

## INSTRUCTIONS FOR A NAME CHANGE – MINOR CHILD

### IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and Court employees cannot help you fill out forms.

If you are unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

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

**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; and
  - Any local court rules.

Links to the state laws, case law, and court rules can be found at [www.ndcourts.gov](http://www.ndcourts.gov).

**When you represent yourself, you are held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.** If you are unsure if these forms and instructions suit your circumstances, consult a lawyer.

A glossary with definitions of legal terms is available at [www.ndcourts.gov/ndlshc](http://www.ndcourts.gov/ndlshc).

***These instructions and forms are not a complete statement of the law. They cover the basic procedure for petitioning a North Dakota District Court for the name change of a minor child. If the forms do not fit your circumstances, consult a lawyer. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center is not responsible for any consequences that may result from the forms or information provided. Use at your own risk.***

Requirements for name changes are found in [North Dakota Century Code Chapter 32-28](#). Review the Chapter carefully.

**NOTE:** You (Petitioner) and the child must be residents of the county in North Dakota where the Petition will be filed for at least six months preceding the filing of the Petition.

**ALSO NOTE:** The child must be either a citizen or a permanent resident alien of the United States.

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

### **WAIVER OF THE PUBLICATION REQUIREMENT:**

**North Dakota law requires that you publish notice of the minor child's name change in the newspaper before** a court can consider granting the name change. An affidavit of publication is required, which is provided by the newspaper. (If there is a non-custodial parent who lives in a different county than the minor child, publication is required in a newspaper in the non-custodial parent's county, as well.)

**However**, before you publish notice of the minor child's name change, you may ask the court to waive the publication requirement **if**:

1. You are only asking for a change to the minor child's first or middle name; or
2. You are a victim of domestic violence as defined by North Dakota Century Code Section 14-07.1-01, which states:

“Domestic violence includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members.”

Please note that North Dakota law only allows a court to consider the two reasons listed above for waiving the publication requirement.

**If the court does not grant your request to waive publication in the newspaper(s)**, you will need to publish notice in the newspaper(s) and file the affidavit(s) of publication with the court. The affidavit of publication is provided by the newspaper after publication of the notice is complete.

**This packet of forms and instructions includes the option of asking the court to waive publication.**

## **CRIMINAL HISTORY RECORD CHECKS:**

The court may require a criminal history background check for the minor child for North Dakota or any other state.

After you file the completed Minor Name Change Forms, affidavit(s) of publication, and any written objections with the Clerk of Court, the court will decide if a criminal history background check for the minor child is required.

If the court requires you to complete a criminal history background check for the minor child, you may be directed to the following website to get the child's criminal history background check:

<https://www.fbi.gov/services/cjis/identity-history-summary-checks>.

You may wish to review the requirements before you start the name change petition process.

You are required to pay all costs associated with the criminal history record check.

## **AN OVERVIEW OF THE PROCESS FOR NAME CHANGE OF A MINOR CHILD:**

**Step 1. Publish the Notice for Name Change of a Minor Child in the Newspaper(s).**

Get the Affidavit(s) of Publication from the newspaper(s).

**OR, Skip Step 1 if Asking the Court to Waive Publication.**

**Step 2. Complete the Rest of the Name Change Forms.**

Gather any written objections you receive after publication of the Notice.

If you ask the court to waive publication, you will not gather written objections.

**Step 3. File the Original Petition, Affidavit, Confidential Information Form, Notice of Petition for Name Change of a Minor Child, Affidavit of Service by Mail, Order Granting Name Change (Proposed), Affidavit(s) of Publication, and any Written Objections with the Clerk of Court.**

Pay the \$80.00 filing fee or file the completed petition to waive filing fees.

**OR, if Asking the Court to Waive Publication, File the Original Petition, Affidavit, Confidential Information Form, and Order Granting Name Change (Proposed).**

Pay the \$80.00 filing fee or file the completed petition to waive filing fees.

**Step 4. Get the Minor Child's Criminal History Background Check.**

Only if the court requires you to get one.

## **FORMS FOR NAME CHANGE OF A MINOR CHILD:**

1. Petition For Name Change of a Minor Child
2. Affidavit of Petitioner
3. Confidential Information Form
4. Notice of Petition For Name Change
5. Affidavit of Service by Mail
6. Order Granting Name Change (Proposed)

## **STEPS FOR PETITIONING FOR NAME CHANGE OF A MINOR CHILD:**

**You may skip Step 1 only if you plan to ask the court to waive publication in the newspaper(s). If you plan to ask the court to waive publication, go directly to Step 2.**

The court may waive publication in the newspaper(s) only if:

1. You are only asking for a change to the minor child's first or middle name; or
2. You are a victim of domestic violence as defined by North Dakota Century Code Section 14-07.1-01, which states:

“Domestic violence includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members.”

