

INSTRUCTIONS FOR REQUESTING THE EARLY DESTRUCTION OF JUVENILE COURT RECORDS

IMPORTANT! READ BEFORE USING THIS PACKET

Court employees cannot help you fill out the form(s). If you are unsure how to proceed, you should consult a lawyer.

To protect your rights, carefully read this information and any instructions to which you are referred.

You have the choice to be represented by a lawyer of your choice at your own expense. You should see a lawyer if you do not know how to answer the questions on these forms.

You may go to court without a lawyer, but you will have to abide by the state or federal laws that apply to your case, the appropriate court rules, including North Dakota Rules of Juvenile Procedure, and any local court rules. Links to the rules and state laws can be found at www.ndcourts.gov.

These instructions and forms are not a complete statement of the law. They cover basic procedure for requesting the early destruction of juvenile court records from delinquency or unruly proceedings. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. For legal information, please talk to a lawyer.

Who Should Use this Packet?

An individual who was the subject of a proceeding in North Dakota Juvenile Court **AND**:

- The proceeding(s) in Juvenile Court was for either delinquent acts or unruly behavior;
 - Delinquent acts are considered crimes whether they are committed by a child or an adult.
 - Unruly behavior includes truancy, ungovernable behavior, and offenses that only apply to children.
- The proceeding(s) in Juvenile Court was handled by a judicial referee or a judge;
 - You may choose to include informal adjustments and diversions in your request.
- The individual believes he/she has good cause for the records to be destroyed early; and
- The individual **does not** have any juvenile or criminal charges pending in any other court.

Important! If juvenile court received a referral alleging certain sex offenses or obscenity offenses, per North Dakota Century Code (NDCC) Section 25-03.3-04, all juvenile case files and court records concerning the alleged offenses must be retained for fifty (50) years.

The list of offenses is found in NDCC Chapters 12.1-20 and 12.1-27.2.

STEP 1: REVIEW RULE 19(d) OF THE N. D. RULES OF JUVENILE PROCEDURE

“(d) Early Destruction of Records. A party who is the subject of a delinquency or unruly proceeding may petition the court for early destruction of records. The state's attorney of the county in which the records are held must be notified of the request. The judge may order the early destruction upon a showing of good cause to destroy the records by the party. The records may not be destroyed if it is known that the subject of the motion has criminal charges pending before any other court.”

**STEP 2: PREPARE THE FORMS TO REQUEST EARLY DESTRUCTION OF RECORDS
(Instructions are included on each form.)**

*** Please note that you will need the case number(s) of your delinquent and/or unruly proceedings in order to complete the forms. You may need to contact the Juvenile Court Officer who managed your case (or cases) and ask for the case number(s).

Form Title	Purpose
Notice of Motion & Motion for Early Destruction of Juvenile Records & Brief (NDRJuvP 19 MB)	Tells the juvenile court that the Respondent (you) in the original juvenile court case or cases is requesting early destruction of the records, why you are making the request, and why the juvenile court should agree with you. Tells the State’s Attorney they have 14 days to respond to the motion.
Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff)	Gives the court information that the Respondent (you) is required to provide about the delinquent and/or unruly charges, the outcome of the juvenile court proceeding(s), and why you are making the request.
Finding of Fact and Conclusions of Law for Early Destruction of Juvenile Records (NDRJuvP 19 FFCL)	After reviewing all of the evidence presented, the proposed explanation of facts the court found to be true and the legal consequences of those facts. The proposed findings of fact and conclusions of law are not effective until signed by the court.

Order for Early Destruction of Juvenile Records (NDRJuvP 19 Order)	Proposed order of the court for early destruction of the juvenile records identified in the motion and affidavit. The proposed order is not effective until it is signed by the court.
--------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

STEP 3: SERVE COPIES OF THE COMPLETED FORMS ON THE STATE’S ATTORNEY OF THE COUNTY THAT HOLDS YOUR JUVENILE COURT RECORDS.

The person who served the States Attorney completes an affidavit of proof of service. (Instructions are included on each form.)

Service means giving a copy of each of the completed forms from Step 2 to the State’s Attorney. You serve the State’s Attorney of the County that holds the records of your Juvenile Court proceeding(s).

Proof of service is an important step in the legal process and the document showing proof of service must be filed with the clerk of court in Step 4. If proof of service is not filed, the Juvenile Court will not read your completed forms or act on your request until you show that the State’s Attorney was served.

Before serving copies of the completed forms on the State’s Attorney, contact the Juvenile Court in the County where you will file the motion. Juvenile Court staff may agree to serve the State’s Attorney for you.

If Juvenile Court staff will not serve the State’s Attorney, you must arrange for the State’s Attorney to be served.

Review Rule 7 of the N. D. Rules of Juvenile Procedure. Rule 7 includes the six different methods to serve 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 documents were served as required by Rule 7.

