



## Paternaly Adjudication

### A Research Guide for a North Dakota State 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 research guide isn't a complete statement of the law.** This information is intended as a starting point for your research into establishing paternity (paternity adjudication) in a North Dakota state district court. This information **isn't** intended for legal advice and **can't** replace the advice of a lawyer licensed in North Dakota.

**The self-represented individual must make all decisions about how to proceed.**

References to non-ND Legal Self Help Center resources are included for your convenience only. Including these references doesn't mean the ND Legal Self Help Center endorses, warrants, or accepts responsibility for the content or uses of the resource. **Use at your own risk.**

- Section One:** Overview of Paternaly Adjudication (Pages 2 – 6)
- Section Two:** Paternaly Adjudication Legal Research Resources (Pages 6 – 8)
- Section Three:** Basic Court Process for a Paternaly Adjudication Case (Pages 9 – 20)
- Section Four:** General-Use Template Forms (Page 21)
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### **No Paternaly Adjudication Forms Available**

The North Dakota Legal Self Help Center and the North Dakota Court System **don't have forms or instructions available** specifically for asking a North Dakota state district court to establish paternity (*paternity adjudication*).

**If you represent yourself, you create your own legal documents,** or retain a lawyer to create legal documents for you.

The basic steps in the process to ask a North Dakota state district court to establish paternity (*paternity adjudication*) start on **Page 9**. The steps include the names and general descriptions of many of the legal documents you create and prepare.

**If you're interested in finding a lawyer to represent you,** go to **Pages 22 – 23** for all of the lawyer resources available through the North Dakota Legal Self Help Center.

## Section One: Overview of Paternity Adjudication

### What is meant by paternity adjudication?

Paternity adjudication means the Petitioner is asking a North Dakota state district court to **establish** paternity (*who is the father of the child*).

### What is meant by paternity rescission?

Paternity rescission in a North Dakota state district court means the Petitioner is an individual who signed the Acknowledgement of Paternity form, and wants to **cancel or challenge** the Acknowledgment of Paternity.

**Note:** This research guide **doesn't** include information about the paternity rescission process.

### How is paternity established?

According to [North Dakota Century Code Section 14-20-07\(2\)](#), "The father-child relationship is established between a man and a child by:

1. An un rebutted presumption of the man's paternity of the child under [section 14-20-10](#);
2. An effective acknowledgment of paternity by the man under [sections 14-20-11 through 14-20-24](#), unless the acknowledgment has been rescinded or successfully challenged;
3. An adjudication of the man's paternity;
4. Adoption of the child by the man; **or**
5. The man having consented to assisted reproduction by a women under [sections 14-20-59 through 14-20-65](#) which resulted in the birth of the child."

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## What is an un rebutted presumption of paternity?

When paternity is presumed (*assumed*) because of one of the following circumstances, **and** isn't successfully challenged or disproven, the presumption of paternity is un rebutted.

According to [North Dakota Century Code Section 14-20-10\(1\)](#), "A man is presumed to be the father of a child if:

1. He and the mother of the child are married to each other and the child is born during the marriage;
2. He and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or after a decree of separation;
3. Before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, divorce, or after a decree of separation;
4. After the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether or not the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child, **and**:
  - a. The assertion is in a record filed with the state department of health and human services;
  - b. He agreed to be and is named as the child's father on the child's birth certificate;  
**or**
  - c. He promised in a record to support the child as his own; **or**
5. For the first two years of the child's life, he resided in the same household with the child and openly held out the child as his own.

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### What is acknowledgment of paternity?

The North Dakota Acknowledgment of Paternity form allows a biological father to establish paternity when he's not married to the mother. The mother and biological father **must both sign** the form.

If the mother is married to someone else who isn't the father of the child, **her spouse must also complete** the Denial of Paternity section of the form.

The [North Dakota Department of Vital Records](#) has more information about the form.

### Can a paternity adjudication civil case be started before the child is born?

**Yes.** A civil case in a North Dakota state district court to establish, or adjudicate, paternity may be started **before** the child is born, but the court **can't** make a final decision until **after** the child is born.

