



REGISTERING A FOREIGN (NON-NORTH DAKOTA) CUSTODY ORDER

An Informational Guide to a North Dakota Civil Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided in this informational guide is not intended for legal advice but only as a general guide to a civil court process.

If you decide to represent yourself, you will need to do additional research to prepare.

When you represent yourself, you must abide by the following:

- 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 www.ndcourts.gov.

A glossary with definitions of legal terms is available at www.ndcourts.gov by clicking on the “Self Help” link.

When you represent yourself, you are held to same requirements and responsibilities as a lawyer, even if you don’t understand the rules or procedures. If you are unsure if this information suits your circumstances, consult a lawyer.

This information is not a complete statement of the law. This covers basic information about the process of registering a foreign custody order with a North Dakota State District Court. The Center is not responsible for any consequences that may result from the information provided. The information cannot replace the advice of competent legal counsel licensed in the state of North Dakota. Use at your own risk.

OVERVIEW:

If a court outside North Dakota issued an order governing the legal custody, physical custody, or visitation of a minor child, **and the order granted you custody or visitation**, you may ask a North Dakota District Court to register your foreign (non-North Dakota) court order for recognition in North Dakota.

You may want to register your foreign custody or visitation order if the minor child or one or more of the parties now live in North Dakota. **Registration is the first step** to requesting that a North Dakota District Court enforce, take over jurisdiction, or modify your foreign (non-North Dakota) custody order.

For information about the enforcement step, see “Enforcing a Foreign (Non-North Dakota) Custody Order: An Informational Guide to a North Dakota Civil Court Process.”

LAWS AND RULES RELATED TO REGISTERING A FOREIGN CUSTODY ORDER:

Chapter 14-14.1 of the North Dakota Century Code is known as the Uniform Child Custody Jurisdiction and Enforcement Act, or UCCJEA. (<http://www.legis.nd.gov/cencode/t14c14-1.html>) The UCCJEA governs registration and enforcement of a foreign custody or visitation order in North Dakota.

- See Section 14-14.1-25 of Chapter 14-14.1 for the requirements for registering a custody or visitation order. (<http://www.legis.nd.gov/cencode/t14c14-1.pdf#nameddest=14-14p1-25>)

The North Dakota Rules of Civil Procedure apply to civil matters in North Dakota district courts. The rules are found at <https://www.ndcourts.gov/legal-resources/rules>.

Laws constantly change through legislation, administrative rulings and case law (court decisions). To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and case law. Notes of case law (court decisions) related to North Dakota law can be found in the print editions of the North Dakota Century Code and the North Dakota court rules. Print editions of the North Dakota Century Code and the North Dakota court rules are found in many North Dakota public and academic libraries.

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.

DEFINITIONS OF SOME COMMONLY USED TERMS:

(Please note that in 2009 the North Dakota State Legislature changed the term “custody” to “residential responsibility” and changed the term “visitation” to “parenting time.”)

Child custody determination: A foreign (non-North Dakota) judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation of a minor child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

Child custody proceeding: See the “Child Custody Proceedings with Foreign Custody Orders that May be Registered” section below.

Initial determination: The first child custody determination concerning a particular child.

Issuing court: The court that made the child custody determination for which registration is sought.

Jurisdiction: Jurisdiction is the power of a court to inquire into the facts, apply the law, and determine and pronounce judgment. Generally speaking, there are two types of jurisdiction, subject matter and personal.

- **Subject Matter Jurisdiction:** A court’s power to hear and determine the type of case or controversy. Comes from the constitution and statutes (laws enacted by a legislature). Subject matter jurisdiction cannot be agreed to, consented to, or waived.
- **Personal Jurisdiction:** A court’s power over the parties. A party can voluntarily submit to the personal jurisdiction of a court.

Modified determination: Changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

Person acting as a parent: A person, other than a parent, who has been awarded legal custody by a non-North Dakota court whose foreign custody order may be registered.

Stayed determination: Temporary suspension of a custody determination. The decision to stay a determination is made by a court.

Vacated determination: Set aside or void a custody determination. The decision to vacate a determination is made by a court.

COURTS WHOSE CUSTODY ORDERS MAY BE REGISTERED:

Custody orders issued by a court of the following may be registered using this process:

- A state of the United States;
- The District of Columbia;
- Puerto Rico;
- United States Virgin Islands;
- Any territory or insular possession of the United States;
- An Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state of the United States; and
- A foreign country, if certain requirements are met. (See Chapter 14-14.1 linked above.)

