

Instructions for Motion for Default Parenting Responsibility Judgment

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 these instructions and forms 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, which include,
 - [Chapter 14-09 of the North Dakota Century Code](#) governing custody, visitation, and child support;
 - [Chapter 14-12.2 of the North Dakota Century Code](#) governing enforcement and modification of child support issued by other states or countries; and
 - [Chapter 14-14.1 of the North Dakota Century Code](#) governing jurisdiction;
- 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 – specifically [Rule 55](#) – Default judgments;
 - North Dakota Rules of Court – specifically [Rule 3.2](#) – Motions;
 - 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 procedure for making a motion for a Default Parenting Responsibility Judgment in 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.

Establishing parenting responsibility can have serious long-term legal and financial consequences. It is strongly recommended that you consult a lawyer and carefully consider all of your options before you represent yourself in a motion for a Default Parenting Responsibility Judgment.

You May Use This Packet of Forms **Only if **All** of the Following Statements are True.**

1. Service of the Summons and Complaint on the Defendant was completed and you have proof of service.
2. The 21 day deadline for the Defendant to answer the Summons and Complaint has passed and the Defendant **didn't** respond **in writing**.
3. The children have lived in North Dakota with you or the Defendant for at least the past 6 months (or since birth); ***Or*** North Dakota was the home state of all of the children within 6 months of the start of this case **And** you **or** the Defendant still live in North Dakota.
4. This is the only legal action in North Dakota, or any other state, between you and the Defendant regarding your minor children.
5. Neither you nor the Defendant are currently in the military; ***Or*** both you and the Defendant are currently in the military but not deploying or deployed.

Instructions for this packet of forms begins on Page 6.

What is a Motion for Default Parenting Responsibility Judgment?

Service of the Summons and Complaint for Parenting Responsibility Starts the Parenting Responsibility Case:

The parent who starts the Parenting Responsibility case is called the Plaintiff. The Plaintiff starts the Parenting Responsibility case by by arranging for a Parenting Responsibility Summons and Complaint to be served on the other parent, called the Defendant.

The Defendant has 21 days after the date they were served to answer the Summons and Complaint in writing.

You, The Plaintiff, May Ask for a Default Parenting Responsibility Judgment if the Defendant Doesn't Answer the Summons and Complaint in Writing:

If the Defendant **doesn't answer** the Parenting Responsibility Summons and Complaint **in writing** within 21 days after service, you may ask the judge or judicial referee, **in writing**, to grant the Parenting Responsibility case without the Defendant's involvement.

The request is called a **Motion for a Default Parenting Responsibility Judgment**. A judge or judicial referee may grant a Default Parenting Responsibility Judgment if **you prove the following, in writing**:

1. Proof of service of the Parenting Responsibility Summons and Complaint on the Defendant;
2. The 21 day deadline for the Defendant to answer the Parenting Responsibility Summons and Complaint has passed and the Defendant didn't respond **in writing**;
3. The North Dakota State District Court has the authority (jurisdiction) to grant the Parenting Responsibility case; and
4. You provided all other necessary information and proof to the District Court judge or judicial referee.

Effect of a Default Parenting Responsibility Judgment:

If the District Court judge or judicial referee grants a Default Parenting Responsibility judgment, the Judgment has the same effect as a Parenting Responsibility Judgment.

However, at a later date the Defendant may make a written motion to the judge or judicial referee to re-open the Default Parenting Responsibility Judgment. If Defendant makes the written motion, the judge or judicial referee decides whether to re-open the Default Parenting Responsibility Judgment, or keep the Default Parenting Responsibility Judgment in place.

Protections for Active Military Service Members Against Default Judgments:

Under Federal law, active duty service members have protections against default judgments.

Before a North Dakota state district court judge or judicial referee may grant a Motion for a Default Parenting Responsibility Judgment, you must prove that the Defendant **isn't** on active duty with any branch of the United States military.

You **must** attempt to find out if the Defendant is an active duty service member and include the steps you took and the outcome in the Motion for Default Parenting Responsibility Judgment documents.

The [Servicemembers Civil Relief Act \(SCRA\) Website](#) may be of interest.

If the judge or judicial referee can't tell whether the Defendant is in active military service from the forms you file, before granting a Default Parenting Responsibility Judgment, the judge or judicial referee may require you to file a bond. The judge or judicial referee decides the dollar amount of the bond. If the Defendant is later found to be in active military service, the bond is used to compensate the Defendant against loss or damage resulting from the Default Parenting Responsibility Judgment.