### Can the paternity adjudication civil case also establish custody, visitation, or child support?

**Yes.** However, a North Dakota state district court can **only** establish custody, visitation and/or child support, **after the court has established who the father is.**

### Who can bring a paternity case in North Dakota State District Court?

[North Dakota Century Code Section 14-20-37](#) allows the following to bring a paternity case in North Dakota State District Court:

- "The child;
- The mother of the child;
- A man whose paternity of the child is to be adjudicated;
- The support enforcement agency;
- An authorized adoption agency or licensed child-placing agency; or
- A representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor."

## What is the deadline for bringing a paternity adjudication case?

If the child **doesn't have** a presumed, acknowledged, or adjudicated father:

- A case to adjudicate paternity may be brought at any time.
  - However, if the child is 18 years old or older, the child must bring the case.

If the child **has** a presumed father:

- A case to adjudicate paternity must be brought **no later than two years after the birth of the child**.
- **However**, a case seeking to disprove the father-child relationship between the presumed father and the child may be brought at any time **if** the Petitioner proves:
  - The presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; **and**
  - The presumed father never openly held out the child as his own.

If the child **already has** an adjudicated father:

- Only an individual who **wasn't** a party in the original paternity adjudication case can bring their own paternity adjudication case. The case must be brought **no later than two years after the effective date of the paternity adjudication**.

## What is the deadline for bringing a paternity rescission case?

**Note:** This research guide **doesn't** include information about the paternity rescission process.

When the child has an acknowledged father:

- A paternity rescission case may be brought by one of the individuals who signed the Acknowledgement of Paternity form. The case must be **brought no later than the earlier of:**
  - **60 days** after the effective date of the acknowledgment or denial, as provided in [North Dakota Century Code Section 14-20-14](#); **or**
  - The date of the first hearing, in a proceeding to which the signatory is a party, before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

- After the expiration date, an individual who signed the acknowledgement of paternity form or denial of paternity form may bring a paternity rescission case to challenge the acknowledgement or denial **only**:
  - On the basis of fraud, duress, or material mistake of fact; **and**
  - **Within 2 years after the acknowledgment or denial is filed** with the state department of health and human services.

**What is the North Dakota county (*venue*) where the paternity adjudication case is filed?**

Venue is the North Dakota county where the case to adjudicate paternity will be filed.

A case to adjudicate paternity is filed in the North Dakota State District Court of:

- The North Dakota county where the child resides or is found;
- If the child **doesn't** reside in North Dakota, the North Dakota county where the Respondent (*the individual who isn't starting the paternity case*) resides or is found; **or**
- The county where a proceeding for probate or administration of the presumed or alleged father's estate has been started.

**Section Two:  
Paternity Adjudication Legal Research Resources**

**North Dakota Statutes:**

(North Dakota statutes are found in the [North Dakota Century Code \(NDCC\)](#). The North Dakota Century Code contains the laws enacted by the North Dakota Legislature and signed by the Governor.

**[Chapter 14-20: Uniform Parentage Act](#)**

- See [Section 14-20-10](#) for presumption of paternity. If paternity is established under this Section, you need a court to order a change in paternity.
- See [Section 14-20-36](#) for the start of the requirements for asking a court to adjudicate paternity.

**[Chapter 23-02.1: Health Statistics Act](#) (*including birth certificates*)**

## **North Dakota Case Law:**

*(When the decision of a case is appealed from a North Dakota state district court to the North Dakota Supreme Court, the Supreme Court writes their opinion to explain how and why they interpreted the laws or rules to decide the appeal the way they did. The opinions are case law and are followed by North Dakota courts deciding later cases with similar facts and issues.)*

One way to research case law related to paternity adjudication is to use the print version of the North Dakota Century Code. Case law summaries are located directly follow the text of the Century Code Section.

To view the full text of the opinion click on [ndcourts.gov/supreme-court/opinions](https://ndcourts.gov/supreme-court/opinions), and enter the case name or case citation.

You may also research case law by topic by clicking on at [ndcourts.gov/supreme-court/opinions](https://ndcourts.gov/supreme-court/opinions). Click on the “Topic” down arrow, then click on “Paternity Adjudication”.

## **North Dakota Court Rules:**

*([Court rules](#) govern how a dispute makes its way to state court and how the dispute is conducted. All of the court rules are found online.)*

At minimum, review the following:

[North Dakota Rules of Civil Procedure](#)

[North Dakota Rules of Court](#)

[North Dakota Rules of Evidence](#)

## **Laws Constantly Change:**

To determine how a law applies to your situation, review the applicable law or laws, court rules, and court decisions.