CHILD CUSTODY PROCEEDINGS RESULTING IN FOREIGN CUSTODY ORDERS THAT MAY BE REGISTERED:

The following types of cases, also called child custody proceedings, which result in a foreign (non-North Dakota) custody order, or determination, may be registered using this process:

- Abuse;
- Dependency;
- Divorce;
- Guardianship;
- Legal Separation;
- Neglect;
- Paternity;
- Protection from Domestic Violence; and
- Termination of Parental Rights;

The order, or determination, may be a permanent, temporary, initial, or modification order.

The order, or determination, must include provisions for legal custody, physical custody, or visitation.

Please note that foreign child support orders are not registered using this process. See Chapter 14-12.2 of the North Dakota Century Code: Uniform Interstate Family Support Act. (<http://www.legis.nd.gov/cencode/t14c12-2.html>)

PROCEEDINGS WITH FOREIGN CUSTODY ORDERS THAT MAY NOT BE REGISTERED:

The foreign (non-North Dakota) orders, or determinations, resulting from the following types of cases, **may not be registered using this process:**

- Juvenile Delinquency; or
- Emancipation.

STEP ONE:

CREATE THE REGISTRATION DOCUMENTS; GET COPIES OF THE FOREIGN CUSTODY ORDER.

The person requesting registration and was granted custody or visitation in the foreign custody order, creates the required registration documents and gets copies of the foreign custody order.

In general, the following documents are required for registration:

- A letter or other document requesting registration of the foreign custody order;
- An affidavit containing statements about the foreign custody order and information about the persons awarded custody or visitation; and
- Two copies of the foreign custody order sought to be registered.
 - One of the copies must be a certified copy
- An affidavit of identification of the other persons awarded custody or visitation in the order may be required.
 - Contact the Clerk of District court in the county where you intend to request registration and ask if the county requires this additional document.

Create the letter requesting registration of the foreign custody order:

An example of a letter requesting registration of a foreign custody order is found at the end of this Informational Guide.

Address the letter to the Clerk of District Court of the North Dakota county where you will file the request for registration.

Make a copy of your completed letter for your records. You will file the original with the Clerk of District Court in Step Two.

Create the affidavit for registration of the foreign custody order:

An example of an affidavit to register foreign custody order is found at the end of this Informational Guide.

The affidavit must contain the following:

- A statement under penalty of perjury that to the best of the your knowledge and belief the custody order has not been modified; and
- The names and addresses of the following persons:
 - The person seeking registration of the order;
 - The other parent; and
 - Any other person acting as a parent who has been awarded custody or visitation in the order sought to be registered.

Make a copy of your completed affidavit for your records. You will file the original with the Clerk of District Court in Step Two.

Get copies of the foreign custody order for registration:

Two copies of the foreign custody order you want to register must be filed with the letter and affidavit requesting registration.

One of the copies must be a certified copy. Contact the court that issued the foreign custody order to find out how to get a certified copy.

General Use Forms Available at the ND Legal Self Help Center website:

The following General Use forms are available as a starting point for creating registration documents. Go to www.ndcourts.gov and click on the “Self Help link. Scroll to the “District Court Civil” section.

- Caption and Signature Form
- Affidavit Form
- Affidavit of Identification Form

STEP TWO:

FILE REGISTRATION DOCUMENTS WITH THE CLERK OF DISTRICT COURT; PAY THE FILING FEE.

The person requesting registration files the following documents with the Clerk of District Court:

- The original letter requesting registration of the foreign custody order;
- The original affidavit to request registration of the foreign custody order;
- One certified copy of the foreign custody order sought to be registered;
- One additional copy of the foreign custody order sought to be registered (does not need to be certified); and
- An affidavit of identification for each person awarded custody or visitation in the foreign custody order, if required by the Clerk of District Court.

If the Clerk of District Court accepts your documents for filing, the Clerk will assign a case number.

You will be required to pay a \$10.00 filing fee.

The Filing Fee Waiver Request – District Court/Small Claims Court form set is available at www.ndcourts.gov by clicking on the “Self Help” link. Scroll to the “Miscellaneous Forms” section.

If you have questions about how you may submit your documents for filing, or how the filing fee may be paid, contact information for clerks of court by county is available online at <https://www.ndcourts.gov/court-locations>.

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STEP THREE:

NOTICE OF REGISTRATION GIVEN BY CLERK OF DISTRICT COURT.

After the registration documents are filed, the Clerk of District serves (gives) written notice of the registration to the other persons awarded custody or visitation in the foreign custody order.

Commonly, the notice of registration is served (given) by mailing the written notice.

