

## Service Information to Start a Juvenile Court Action, or Case

### **Important! Read Before Using The Service Forms And 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. Judges and courts **aren't** required to accept Center forms. 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](https://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 Juvenile Procedure;
  - 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 are available at [ndcourts.gov](https://ndcourts.gov).

A glossary with definitions of legal terms is available at [ndcourts.gov/legal-self-help](https://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.**

*These instructions and forms **aren't** a complete statement of the law. They cover the basic process to serve the Summons to start a North Dakota Juvenile Court action, or case. 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.***

## Laws and Rules for Service to Start a Juvenile Court Action, or Case

Chapters [27-20.1](#), [27-20.2](#), [27-20.3](#), and [27-20.4](#) of the North Dakota Century Code contain laws that apply in Juvenile Court cases.

The [North Dakota Rules of Juvenile Procedure](#) apply in all Juvenile Court cases.

[Rule 6 of the North Dakota Rules of Juvenile Procedure](#) contains requirements for service of the Summons to start a Juvenile Court case.

[Rule 4 of the North Dakota Rules of Civil Procedure](#) also applies to service of the Summons to start a Juvenile Court case.

## Juvenile Court Actions, or Cases

**Only certain types of cases can be brought to Juvenile Court.**

- **Child in need of services (unruly):** A child in need of services is, in part, a child who has committed an offense that only applies to a child, such as truancy, consuming or possessing alcohol, disobedience of parental commands, or using tobacco, and is in need of treatment or rehabilitation.
- **Child in need of protection:** A child in need of protection is, in part, a child who is “without proper parental care or control necessary for the child’s physical, mental or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child’s parents, guardian or other custodian.”
- **Delinquent child:** A delinquent child is a child who has committed an act that is considered a crime and is in need of treatment or rehabilitation.
- **Guardianship:** A guardianship of a minor child is a Juvenile Court process where a Judge or Judicial Referee appoints a guardian to act in the place of a parent of the minor child. A legal relationship is created between the guardian and the minor child, allowing the guardian to care for and make decisions on behalf of the minor child.
- **Termination of Parental Rights:** An order terminating parental rights of a parent terminates all the parent's rights and obligations with respect to the child and of the child to or through the parent arising from the parental relationship.

## Definition of a “Child” for Juvenile Court Actions, or Cases

The child who is the focus of the Juvenile Court case must be **either**:

1. Unmarried **and** under the age of 18; **or**
2. Under the age of 20 **and** committed the delinquent act while under the age of 18 and unmarried.

## Parties in a Juvenile Court Action, or Case

**Petitioner:** The party who starts a Juvenile Court case, with a Petition.

**Parties (sometimes called Respondents):** The party who is served with a Juvenile Court Summons and Petition. There may be more than one party, or Respondent.

See [Rule 3 of the North Dakota Rules of Juvenile Procedure](#) for parties in a Juvenile Court case.

## Before a Juvenile Court Summons Can Be Served

**Important:** Petitions filed in Juvenile Court that **aren't** filed by a state's attorney, **must** be reviewed and approved by the Juvenile Court Director, the Juvenile Court, or other person authorized by the Juvenile Court.

**Only** if the Juvenile Court Director, the Juvenile Court, or other person authorized by the Juvenile Court determines that filing the Petition is in the best interest of the public and the child, a Juvenile Court Summons can be served on all parties to begin the Juvenile Court case.

## Service of a Juvenile Court Summons and Copy of the Petition

If the Petition is allowed to be filed, the Petitioner may be required to create and prepare the Juvenile Court Summons. The Summons requires the Parties listed in the Summons and Petition to appear before the Juvenile Court at the time and place in the Summons to answer the allegations of the Petition.

Service to start a Juvenile Court case, also called service of process, requires delivery of the Summons and a copy of the Petition to each Party. The Petitioner is required to notify each Party of the claims, and to give each Party time to respond.

The Summons and a copy of Petition must be delivered in specific ways. [Rule 6 of the North Dakota Rules of Juvenile Procedure](#) and [Rule 4 of the North Dakota Rules of Civil Procedure](#) give the requirements for service to start a Juvenile Court action, or case.

Review the Sections of [27-20.1](#), [27-20.2](#), [27-20.3](#), and [27-20.4](#) that apply to your Juvenile Court case. If a North Dakota law tells the specific method of service that must be used, use that method of service.