## **Library Resources** *(not all legal resources are available online):*

ODIN is a shared library database of many North Dakota academic, public, state agency, and special libraries. Search ODIN for resources that may be available in a North Dakota library near you. ([polaris.odinlibrary.org](https://polaris.odinlibrary.org))

If the book is available for interlibrary loan through ODIN, ask the librarian or library staff of your local North Dakota library how to request the book.

**Following are a selection of library resources on ODIN that may be of interest to you:**

**A Short & Happy Guide to Evidence**, Sydney Beckman, West Academic Publishing, 2018.

**Building a Parenting Agreement that Works**, Mimi Zimmelman, NOLO, 2014.

**Courtroom Evidence Handbook: 2018-2019 Student Edition**, Steven Goode, Olin Wellborn III, West Academic Publishing, 2018.

**Family Law in a Nutshell**, John E.B. Myers, West Academic Publishing, 2022.

**The Legal Answer Book for Families**, Emily Duskow, Marcia Stewart, NOLO, 2014.

**Living Together: A Legal Guide for Unmarried Couples**, Lina Guillen, Frederick Hertz, NOLO, 2020.

**NOLO's Essential Guide to Child Custody & Support**, Emily Duskow, NOLO, 2015.

**Represent Yourself in Court: How to Prepare & Try a Winning Case**, Paul Bergman, Sara Berman, NOLO, 2016.

**North Dakota Century Code Annotated**, Lexis Nexis, Creation Date c1959 – present.

**North Dakota Court Rules Annotated**, Lexis Nexis, Creation Date c1990 – present.

#### **Other Legal Research Resources:**

[How to Research a Legal Problem: A Guide for Non-Lawyers](#), American Association of Law Libraries. ([aallnet.org](http://aallnet.org))

[10 Steps for Presenting Evidence in Court](#), Resource Center on Domestic Violence: Child Protection and Custody (RCDV:CPC) and National Council of Juvenile and Family Court Judges (NCJFCJ).)

[How to Gather Technology Abuse Evidence for Court](#), RCDV:CPC and NCJFCJ.

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## Section Three: Basic Court Process for a Paternity Adjudication Case

**Caution!** The paternity adjudication process is complicated and highly dependent on the specific circumstances of the parties. The following information is the basic court process for a paternity adjudication case.

However, there are many possible variations to the basic process. Individual state district courts may have additional requirements to those that follow.

If you need assistance, consult a lawyer licensed to practice in North Dakota who can agree to represent you.

### Parties/Terms In A Civil Case:

Below is a list of terms used for a civil case if it's started with a "Complaint", and a civil case if it's started with a "Petition."

\*\*For the purpose of simplicity, the terms "Petition," "Petitioner," and "Respondent" are used throughout this Research Guide, but the terms include Complaint, Plaintiff and Defendant.

#### For Civil Cases Starting with a Summons and Petition:

- **Petitioner:** The party who starts a civil case with service of a Summons and Petition.
- **Respondent:** The party who is served with a Summons and Petition requesting civil legal action against them.
- **Petition:** A formal written application (*request*) to the court.
- **Answer:** A formal written response by the Respondent to the Petition.
- **Counter-Petition:** A formal written application (*request*) by the Respondent that allows the Respondent to bring their own claims related to the Petition.

#### For Civil Cases Starting with a Summons and Complaint:

- **Plaintiff:** The party who starts a civil case with service of a Summons and Complaint.
- **Defendant:** The party who is served with a Summons and Complaint requesting civil legal action against them.
- **Complaint:** A formal written application (*request*) to the court.
- **Answer:** A formal written response by the Defendant to the Complaint.
- **Counterclaim:** A formal written application (*request*) by the Defendant that allows the Defendant to bring their own claims related to claims in the Complaint.

## **Paternity Adjudication Definitions:**

**Acknowledged father:** A man who has established a father-child relationship by completing the Acknowledgement of Paternity form as required by [North Dakota Century Code Sections 14-20-11 through 14-20-24.2](#).