The following information is required to be included in the notice of registration:

- The registered custody determination is enforceable as of the date of registration in the same way a North Dakota custody determination may be enforced;
- A hearing to contest or challenge the validity of the registered custody determination must be requested within twenty days after service of the notice of registration; and
- Failure to contest or challenge the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

An example of a notice of registration that was served by a Clerk of District Court as part of a foreign custody order registration is found at the end of this Informational Guide.

STEP FOUR:

CONTESTING OR CHALLENGING THE FOREIGN CUSTODY ORDER BY REQUESTING A HEARING WITHIN 20 DAYS OF THE NOTICE OF REGISTRATION.

After service of the notice of registration, other persons awarded custody or visitation in the foreign custody order have 20 days to request a hearing in writing to contest or challenge the registration.

Challenges to the foreign custody order are limited:

Contests, or challenges, to registration of the foreign custody order are limited to the following:

- The court that issued the custody order did not have jurisdiction to issue the order.
 - See North Dakota Century Code Sections 14-14.1-12 through 14-14.1-21 for jurisdiction requirements that apply to this challenge. (Linked above.)

- The foreign custody order sought to be registered has been vacated, stayed, or modified by a court that had jurisdiction to do so.
- The person contesting registration was entitled to notice before the custody order was made by the court that issued the order, but notice was not given according to the standards of North Dakota Century Code Section 14-14.1-07.
 - See North Dakota Century Code Section 14-14.1-07 for the notice standards that apply to this challenge. (Linked above.)

Create the request for hearing to contest registration of the foreign custody order:

An example of a request for hearing to contest registration of a foreign custody order is found at the end of this Informational Guide.

The person contesting registration must be awarded custody or visitation in the foreign custody order.

Make a copy of your completed request for your records.

File the request for hearing with the Clerk of District Court:

The person requesting the hearing files their original request for hearing document with the Clerk of District Court in the North Dakota county where the order was registered.

Contact information for clerks of court by county is available online at <https://www.ndcourts.gov/court-locations>.

STEP FIVE(A):

ATTEND THE HEARING (If Requested and Scheduled).

If a hearing is requested within 20 days of notice of registration and scheduled, ATTEND THE HEARING:

The person contesting or challenging registration of the foreign custody order will be required to prove their reason or reasons at the hearing.

The person who registered the foreign custody order may challenge the proof the other person presents at the hearing.

At the hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

- The court that issued the custody order did not have jurisdiction to issue the order;
- The foreign custody order sought to be registered has been vacated, stayed, or modified by a court that had jurisdiction to do so; or
- The person contesting registration was entitled to notice before the custody order was made by the court that issued the order, but notice was not given according to the standards of North Dakota Century Code Section 14-14.1-07.

STEP FIVE(B):

IF A HEARING IS NOT REQUESTED WITHIN 20 DAYS, REGISTRATION IS CONFIRMED.

If a hearing to contest or challenge registration is not requested within 20 days of notice of registration:

If a hearing is not requested within 20 days after the service of the notice, registration is confirmed and the parties are notified of the confirmation.

Registration is the first step of the two-step process for requesting enforcement of a foreign custody or visitation order.

For information about the enforcement step of the two-step process for enforcement of a foreign custody or visitation order, see “Enforcing a Foreign (Non-North Dakota) Custody Order: An Informational Guide to a North Dakota Civil Court Process.”

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LAWYER RESOURCES AND LIMITED LEGAL REPRESENTATION

You are not required to hire a lawyer to bring a civil action in a North Dakota state district court. If you decide to represent yourself, you must follow all of the rules, laws and procedures that a lawyer is required to follow.

If you decide to find a lawyer to represent you, you may find the following options of interest.

- Legal Services of North Dakota is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is www.legalassist.org.
- The State Bar Association of North Dakota provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is www.sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- For a list of all lawyers who are licensed to practice in North Dakota, go to the North Dakota Supreme Court website at www.ndcourts.gov/Lawyers. You can narrow your search by name or location.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (sometimes called “unbundling”) is a way that a lawyer can help you with part of your case while you do the rest of your case. You pay for the part of the case the lawyer handled. For example:

- You may want an attorney to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with an attorney to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with an attorney who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire an attorney just to make the court appearance for you.

You and the lawyer must agree in writing to Limited Legal Representation.

