an Order for Service by Publication
- Order for Service by Publication (Proposed)

4. Date, Time, and Address of Service by Hand Delivery:

Date: _____ Time: _____ a.m. (or) p.m.

Address: _____
(street address) (city) (zip code)

5. Service by Hand Delivery:

As required by Rule 7(c)(1) of the North Dakota Rules of Juvenile Procedure, I served a true and correct copy of each of the court documents indicated in Paragraph 3 to _____
_____ (*name of person served*) by giving the court documents directly to them. I know the person I served is the person intended to be served because (*explain how you identified the person*): _____
_____.

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Hand Delivery is true and correct.

Signed on _____ (*Date*), in _____ (*City*),
_____ (*County*), _____ (*State*), _____ (*Country*).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email Address: _____

State Of North Dakota

In Juvenile Court

County Of _____

_____ Judicial District

In The Interest Of _____, DOB _____, A Child.

_____)

_____)

_____)

Case No. _____

_____)

_____)

Declaration of Office Service

(A separate Declaration is required for each person served.)

The person serving court documents at the office states:

1. My name is _____ *(name of person who delivered court documents to the office).*

2. I am at least 18 years of age. **I am not a party or interested in the above named juvenile court matter.**

3. List of Juvenile Court Documents Served:

- Notice of Motion for an Order for Service by Publication
- Motion for an Order for Service by Publication
- Brief in Support of an Order for Service by Publication
- Declaration in Support of an Order for Service by Publication
- Order for Service by Publication (Proposed)

4. Date, Time, and Address of Office Service:

Date: _____ Time: _____ a.m. (or) p.m.

Address: _____
(street address) (city) (zip code)

5. Office Service:

As required by Rule 7(c)(2) of the North Dakota Rules of Juvenile Procedure, I served a true and correct copy of each of the court documents indicated in Paragraph 3 to _____
_____ (name of person served) at the date, time and address of their office listed in Paragraph 4 by (choose one):

leaving the court documents with: _____ (name), who is a person in charge.

leaving the court documents in a conspicuous place in the office, specifically: _____ (describe), because there is no person in charge.

I know the person I served is the person intended to be served because (explain how you identified the person): _____
_____.

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Office Service is true and correct.

Signed on _____ (Date), in _____ (City),
_____ (County), _____ (State), _____ (Country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email Address: _____