How to Calculate the 21 Day Deadline to Answer

The Start of the 21 Day Deadline Depends on the Date the Defendant was Served:

Review [Rule 4 of the North Dakota Rules of Civil Procedure](#) for more information about service.

- **Personal Service by Sheriff or Person 18 Years or Older and Not Interested in the Case:** If you arranged to have the other parent, the Defendant, served the Summons and Complaint by a sheriff or other non-interested adult, **the Defendant is served on the date they were given the Summons and Complaint.**
- **Service by Certified Mail, Return Receipt Requested (Restricted Delivery):** If you arranged to have the other parent, the Defendant, served the Summons and Complaint by certified mail, return receipt requested, **the Defendant is served on the date the green card receipt shows actual delivery.**
- **Service by Publication in the Newspaper:** If you arranged to have the other parent, the Defendant, served the Summons by publication, **the Defendant is served 15 days after the first date the Summons was published in the newspaper.**

Remember, you must have proof of service of the Summons and Complaint on the Defendant.

The judge or judicial referee assigned to your Parenting Responsibility case won't consider your motion for a Default Parenting Responsibility Judgment without proof of service.

Count Forward 21 Days Starting the Day After the Defendant was Served:

The Defendant's 21 day deadline to answer is calculated in **calendar days**. This means you count weekdays, Saturdays, Sundays, and North Dakota state holidays.

1. On your calendar, go to the date the Defendant was served.
2. Starting with the day **after** the date the Defendant was served, count ahead 21 calendar days.
3. If the 21st calendar day lands on a Saturday, Sunday, or North Dakota state holiday, move ahead to the next calendar day that isn't a Saturday, Sunday, or North Dakota state holiday.

Parties in a Motion for Default Parenting Responsibility Judgment

Plaintiff: You, the parent listed as the Plaintiff in the action to establish parenting responsibility. Also, the parent who started the parenting responsibility case with service of the Summons and Complaint on the other parent.

Defendant: The parent listed as the Defendant in the case to establish parenting responsibility who was served the Summons and Complaint to establish parenting responsibility.

Moving Party: You, the parent bringing the Motion for Default Parenting Responsibility Judgment. The Moving Party is also you, the Plaintiff, bringing the Motion for Default Parenting Responsibility Judgment.

Opposing Party: The other parent. The Opposing Party is also the Defendant in the Motion for Default Parenting Responsibility Judgment. (Also called the Non-moving party.)

Real Party in Interest – (Also known as the Statutory Real Party in Interest.) The State of North Dakota is added as a real party in interest to Parenting Responsibility cases **only** when:

- Child support will be established or modified, and a minor child receives assistance through programs administered by the North Dakota Department of Health and Human Services, such as temporary assistance to needy families, Medicaid, and foster care;
- Child support will be established or modified, and an application was made and accepted for services provided by the Child Support Division of the North Dakota Department of Human Services; **or**

- Child support or spousal support will be established or modified and North Dakota or the Child Support Division of the North Dakota Department of Human Services is required to be involved in proceedings related to support orders of other states or countries under the Uniform Interstate Family Support Act.

An example of the parties listed in the caption is as follows:

John Doe,)	
Plaintiff,)	
vs.)	Case No. 00-2025-DM-00001
Jane Doe,)	
Defendant,)	
and)	
State of North Dakota,)	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Only required if you meet one of the 3 situations listed on Page 5-6. </div>
Real Party in Interest.))	

The forms available with this form set don't have a fillable field for "State of North Dakota, Real Party in Interest". If you decide the State of North Dakota is a real party in interest in your case, write the "State of North Dakota, Real Party in Interest" underneath "Defendant" as shown in the example above.

Forms Suitable for Uncomplicated Parenting Responsibility Cases Only

This packet of forms is only for Parenting Responsibility cases involving common and uncomplicated circumstances.

If this packet of forms doesn't work for you, **Stop! You can't use this packet of forms.** Go to ndcourts.gov/legal-self-help/establishing-custody-and-visitation for all other Parenting Responsibility forms and resources available through the ND Legal Self Help Center, or retain a lawyer to create the documents for you.

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Forms for Filing the Motion for Default Parenting Responsibility Judgment

For Parenting Responsibility Actions, the following forms are required:

Each individual form has instructions attached.

