

Service Information After Guardianship Of An Adult is Established By a North Dakota State District Court

Important! Read Before Using These Forms & Instructions!

ND Legal Self Help Center staff and court employees can't help you fill out forms. 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 and judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted.

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 to learn more 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;
 - Any local court rules.

Links to the laws, case law, and court rules can be found 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 same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

*This information isn't a complete statement of the law. This covers basic information about the service requirements after a guardianship of an adult is established by a North Dakota state district court. The Center isn't responsible for any consequences that may result from the forms or information provided. **Use these forms and instructions at your own risk.***

Important – Service is an important step in the legal process.

Everything filed with the court in the guardianship of adult case must be served on the ward and all others as required by

[North Dakota Century Code Chapter 30.1-28.](#)

Documents that must be served after a guardianship of adult case has started.

[Rule 5 of the North Dakota Rules of Civil Procedure](#) gives the requirements for the types of documents that must be served after a civil case has been started. Guardianship of adult cases are considered civil cases.

Generally, each of the following documents must be served under Rule 5 on every person who is required to served, **unless** the rules and laws that apply to guardianship of adult cases, or the court provide otherwise:

- An order;
- A pleading served after the original notice and petition (see [Rule 7 of the North Dakota Rules of Civil Procedure](#) for types of documents that are pleadings);
- A discovery document required to be served on a party (see [Rule 5\(d\)\(3\) of the North Dakota Rules of Civil Procedure](#) for discovery documents that are filed with the court);
- A written motion, except one that may be heard ex parte;
- A written notice, appearance, demand, or offer of judgment, or any similar document; and;
- Every document filed with the clerk or submitted to the judge.

Review the [North Dakota laws](#) and [rules](#) that apply to guardianship of adult cases. If a North Dakota law or rule tells the specific method of service that must be used, use that method of service.

If a person who is required to be served **isn't** represented by a lawyer, serve the person. If the person who is required to be served is known to be represented by a lawyer, serve the lawyer instead of the person.

In general, copies of documents are served. Original documents are filed with the court.

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Documents that are required to be served must be served on all persons required to be served in [Chapter 30.1-28](#) of the North Dakota Century Code.

The following persons must be served copies of all documents that are required to be served:

- The ward;
- The guardian and any co-guardians;
- The ward's spouse, parents, and adult children;
- Any person, corporation, or institution who is serving as the ward's guardian, attorney in fact, representative payee for public benefits, or conservator, or who has the ward's care and custody;
- If the ward **doesn't have** a spouse, parents, or adult children, then the adult siblings and any adult with whom the proposed ward resides in a private residence, or if none can be found, any known adult relative;
- The attorney for the ward, if any; and
- Any interested persons listed in the court's order and defined by [Section 30.1-01-06\(26\)](#).

The person filing the documents is responsible for ensuring the documents are served as required by [Section 30.1-03-01](#) and [Section 30.1-28-09](#) of the North Dakota Century Code.

Proof of service tells the North Dakota state district court how, when and where the documents were served.

If proof of service isn't filed, the court won't act on the documents.

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

The proof of service tells the court when, how, and where all people required to be served were served copies of the documents you file.

- A certificate of service gives the court proof of service when a sheriff or other officer served the documents.
- A declaration of service or affidavit of service gives the court proof of service when a person other than a sheriff or other officer served the documents.

Self-Represented parties aren't required to serve documents electronically.

[Rule 5 of the North Dakota Rules of Civil Procedure](#) requires electronic service of documents.

Self-represented parties are exempt from this requirement. (See [Rule 3.5 of the North Dakota Rules of Court.](#))

The person filing the documents, must locate the addresses or locations 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 person left a forwarding address.
- Friends, family, employers.
- Online search engines.
- Government entities, such as Department of Motor Vehicles or County Recorder.
- Social Security Death Index.
- Social networking websites.
- Reverse directories.
 - A reverse directory allows someone to search by phone number to find an address. (Your local public library may have access to reverse directories.)

The documents may be served as follows:

1. Service on the Ward, Spouse, and Parents by Personal Service

The ward **must** be personally served.

If the ward's spouse and parents are found within North Dakota, they must also be personally served.

You, the person filing the documents, can't personally serve the documents yourself. You arrange for personal service as follows:

- a. The person who personally serves a copy of the documents that will be filed with the court must be at least 18 years old and not a party to the petition or an interested party.
- b. The person who serves the documents must complete, sign and date a Declaration of Service by Personal Delivery. This is your proof of service of the documents.

- If the Sheriff or other officer personally serves the documents, the Sheriff or other officer will provide a completed certificate of service.
- c. Make a copy of each declaration or certificate for your records.
- d. File the original of each Declaration of Service by Personal Delivery with the clerk of court.

2. Service by Mail:

If the ward's spouse or parents can't be found within North Dakota they may be served by mail.

All other persons listed in [N.D.C.C. § 30.1-28-09](#) may be served by mail. See [N.D.C.C. § 30.1-03-01](#).

You, the person filing the documents, arrange for service by mail as follows:

- a. The person who mails a copy of the documents that will be filed with the court must be at least 18 years old.
- b. The copy of the documents must be sent by certified or ordinary first-class mail addressed to the person's office or place of residence.
- c. The person who mails the documents must complete, sign and date a Declaration of Service by Mail. This is your proof of service of the notice.
- d. Make a copy of each declaration of service by mail for your records.
- e. File the original of each Declaration of Service by Mail with the clerk of court.

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

DECLARATION OF SERVICE BY PERSONAL DELIVERY
(A separate declaration is required for each person served.)

The person personally serving court documents states:

1. My name is _____ *(person who personally served documents)*. I am at least 18 years of age. I am **not a party or interested in the above named matter.**

2. **List of Court Documents Served:** *(Write the name of the document and ✓ the box.)*

- _____
- _____
- _____
- _____

3. **Personal Service:**

I served a true and correct copy of each of the court documents listed in Paragraph 2 to

_____ *(name of person served)* by:

(choose one)

- Giving the court documents directly to him/her.
- Leaving the court documents with: _____ *(name)*, a person of suitable age and discretion who lives at the same address.

(Paragraph 3 continues on next page.)

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

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

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

Address:

(street address) (city) (zip code)

5. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Personal 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
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

DECLARATION OF SERVICE BY MAIL

(May serve multiple persons ONLY IF envelopes are mailed the same day.)

The person serving court documents by mail states:

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

2. **List of Court Documents Served** *(write the name of the document and ✓ the box.):*

- _____
- _____
- _____
- _____

3. **Service by Mail:**

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 Certified Mail *(OR)* First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to each person listed in Paragraph 5.

4. **Date of Service by Mail:**

Date Court Documents Were Served by Mail: _____

5. **Person or Persons Served by Mail:**

- 1. Name of Person Served: _____
Mailing Address: _____
City, State, Zip Code: _____

- 2. Name of Person Served: _____
Mailing Address: _____
City, State, Zip Code: _____

- 3. Name of Person Served: _____
Mailing Address: _____
City, State, Zip Code: _____

- 4. Name of Person Served: _____
Mailing Address: _____
City, State, Zip Code: _____

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)