Service Form Title	Description
Affidavit of Service by Mail (Juv Ct Rule 19 ASM)	Proof that copies of the completed Notice of Motion and Motion for Early Destruction of Juvenile Records and Brief (NDRJuvP 19 MB), Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff), Finding of Fact and Conclusions of Law for Early Destruction of Juvenile Records (NDRJuvP 19 FFCL), and Order for Early Destruction of Juvenile Records (NDRJuvP 19 Order) were mailed to the State’s Attorney and the date the forms were mailed.
Affidavit of Service by Personal Delivery (Juv Ct Rule 19 APS)	Proof that copies of the completed Notice of Motion and Motion for Early Destruction of Juvenile Records and Brief (NDRJuvP 19 MB), Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff), Finding of Fact and Conclusions of Law for Early Destruction of Juvenile Records (NDRJuvP 19 FFCL), and Order for Early Destruction of Juvenile Records (NDRJuvP 19 Order) were handed to the State’s Attorney.
Affidavit of Office Service (Juv Ct Rule 19 AOS)	Proof that copies of the completed Notice of Motion and Motion for Early Destruction of Juvenile Records and Brief (NDRJuvP 19 MB), Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff), Finding of Fact and Conclusions of Law for Early Destruction of Juvenile Records (NDRJuvP 19 FFCL), and Order for Early Destruction of Juvenile Records (NDRJuvP 19 Order) were left with a clerk or other person in charge at the State’s Attorney’s office.

The most common methods of service on a State’s Attorney are described below.

1. By Mail:

If you decide to serve copies of the completed forms on the State’s Attorney by mail, you must:

- a. Have someone who is at least 18 years of age mail copies of the completed Notice of Motion and Motion for Early Destruction of Juvenile Records and Brief (NDRJuvP 19 MB), Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff), Findings of Fact and Conclusions of Law for Early Destruction of Juvenile Records (NDRJuvP 19 FFCL), and Order for Early Destruction of Juvenile Records (NDRJuvP 19 Order) to the State’s Attorney. Mail the completed forms to the last known address for the State’s Attorney. Service is complete upon mailing.

- b. The person who mailed the forms must fill out the Affidavit of Service by Mail form and sign the form in front of a clerk of court or a notary public.
- c. File the Affidavit of Service by Mail form, with the Juvenile Court in Step 4.

2. By Personal Service:

If you decide to serve the State's Attorney by personal service:

- a. Have someone who is at least 18 years of age and not a party to the case hand copies of the completed Notice of Motion and Motion for Early Destruction of Juvenile Records and Brief (NDRJuvP 19 MB), Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff), Findings of Fact and Conclusions of Law for Early Destruction of Juvenile Records (NDRJuvP 19 FFCL), and Order for Early Destruction of Juvenile Records (NDRJuvP 19 Order) to the State's Attorney.
- b. The person who handed copies of the completed forms to the State's Attorney must fill out the Affidavit of Service by Personal Delivery form and sign the form in front of a clerk of court or notary public.
- c. File the Affidavit of Service by Personal Delivery form with the Juvenile Court in Step 4.

3. By Office Service:

If you decide to serve the State's Attorney by leaving copies of the completed forms at the State's Attorney's office:

- a. Have someone who is at least 18 years of age and not a party to the case leave copies of the completed Notice of Motion and Motion for Early Destruction of Juvenile Records and Brief (NDRJuvP 19 MB), Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff), Findings of Fact and Conclusions of Law for Early Destruction of Juvenile Records (NDRJuvP 19 FFCL), and Order for Early Destruction of Juvenile Records (NDRJuvP 19 Order) at the State's Attorney's office.
- 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 with the State's Attorney's office must fill out the Affidavit of Office Service and sign the form in front of a clerk of court or notary public.
- e. File the Affidavit of Office Service with the Juvenile Court in Step 4.

STEP 4: FILE THE ORIGINAL, COMPLETED FORMS WITH THE JUVENILE COURT.

1. Take the original, completed forms to the Juvenile Court in the County that holds your records.
 - Notice of Motion and Motion for Early Destruction of Juvenile Records and Brief (NDRJuvP 19 MB)
 - Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff)
 - Findings of Fact and Conclusions of Law for Early Destruction of Juvenile Records (NDRJuvP 19 FFCL)
 - Order for Early Destruction of Juvenile Records (NDRJuvP 19 Order)
 - Proof of service of copies of the original, completed forms on the State's Attorney.
 - Depending on the method of service you used, you will file either the completed Affidavit of Service by Mail, the Affidavit of Service by Personal Delivery, or the Affidavit of Office Service
2. You are not required to pay a filing fee. If you are asked to pay a filing fee, contact the Juvenile Court Supervisor or Director in the County that holds your records for assistance.

What to expect after the forms are filed and served:

The State's Attorney has 14 days to respond to the motion.

This does not include the day of service. In the response, the State's Attorney will say whether he or she agrees or disagrees with your request for early destruction of your juvenile records.

The judicial referee or judge assigned to your request 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 will be notified by mail. If the judicial referee or judge decides to make a decision without a hearing, you will receive copies by mail of documents signed by the judicial referee or judge. The documents will tell you what the judicial referee or judge decided.