**Adjudicated father:** A man who has been adjudicated by a court of competent jurisdiction to be the father of a child.

**Alleged father:** A man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity hasn't been determined. The term **doesn't** include:

- a. A presumed father;
- b. A man whose parental rights have been terminated or declared not to exist; or
- c. A male donor.

**Child:** an individual of any age whose parentage may be determined under [Chapter 14-20 of the North Dakota Century Code](#).

**Commence:** To file the initial petition seeking an adjudication of parentage in a North Dakota state district court.

**Determination of parentage:** The establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under [North Dakota Century Code Sections 14-20-11 through 14-20-24](#), or adjudication by the court.

**Genetic testing:** An analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

- a. Deoxyribonucleic acid; and
- b. Blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

**Man:** A male individual of any age.

**Parent:** An individual who has established a parent-child relationship under [North Dakota Century Code Section 14-20-07](#).

**Parent-child relationship:** The legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

**Presumed father:** A man who, by operation of law under [North Dakota Century Code Section 14-20-10](#), is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.

**Probability of paternity:** The measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

**State:** A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

**Support enforcement agency:** A public official or agency authorized to seek:

- a. Enforcement of support orders or laws relating to the duty of support;
- b. Establishment or modification of child support;
- c. Determination of parentage; or
- d. Location of child support obligors and their income and assets.

## The Petitioner Starts the Paternity Adjudication Civil Case

### Step 1: The Petitioner Creates the Documents to Start a Paternity Adjudication Case

**Note:** The paternity adjudication case begins when the documents are served (*see Step 2*).

**In general, the Petitioner must create the following documents to start a paternity adjudication case:**

- Summons;
  - A document that directs the Respondent to answer the Petition for paternity adjudication within a certain amount of time. The Summons notifies the Respondent that a default judgment will be taken against them if they don't answer within the timeframe.
- Petition to Adjudicate Paternity; and
  - A formal written application to the court to decide paternity for a child. The Petition describes in short, plain statements the claim, or claims, showing that the Petitioner is entitled to paternity adjudication, and a demand for relief.
- Other supporting documents (other Declarations or Affidavits, exhibits, etc).

See [Page 21](#) for information about General-Use template forms that may be of interest as a starting point for creating legal documents.

## Step 2: The Petitioner Arranges to Serve Copies of the Paternity Adjudication Documents on Each Respondent

Service of copies of the following documents starts the paternity adjudication case:

- Summons;
- Petition to Adjudicate Paternity; and
- Any supporting documentation (other Declarations or Affidavits, exhibits, etc).

**The Petitioner must arrange to have a copy of the completed Summons, Petition, and any supporting documents served on each Respondent.** The Petitioner is responsible for arranging to serve (*give*) copies of the documents they intend to file with the district court.

The Petitioner must review [North Dakota Century Code Chapter section 14-20](#) to determine who must be served and what documents must be served. Words such as “notice” and “service” indicate when service is required.

**Instructions and forms for service to start a civil case are available at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action).**

- See the “Service to Start a Civil Action” section.

**The Petitioner must have proof of service showing that each Respondent was served a copy of the documents.**

**Caution:** If the Petitioner doesn’t file proof of service with the district court, the Judge or Judicial Referee won’t act on their Petition.

A **completed and signed** Declaration of Service, Affidavit of Service, or Certificate of Service from the person who served the documents is the Petitioner’s proof of service.

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### Step 3: The Petitioner Files the Original Paternity Adjudication Documents

The originals of the paternity adjudication documents and the document(s) showing proof of service must be filed with the clerk of court:

- Summons;
- Petition to Adjudicate Paternity;
- Other supporting documents (other Affidavits or Declarations, exhibits, etc); and
- Proof of Service for each Respondent.

**It's Very Important You Keep a Copy of All Documents for Your Records!**

The Petitioner is required to pay an **\$80.00 filing fee**.

Forms and instructions for requesting the court waive the filing fee are available at [ndcourts.gov/legal-self-help/fee-waiver](https://ndcourts.gov/legal-self-help/fee-waiver).

Contact information for clerks of court by county is available at [ndcourts.gov/court-locations](https://ndcourts.gov/court-locations).

### The Respondent Responds to the Petition; the Petitioner **May** Respond with an Answer to the Counter-Petition; Genetic Testing May Be Requested

#### Step 1: The Respondent Has 21 Days To Respond To The Petition

The Respondent has twenty-one (21) days after service to **respond to or “answer”** the Petition. An Answer is a formal, written response by a Respondent to a Petition to adjudicate paternity.