\*\*\*In general, copies of documents are served. The original documents are filed with the Juvenile Court.\*\*\*

### **Proof of Services Tells the Juvenile Court When, How, and Where Each Party was Served and the Documents Served on Each Party**

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

\*\*\*In Juvenile Court actions, or cases, it's very common to have multiple Parties. **You need to prove you served each Party.**\*\*\*

The proof of service to start a Juvenile Court case tells the Juvenile Court judge or judicial referee when, how, and where each Party was served.

- A Certificate of Service gives the court proof of service when a sheriff or other officer served the document(s).
- 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 document(s).

Declaration of Service forms for starting Juvenile Court Cases are available at [ndcourts.gov/legal-self-help/service-in-a-juvenile-action](https://ndcourts.gov/legal-self-help/service-in-a-juvenile-action). Scroll to "Service to Start a Juvenile Court Action".

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## The Petitioner Must Locate the Address of Each Party 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 Respondent left a forwarding address.
- Friends, family, employers.
- Online search engines.
- Government entities, such as Department of Motor Vehicles or County Recorder.
- North Dakota business entity search, available at the ND Secretary of State website.
- Social Security Death Index.
- Utility companies.
- Social networking websites.
- Reverse directories.
  - A reverse directory allows someone to search by phone number to find an address. (Your local library may have reverse directories available.)

## In General, the Summons and Copy of the Petition May be Served As Follows (Depending on Where Each Party Can be Found)

**Parties Within North Dakota and Can Be Found:** If a Party is within North Dakota and can be found, the Summons and Petition must be served on the Party at least **twenty-four hours before the hearing**.

The Summons and Petition may be served in **one** of the following **two** ways:

### 1. By Personal Service:

If you decide to serve the Summons and Petition by personal service:

- a. You can give the Summons and Petition to the sheriff for personal service on the Party. (A fee is charged.) The sheriff provides a Certificate of Service.

File the Certificate of Service with the clerk of court.

Keep a copy of the completed and signed Certificate of Service for your records.

**or**

- b. You may have another person who is at least 18 years of age **and** not a party to nor interested in the case give the Summons and Petition to the Party. The person must serve the documents as required by [Rule 4\(d\) of the North Dakota Rules of Civil Procedure](#).
- c. The person who served the Summons and Petition must fill out a Declaration of Service by Personal Delivery, or Affidavit of Service by Personal Delivery, and must sign the Declaration, or Affidavit.
- d. File the Declaration of Service by Personal Delivery, or Affidavit of Service by Personal Delivery, with the clerk of court.

Keep a copy of the completed and signed Declaration of Service by Personal Delivery, or Affidavit of Service by Personal Delivery, for your records.

## 2. By Obtaining the Other Party's Signature:

You may ask the Party to admit to service of the Summons and Petition:

- a. Ask the Party to complete an Admission of Service and fill in the date the Party was given the Summons and Petition.
- b. Ask the Party to sign the Admission of Service. You, or the Party, must file the signed Admission of Service with the clerk of court.

Keep a copy of the signed Admission of Service for your records.

- c. If the Party doesn't agree to admit to service, you must serve the documents as required by [Rule 6 of the North Dakota Rules of Juvenile Procedure](#) and [Rule 4 of the North Dakota Rules of Civil Procedure](#).

**Parties Within North Dakota and Can't Be Found **But** the Address is Known **Or** Can Be Located:** If the Party is within North Dakota and can't be found, but the Party's address is known or can be located with reasonable diligence, the Summons and Petition may be served on the Party at least **five days before the hearing**.

The Summons and Petition may be served in **one** of the following **two** ways:

### 1. By Mail:

If you decide to serve documents by mail, the person who mails the Summons and Petition must be at least 18 years of age.

- a. Send the Summons and Petition by Certified Mail, Return Receipt Requested (Restricted Delivery). The envelope should be marked "Deliver to Addressee Only."

- b. The person who mailed the Summons and Petition must fill out a Declaration of Service by Mail, or Affidavit of Service by Mail, and sign the Declaration, or Affidavit.
- c. File the Declaration of Service by Mail, or Affidavit of Service by Mail, together with the green card receipt, with the clerk of court. The green card receipt must be signed by the other Party to show actual delivery.

Keep a copy of the completed and signed Declaration of Service by Mail, or Affidavit of Service by Mail, and green card receipt for your records.