- MP1: Notice of Motion for Default Parenting Responsibility Judgment;
- MP2: Motion for Default Parenting Responsibility Judgment;
- MP3: Brief in Support of Default Parenting Responsibility Judgment;
- MP4: Declaration of Default, Identification and Active Military Status;
- MP5: Declaration of Proof for Default Parenting Responsibility Judgment;
- MP6: Confidential Information Form;
- MP7: Proposed Findings of Fact, Conclusions of Law, and Order for Default Parenting Responsibility Judgment;
- MP8: Proposed Default Parenting Responsibility Judgment;
- MP9: Exhibit A: Parenting Plan; and
- MP10: Declaration of Service by Mail.

All Forms Must be Filled out Completely!!

Don't leave any of the paragraphs within the forms unanswered.

If a section of the form doesn't apply to you, type or write "N/A" or "Not Applicable." Type or write \$0.00 if a dollar amount doesn't apply to you.

If a form isn't completely filled out, the clerk may not accept your forms for filing, or the court may send your forms back to you to complete. It could also mean the judge or judicial referee requires you to attend a hearing to explain why you left blanks in the forms.

Follow and Carefully Read All Instructions! In the instructions for each form there are checkboxes () before each step. Check each box as you finish the step. Don't go to the next step **until** the previous step is completed.

Step One

File the Parenting Responsibility Summons, Complaint, and Proof of Service with the Clerk of Court

(Find information about how to start a Parenting Responsibility action at [ndcourts.gov/legal-self-help/establishing custody and visitation](https://ndcourts.gov/legal-self-help/establishing-custody-and-visitation).)

- The District Court **Can't** consider your Motion for Default Parenting Responsibility Judgment **Until** the following original, completed documents are filed with the Clerk of District Court:
 - Summons;
 - Complaint; and
 - Proof of service of the Summons and Complaint on the Defendant.

You're required to pay a **\$160.00 filing fee**.

However, you may ask the court to waive the \$160.00 filing fee.

Forms to request the court waive the filing fee are available at ndcourts.gov/legal-self-help/fee-waiver. Fee waivers are based on inability to pay. The completed fee waiver request forms are filed at the same time as the Summons, Complaint, and proof of service.

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

Step Two

Review All Forms and Instructions; Gather Information and Make Decisions

- Review **All** of the forms and instructions in this packet of forms:

Read these instructions **carefully**. Review **All** of the individual forms and their instructions **carefully**. Decide if the forms apply to your situation. If you don't know if you should use this packet of forms, [consult a lawyer](#) licensed to practice in North Dakota.

- Gather Information and Make Decisions:**

You must gather information to help you make decisions about the following decisions related to parenting responsibility:

- Residential responsibility of the minor child(ren). (Also called custody.)
- Parenting time, including scheduling. (Also called visitation.)
- Decision making responsibility for the minor child(ren).

- Child support, including wages and other earnings information.
- Medical coverage, including health insurance premiums, copays, deductibles, etc.

Complete your child support calculations.

- If you already have a Child Support Order, get a copy of the Order to include with your completed packet of forms. You don't need new child support calculations.
- If you **don't** already have a Child Support Order, you need to complete your child support calculations. **If you don't want to establish child support at this time, Stop! You can't use this packet of forms.**

Warning: If you attempt to file this packet of forms without completing the child support calculations, the judge or judicial referee will either require you to complete the calculations before making a decision on your Parenting Responsibility case, or dismiss your Parenting Responsibility case entirely.

The Child Support Division of the North Dakota Department of Health and Human Services created and provides support for the Child Support Guidelines Calculator.

Go to childsupport.dhs.nd.gov/partners/lawyers/child-support-guidelines.

If you request the parents have equal residential responsibility, you must calculate child support amounts for **both** parents.

If you request **one** parent have primary residential responsibility (more than 50% of the residential responsibility), you must calculate the child support amount for the parent with **less** than 50% of the residential responsibility.

Warning: If you plan to ask the judge or judicial referee to allow a parent to pay a different amount of child support than the Child Support Guidelines Calculator amount, [consult a lawyer](#) for help. The Calculator amount is presumed to be the correct amount of child support. The parent asking for a different amount than the Calculator amount must prove they meet one of the limited exceptions for deviation, **and** the deviation is in the best interests of the child(ren). See [North Dakota Century Code Section 14-09-09.7](#) and [North Dakota Administrative Code Section 75-02-04.1-09](#).

Court personnel and staff of the ND Legal Self Help Center **Can't** help you with your child support calculations.