(Your name and address)

(Date)

Clerk of District Court, _____ County

(Address, City, State, Zip Code)

Re: Foreign (Out of State) Custody Determination
Parties: _____
Case Number: _____
State and County Where Issued: _____
Court That Issued: _____

Dear Clerk of District Court:

I request registration of the above-listed foreign (out of state) custody determination pursuant to North Dakota Century Code Section 14-14.1-25. The following are filed in support of my request:

1. Two copies of the child custody determination listed above. One of the copies is a certified copy; and
2. My affidavit containing the information required by North Dakota Century Code Section 14-14.1-25.

Sincerely,

(Signature)

(Printed Name)

(Telephone Number)

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

)
)
(Plaintiff/Petitioner))

Case No. _____

PLAINTIFF/PETITIONER,)

Vs)

AFFIDAVIT TO REGISTER AN OUT-OF-STATE
CUSTODY DETERMINATION PURSUANT TO
N.D.C.C. § 14-14.1-25

)

_____))

(Defendant/Respondent))

DEFENDANT/RESPONDENT.)

I, _____, state as follows:

1. Information about the out-of-state custody determination:

State that issued the custody determination: _____

Court that issued the custody determination: _____

Court case number: _____

2. Information about me:

Full legal name: _____

Current mailing address: _____

City, State, Zip Code: _____

Phone number(s): _____

Email address: _____

3. Information about the other parent:

Full legal name: _____

Current mailing address: _____

City, State, Zip Code: _____

Phone number(s): _____

Email address: _____

4. Information about persons acting as a parent who are awarded custody or visitation in the out-of-state custody determination for which I am requesting registration: *(choose one)*

No other persons acting as a parent are awarded custody or visitation in the out-of-state custody determination for which I am requesting registration.

Full legal name: _____

Current mailing address: _____

City, State, Zip Code: _____

Phone number(s): _____

Email address: _____

5. Two copies of the out-of-state custody determination, including one certified copy, are filed with this request for registration.

6. I state, under penalty of perjury under the laws of North Dakota, that to the best of my knowledge and belief, the out-of-state custody determination for which I am requesting registration is current and has not been modified.

7. I further state, under penalty of perjury, that everything I stated in this affidavit is true and correct.

Dated _____, 20____

(Signature)

(Printed Name)

(Address, City, State, Zip Code, Telephone Number)

State of: _____

County of: _____

(State and County where affidavit is signed.)

Example of a Notice of Registration Served by a Clerk of District Court,
AFTER a Foreign Custody Order was Filed.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF [REDACTED]

[REDACTED] JUDICIAL DISTRICT

MELINDA [REDACTED]

Plaintiff,

vs.

TRUWID [REDACTED],

Defendant.

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)
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)

NOTICE OF FILING FOREIGN JUDGMENT

CASE NO. [REDACTED]-20[REDACTED]-DM-00[REDACTED]

Pursuant to N.D.C.C. 14-14.1-25 you are notified that the Custody Order from the State of [REDACTED] [REDACTED] has been registered in [REDACTED] County, North Dakota on 23rd day of October, 20[REDACTED] and that action will be taken in the State of North Dakota to enforce that order.

A hearing to contest the validity or enforcement of the order must be requested, in writing, within 20 days after the date of mailing or service of the notice.

Failure to contest will result in confirmation and enforcement of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted

Dated 10/23/20[REDACTED]

Michele [REDACTED]
Clerk of District Court

By: [REDACTED]
Lori [REDACTED]
Deputy Clerk

Cc:

Truwid [REDACTED]
P O Box [REDACTED]
[REDACTED] ND 58 [REDACTED]

Melinda [REDACTED]
[REDACTED]
[REDACTED] ND 58 [REDACTED]

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

(Plaintiff/Petitioner)

)
)

Case No. _____

PLAINTIFF/PETITIONER,)

Vs)

REQUEST FOR HEARING TO CONTEST

REGISTRATION OF AN OUT-OF-STATE

CUSTODY DETERMINATION

(Defendant/Respondent)

)

(N.D.C.C. § 14-14.1-25)

DEFENDANT/RESPONDENT.)

1. I request a hearing on the registration of the out-of-state custody determination pursuant to North Dakota Century Code Section 14-14.1-25, which was registered on _____ (date) in the above-listed case number.

2. I am granted _____ (describe) in the out-of-state custody determination sought to be registered.

3. In support of this request, I allege the following: (choose applicable boxes)

The court that issued the custody determination did not have jurisdiction to issue the determination, because (explain) _____

The custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction as follows (specify, include court and date, attach certified copy): _____

I was entitled to notice before the custody determination was made, but notice was not given according to the standards of North Dakota Century Code Section 14-14.1-07.

Dated _____, 20____

(Signature)

(Printed Name)

(Address, City, State, Zip Code, Telephone Number)