**If the court does not waive publication in the newspaper, you will need to complete Step 1 and file the affidavit(s) of publication (provided by the newspaper or newspapers) and the affidavit of service by mail with the court.**

**Step 1** – Complete the notice form and publish the Notice of Petition For Name Change. Mail a copy of the notice to the non-custodial parent.

**First**, complete the following form:

- **Notice of Petition for Name Change**
  - On the top of the form, fill in the current, full legal name of the minor child
  - The rest of this form is self-explanatory.
  - If your mailing address is different from your street address, include both addresses. Write or type your mailing address in the blank space to the right of the address block.

**Second**, have the completed Notice of Petition for Name Change published in the official county newspaper where you will file the Petition (*where you and the minor child live*). The newspaper will give you an affidavit of publication.

If the minor child has a non-custodial parent, you must also have the completed Notice of Petition for Name Change published in the official county newspaper where the non-custodial parent lives, if different from where you live. The newspaper will give you an affidavit of publication.

NOTE: A non-custodial parent is a parent with less than 50% of the residential responsibility.

**Third**, if the minor child has a non-custodial parent, you must mail a copy of the Notice of Petition for Name Change to the non-custodial parent within 10 days of publication.

The Notice of Petition for Name Change must be mailed to the last known address of the non-custodial parent, postage prepaid, from a post office in this state.

Complete the following form:

- **Affidavit of Service By Mail**

This document states that the Notice of Petition for Name Change was mailed to the non-custodial parent and the address where it was mailed.

- On the top of the form, fill in the current, full legal name of the minor child
- The rest of this form is self-explanatory.
- Sign this form in front of a Notary Public. You will need to show a driver's license or photo identification card so the Notary Public can verify your identity.

You file the original Notice of Petition for Name Change and the original Affidavit of Service by Mail with the Clerk of District Court in Step 3.

**Fourth**, you may receive written objections after Notice is published. Make copies of the written objections for your records. You file the originals with the Clerk of District Court in Step 3.

## **Step 2** – Complete the remaining forms.

- **Petition for Name Change of a Minor Child**

- Top of the form:
  - Fill in the name of the county where you will file the petition.
  - Leave the case number blank. The case number is assigned by the clerk of court when you file the petition and other documents in Step 3.

- Fill in the current, full legal name of the minor child
- First Sentence – You are the Petitioner. Write your full, legal name on the first line. Write the current, full legal name of the minor child on the second line.
- Paragraph # 1 – write your relationship to the minor child.
- Paragraph # 2 – write the minor child’s current legal name. Write your current address in North Dakota. If this statement is not accurate, do not use these forms.
- Paragraph # 3 – write the minor child’s current county in North Dakota. If this statement is not accurate, do not use these forms.
- Paragraph # 4 – Put a check mark (✓) next to the option that is accurate for the minor child’s situation. DO NOT put a check mark in both options.
- Paragraph # 5 – fill in the minor child’s birth year and city and state of birth. Do not fill in the minor child’s month and day of birth.
- Paragraph # 6 – write the minor child’s current, full legal name on the first line. On the second line, write the minor child’s name as you want it to be after the name change.
- Paragraph # 7 – This tells the court that the reasons you are asking for a name change are in a separate affidavit that you will complete and file with the petition.
- Paragraph # 8 – This tells the court that you believe court appointment of a guardian ad litem for the child is unnecessary. If this statement is not accurate, do not use these forms.
- Paragraph # 9 – put a check mark (✓) next the box that is accurate for your situation.
  - Fill in the corresponding notice information.
  - If you are asking the judge to waive the publication of the Notice, and the court does not waive publication in the newspaper, you will need to complete Step 1 and file the affidavit of publication (provided by the newspaper) with the court.
- Paragraph # 10 – put a check mark (✓) next the box that is accurate for your situation.
- Paragraph # 11 – if this statement is not accurate, do not use these forms.
- Paragraph # 12 – write the minor child’s name as you want it to be after the name change.
- Paragraph # 13 – no additional information is required for this paragraph.
- WHEREFORE – write the minor child’s current, full legal name on the first line. On the second line, write the minor child’s name as you want it to be after the name change.
- Date and sign the form. Fill in the information below the signature line.

- If your mailing address is different from your street address, include both addresses. Write or type your mailing address in the blank space below the address block.