You may be able to apply for services with [North Dakota Child Support](#) (701-328-5440; 800-231-4255). If your application for full services is approved by North Dakota Child Support, they can help to establish an order for child support and medical support in a separate child support case.

Step Three

You, the Plaintiff, Complete the Forms in the Motion for Default Divorce Judgment Packet of Forms

You, the Plaintiff (also called the Moving Party) are **required to complete all** Motion for Default Parenting Responsibility Judgment forms.

Instruction sheets are provided with each Motion for Parenting Responsibility Judgment form listed below. The forms are described on **Pages 10 through 11:**

Default Parenting Responsibility Forms	
Form Title	Description
Form MP1: Notice of Motion for Default Parenting Responsibility Judgment	A required written advisory that tells the Defendant that you, the Plaintiff, request a Default Parenting Responsibility Judgment from the Court. The Notice of Motion tells the Defendant that the motion will be decided on the documents alone.
Form MP2: Motion for Default Parenting Responsibility Judgment	A written request to the court for a Default Parenting Responsibility Judgment.
Form MP3: Brief in Support of Motion for Default Parenting Responsibility Judgment	A written explanation of why you, the Plaintiff, should have your Motion granted. The Brief takes the rules and laws that support your Motion and explains how they apply to the facts of your particular situation.
Form MP4: Declaration of Default, Identification and Active Military Status	Your, the Plaintiff's, written statement of the Defendant's default, your address and employer, the Defendant's address and employer, and the Defendant's military status.

Default Parenting Responsibility Forms

Form Title	Description
Form MP5: Declaration of Proof for Default Parenting Responsibility Judgment	Your, the Plaintiff's, written statement of the jurisdictional and factual matters in the Parenting Responsibility complaint, including the factual basis for the grounds of the Parenting Responsibility Judgment.
Form MP6: Confidential Information Form	Lists the full protected, or confidential, information that isn't allowed to appear in other documents filed with the court. This form is a part of the court record that isn't seen by the public.
Form MP7: Proposed Findings of Fact, Conclusions of Law and Order for Default Parenting Responsibility Judgment	Findings of Fact are the judge's or judicial referee's written determination of the facts made from the evidence you present. Conclusions of Law are the rulings of law made by the judge or judicial referee based on, or in connection with, the Findings of Fact. These are your proposed findings of fact and conclusions of law. The judge or judicial referee decides whether to use them or prepare their own.
Form MP8: Proposed Parenting Responsibility Judgment	A written order of the judge's or judicial referee's decision. The Parenting Responsibility case isn't final until the judgment is signed and filed . This is your proposed judgment, which is based on the conclusions of law section of your (Proposed) Findings of Fact, Conclusions of Law, and Order for Default Parenting Responsibility Judgment
Form MP9: Exhibit A: Parenting Plan	Every Parenting Responsibility case requires a parenting plan. Exhibit A must be filed with the (Proposed) Findings of Fact, Conclusions of Law, and Order for Default Parenting Responsibility Judgment and (Proposed) Default Parenting Responsibility Judgment.
Form MP10: Declaration of Service by Mail	Proof of service of your Motion for Default Parenting Responsibility Judgment documents on Defendant. Lists the address of the Defendant and all documents served. Signed by the person who serves the Defendant (mails the documents).

Step Five

You, the Plaintiff, Make Copies of the Completed Forms

Make copies of the Motion for Default Responsibility Parenting forms. The originals are filed with the court.

- Make one copy for your records.
- Make one copy to be served on the Defendant.
- If there is a “Real Party in Interest”, such as Child Support, make a copy to be served on them.

Copy the following forms:

- MP1: Notice of Motion for Default Parenting Responsibility Judgment;
- MP2: Motion for Default Parenting Responsibility Judgment;
- MP3: Brief in Support of Default Parenting Responsibility Judgment;
- MP4: Declaration of Default, Identification and Active Military Status;
- MP5: Declaration of Proof for Default Parenting Responsibility Judgment;
- MP6: Confidential Information Form;
- MP7: Proposed Findings of Fact, Conclusions of Law, and Order for Default Parenting Responsibility Judgment;
- MP8: Proposed Default Parenting Responsibility Judgment;
- MP9: Exhibit A: Parenting Plan;
- MP10: Declaration of Service by Mail; and
- Child Support Calculations.

Other forms you may need to copy:

- Any other exhibits or attachments you reference in your forms.

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Step Six

You, the Plaintiff, Arrange to Serve Copies of the Completed Forms on the Defendant

- Serve the forms listed in Step Five on Defendant.**

Remember: Don't serve the Confidential Information Form (Form MP6).