## **2. By Third Party Commercial Delivery:**

If you decide to serve the Summons and Petition by third party commercial delivery, the person who mails the Summons and Petition must be at least 18 years of age.

- a. Send the Summons and Petition addressed to the Party and require a signed receipt that resulted in delivery to the Party.
- b. The person who sent the Summons and Petition by third party commercial delivery must fill out a Declaration of Service by Third Party Commercial Delivery, or Affidavit of Service by Third Party Commercial Delivery.
- c. File the Declaration of Service by Third Party Commercial Delivery, or Affidavit of Service by Third Party Commercial Delivery, together with the receipt that's signed to show actual delivery, with the clerk of court.
- d. Keep a copy of the completed and signed Declaration of Service by Third Party Commercial Delivery, or Affidavit of Service by Third Party Commercial Delivery, and a copy of the receipt for your records.

**The Party is Outside North Dakota But Can Be Found:** If the Party is outside this state but can be found or the Party's address is known, or the Party's whereabouts or address can be located with reasonable diligence, service of the summons and petition may be served on the Party at least **five days before the hearing**.

The Summons and Petition may be served in **one** of the following **three** ways:

### **1. By Mail:**

If you decide to serve documents by mail, the person who mails the Summons and Petition must be at least 18 years of age.

- a. Send the Summons and Petition by Certified Mail, Return Receipt Requested (Restricted Delivery). The envelope should be marked "Deliver to Addressee Only."

- b. The person who mailed the Summons and Petition must fill out a Declaration of Service by Mail, or Affidavit of Service by Mail, and sign the Declaration, or Affidavit.
- c. File the Declaration of Service by Mail, or Affidavit of Service by Mail, together with the green card receipt, with the clerk of court. The green card receipt must be signed by the other Party to show actual delivery.

Keep a copy of the completed and signed Declaration of Service by Mail, or Affidavit of Service by Mail and green card receipt for your records.

## **2. By Third Party Commercial Delivery:**

If you decide to serve the Summons and Petition by third party commercial delivery, the person who mails the Summons and Petition must be at least 18 years of age.

- a. Send the Summons and Petition addressed to the Party and require a signed receipt that resulted in delivery to the Party.
- b. The person who sent the Summons and Petition by third party commercial delivery must fill out a Declaration of Service by Third Party Commercial Delivery, or Affidavit of Service by Third Party Commercial Delivery.
- c. File the Declaration of Service by Third Party Commercial Delivery, or Affidavit of Service by Third Party Commercial Delivery, together with the receipt that's signed to show actual delivery, with the clerk of court.
- d. Keep a copy of the completed and signed Declaration of Service by Third Party Commercial Delivery, or Affidavit of Service by Third Party Commercial Delivery, and a copy of the receipt for your records.

## **3. By Personal Service:**

If you decide to serve the Summons and Petition by personal service:

- a. You can give the Summons and Petition to the sheriff for personal service on the Party. (A fee is charged). The sheriff provides a Certificate of Service.

File the Certificate of Service with the clerk of court.

Keep a copy of the completed and signed Certificate of Service for your records.

**or**

- b. You may have another person who is at least 18 years of age and not a party to nor interested in the action, or case, give the Summons and Petition to the Party. The person must serve the documents as required by [Rule 4\(d\) of the North Dakota Rules of Civil Procedure](#).



- c. The person who served the Summons and Petition must fill out a Declaration of Service by Personal Delivery, or Affidavit of Service by Personal Delivery, and sign the Declaration, or Affidavit.
- d. File the Declaration of Service by Personal Delivery, or Affidavit of Service by Personal Delivery with the clerk of court.

Keep a copy of the completed and signed Declaration of Service by Personal Delivery, or Affidavit of Service by Personal Delivery, for your records.

### **Service By Publication:**

If, after reasonable diligence, the Petitioner is unable to locate a Party, the Petitioner may ask the Juvenile Court to order service by publication.

If the Juvenile Court orders service by publication, the hearing must not be earlier than five days after the date of the last publication.

A forms set for making a motion to a North Dakota Juvenile Court to request service by publication is available at [ndcourts.gov/legal-self-help/service-in-a-juvenile-action](https://ndcourts.gov/legal-self-help/service-in-a-juvenile-action). Scroll down to “Motion for Order to Serve by Publication”.