- **Affidavit of Petitioner**

- Top of the form
  - Fill in the name of the county where you will file the petition.
  - Leave the case number blank. The case number is assigned by the clerk of court when you file the petition and other documents in Step 3.
  - Fill in the current, full legal name of the minor child.
- First Sentence – write your full, legal name.
- Paragraph # 1 – write your full, legal name.
- Paragraph # 2 – state your relationship to the minor child.
- Paragraph # 3 – write the other parent’s full, legal name and their last known post office address.
- Paragraph # 4 – put a check mark (✓) next to the box that is accurate for your situation. DO NOT put a check mark in both options.
- Paragraph # 5 – Put a check mark (✓) next to the option that is accurate for the minor child’s situation. DO NOT put a check mark in both options.
- Paragraph # 6 – write the minor child’s current, full legal name on the first line. Fill in the minor child’s birth year and city and state of birth. Do not fill in the minor child’s month and day of birth.
- Paragraph # 7 – write your current address in North Dakota. If this statement is not accurate, do not use these forms.
- Paragraph # 8 – write the name of the county where the minor child has lived for the past six months.
- Paragraph # 9 – write the minor child’s current, full legal name on the first line. On the second line, write the minor child’s name as you want it to be after the name change.
  - Explain in detail the reasons for the name change and how those reasons are in the best interests of the child.
  - If the minor child has criminal convictions under state or federal law, explain how your request to change the minor child’s name is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to an individual, and will not compromise public safety.
  - If you need additional space for your statement, do not write on the back of the form. Write on one side of a new sheet (or sheets) of paper and put a check mark (✓) next to “Additional sheets attached.”

- Paragraph # 10 – put a check mark (✓) next the box that is accurate for your situation.
  - Fill in the corresponding notice information.
  - If you ask the court to waive publication due to domestic violence, explain in detail. You must give evidence satisfactory to the court that you have been the victim of domestic violence. (See definition above.)
  - If you need additional space for your explanation, do not write on the back of the form. Write on one side of a new sheet (or sheets) of paper and put a check mark (✓) next to “Additional sheets attached.”
  - If the court does not waive publication in the newspaper, you will need to complete Step 1 and file the affidavit of publication (provided by the newspaper) with the court.
- Paragraph # 11 – put a check mark (✓) next to the box that is accurate for your situation.
  - If you received written objections to the petition for name change, list the names of the people who objected and their relation to the minor child.
  - You file the written objections with the Clerk of District Court in Step 3.
- Paragraph # 12 – if this statement is not accurate, do not use these forms.
- Sign this form in front of a Notary Public or Clerk of Court. You will need to show a driver’s license or photo identification card so the Notary Public or Clerk of Court can verify your identity.

- **Confidential Information Form**

- On the top of the form, fill in the current, full legal name of the minor child.
- Leave the case number blank. The case number is assigned by the clerk of court when you file the petition and other documents in Step 3.
- Use the child’s full birthdate – Month/Date/Year
- Sign and date the form.

\*\* This document will not be accessible to the public. See [Rule 3.4 of the North Dakota Rules of Court](#) for privacy protections for documents filed with the court.

- **Order Granting Change of Name (Proposed)**

- On the top of the form, fill in the county where you will file the petition and the current, full legal name of the minor child
- Prepare this document to present to the judge for his/her signature if the name change is granted.
- DO NOT DATE OR SIGN THIS FORM.



**Step 3** – File the following original, completed documents with the Clerk of District Court.

Contact information for clerks of court by county may be found at [www.ndcourts.gov/court](http://www.ndcourts.gov/court).

File the following with the District Court where you and the minor child have resided for at least 6 months before filing the Petition.

**If you published notice in the newspaper (completed Step 1), file the following:**

- Petition for Name Change of a Minor Child;
- Affidavit of Petitioner;
- Confidential Information Form;
- Notice of Petition For Name Change;
- Affidavit(s) of Publication (provided to you by the newspaper or newspapers);
- Affidavit of Service by Mail;
- All written objections you received; and
- Order Granting Change of Name (Proposed).

You will be asked to pay an \$80.00 filing fee.

**If you did not publish notice in the newspaper (skipped Step 1) because you are asking the court to waive publication, file the following:**

- Petition For Name Change;
- Affidavit of Petitioner;
- Confidential Information Form; and
- Order Granting Name Change (Proposed).

You will be asked to pay an \$80.00 filing fee.

If you are unable to afford the \$80.00 filing fee, forms and instructions to ask the court to waive the filing fee are available online at [www.ndcourts.gov/ndlshc/](http://www.ndcourts.gov/ndlshc/) by clicking on the “Other Forms” link. File the completed waiver forms at the same time as your name change documents.

**If you asked the court to waive publication and the court does not waive publication:**

If the court denies your request to waive the publication requirement, the court will notify you. Then, you will need to complete Step 1 and file the completed Notice of Petition for Name Change, Affidavit(s) of Publication, and Affidavit of Service by Mail with the court.

**If the court requires a criminal history background check:**

After you file the documents listed above, you will be notified by the court if a criminal history background check for the minor child is required.

If the court requires you to complete a criminal history background check for the minor child, you may be directed to the following website to get the child's criminal history background check:

<https://www.fbi.gov/services/cjis/identity-history-summary-checks>.

You are required to pay all costs associated with the criminal history record check.

**If the court requires a hearing:**

A hearing is not required for petitions for name changes. However, the court may decide a hearing is necessary. The Clerk of District Court will notify you with the date, time and location of the hearing, if the court decides a hearing is necessary.