- If there is a "Real Party in Interest", such as Child Support, serve the forms on them as well.

Review the instructions for Form MP10 carefully!

Step Seven

You, the Plaintiff, File the Originals of the Completed Forms with the Clerk of Court

- Take or mail the completed originals of each of the forms listed in Step Five to the Clerk of Court in the North Dakota county where you filed your Summons and Complaint.**

If you filed your Summons and Complaint in Step One, you're not required to pay another filing fee.

If you haven't filed your Summons and Complaint, you're required to pay the \$160.00 filing fee. See Step One for more information.

Step Eight

Wait for the Defendant's (Opposing Party's) Answer to Your Motion for Default Parenting Responsibility Judgment

The Defendant (Opposing Party) must answer the motion within 14 or 17 days after service of your motion for Default Parenting Responsibility documents.

If you arranged to serve the motion documents by personal delivery or at their office, the Defendant has 14 days after the date they were served to serve and file their answer brief and supporting documents.

- The date of service is the date the motion was personally delivered or left at the office.

If you arranged to serve the motion documents by mail or third-party commercial carrier, the Defendant has 17 days after the date they were served to serve and file their answer brief and supporting documents.

- The date of service is the date the motion was mailed.

If the Defendant doesn't serve and file an answer brief and supporting documents, the judge or judicial referee may consider the failure an admission by the Defendant that your motion has merit.

Calculate days for service:

- Starting with the day **after** the date the Defendant was served, count ahead 14 or 17 calendar days.
- If the 14th or 17th day lands on a Saturday, Sunday, or North Dakota state holiday, move ahead to the next day that isn't a Saturday, Sunday, or North Dakota state holiday.

Step Nine

The Judge or Judicial Referee Decides Whether to Grant You a Default Parenting Responsibility Judgment

After the deadline passes for motion documents to be served and filed, if neither you nor the Defendant request a hearing, the judge or judicial referee reviews the motion documents filed by the you and the Defendant.

If the Defendant didn't serve and file an answer brief and supporting documents, your Motion for Default Parenting Responsibility Judgment documents must still prove you meet the requirements for a Default Parenting Responsibility Judgment.

If the Judge or Judicial Referee **Doesn't Grant Your Motion for Default Parenting Responsibility Judgment:**

If the Defendant served and filed an answer brief and supporting documents **and** the judge or judicial referee **doesn't grant** your Motion for Default Parenting Responsibility Judgment, the Parenting Responsibility case moves forward as a contested matter. **You can no longer use the Motion for Default Parenting Responsibility instructions or remaining forms.**

Go to [Steps You Must Take Before the Court Can Grant Parenting Responsibility \(Case Management\)](#) for the next steps in a contested Parenting Responsibility action.

If the Judge or Judicial Referee **Grants Your Motion for Default Parenting Responsibility Judgment:**

Go to Step Ten.

Step Ten

You, the Plaintiff, Receive a Copy of the Default Parenting Responsibility Judgment

If the judge or judicial referee grants your Motion for Default Parenting Responsibility Judgment, the judge or judicial referee signs a Findings of Fact, Conclusions of Law and Order for Default Parenting Responsibility Judgment.

After the judge or judicial referee signs the Findings of Fact, Conclusions of Law and Order for Default Parenting Responsibility Judgment, the clerk of court signs the Default Parenting Responsibility Judgment. The Judgment is an exact duplicate of the Conclusion of Law section of the Findings of Fact, Conclusions of Law and Order for Default Parenting Responsibility Judgment document signed by the judge or judicial referee.

The Parenting Responsibility case **Isn't Final until the signed Default Parenting Responsibility Judgment is filed.**

You receive a copy of the signed Default Parenting Responsibility Judgment.

Step Eleven

You, the Plaintiff, Prepare and Serve the Notice of Entry of Judgment

Within 14 days after the Default Parenting Responsibility Judgment is filed, you **must serve** a Notice of Entry of Default Parenting Responsibility Judgment on the Defendant.

A Notice of Entry of Default Parenting Responsibility Judgment and Declaration of Service by Mail for the Notice of Entry are included in this packet of forms.

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Step Twelve

You, the Plaintiff, File the Notice of Entry of Default Parenting Responsibility Judgment and Declaration of Service by Mail

After you serve Defendant, file the following with the Clerk of Court:

- Original of Notice of Entry of Default Parenting Responsibility Judgment; and
- Declaration of Service by Mail.