The Respondent may include a **“Counter-Petition”** in their Answer. A Counter-Petition is a written demand or request that allows the Respondent to bring their own claims related to the Petition to adjudicate paternity.

- If a Respondent is served by publication, that Respondent has fifteen (15) days after the first publication of the Summons in the print or e-edition of the newspaper to respond or “answer” the Petition.

**Note:** If the Respondent doesn't serve and file a written answer, the case moves forward without the Respondent. The Petitioner still must prove they the legal requirements are met for paternity adjudication. The person alleged to be the father may be found to be the child's father by default.

Generally, to answer a Petition to adjudicate paternity, the Respondent creates the following documents:

- Answer **or** Answer and Counter-Petition;
  - An Answer is the Respondent’s written response to the Petition to adjudicate paternity.
  - A Counter-Petition is a written demand or request to the district court that allows the Respondent to bring their own claims related to the Petition to adjudicate.
- Other supporting documents (other Declarations or affidavits, exhibits, etc).

See **Page 21** for information about General-Use template forms that may be of interest as a starting point for creating legal documents.

## **Step 2: The Respondent Arranges to Serve Copies of the Documents Answering the Paternity Adjudication Case**

**Service of copies of the following documents meets the twenty-one (21) day deadline for answering the paternity adjudication Summons and Petition:**

- Answer **or** Answer and Counter-Petition; and
- Any supporting documentation (other Declarations or Affidavits, exhibits, etc).

**The Respondent must arrange to have a copy of the Answer and any supporting documents served on each Petitioner.** The Respondent is responsible for arranging to serve (*give*) copies of the documents they intend to file with the district court.

The Respondent must review [North Dakota Century Code Chapter section 14-20](#) to determine who must be served and what documents must be served. Words such as “notice” and “service” indicate when service is required.

**Instructions and forms for service after a civil case has started are available at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action).**

- See the “Service after a District Court Civil Action Has Started” section.

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**The Respondent must have proof of service showing that each Petitioner was served a copy of the documents.**

**Caution:** If the Respondent doesn't file proof of service with the district court, the Judge or Judicial Referee won't act on their Petition.

- A **completed and signed** Declaration of Service, Affidavit of Service, or Certificate of Service from the person who served the documents is the Respondent's proof of service.

### **Step 3: The Respondent Files the Original Answer Documents**

The originals of the paternity adjudication answer documents and the document(s) showing proof of service must be filed with the clerk of court:

- Answer; **or** Answer and Counter-Petition;
- Other supporting documents (other Declarations and Affidavits, exhibits, etc); and
- Proof of Service for each Petitioner.

**It's Very Important You Keep a Copy of All Documents for Your Records!**

The Respondent is required to pay a **\$50.00 filing fee**.

Forms and instructions for requesting the court waive the filing fee are available at [ndcourts.gov/legal-self-help/fee-waiver](https://ndcourts.gov/legal-self-help/fee-waiver).

Contact information for clerks of court by county is available at [ndcourts.gov/court-locations](https://ndcourts.gov/court-locations).

### **Step 4 (Optional): The Petitioner May Prepare, Serve, and File an Answer to the Counter-Petition**

**If a Respondent's Answer includes a Counter-Petition, the Petitioner may prepare, serve, and file an Answer to the Counter-Petition.**

An answer to a Counter-Petition is a written response by a Petitioner to Respondent's Counter-Petition. The Answer to Counter-Petition must also state defenses to each of the Respondent's counterclaims in short, plain statements.

See **Page 21** for information about General-Use template forms that may be of interest as a starting point for creating legal documents.

**The Petitioner arranges to have a copy of the Answer to Counter-Petition served on the Respondent.**

Instructions and forms for service after a civil case has started are available at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action).

- See the “Service after a District Court Civil Action Has Started” section.

**The Petitioner files the original Answer to Counter-Petition with the clerk of court.**

The Petitioner must file their original Answer to Counter-Petition document and the document(s) showing proof of service with the clerk.

The Petitioner isn’t required to pay another filing fee.

**Step 5: Genetic Testing May Be Requested**

As part of a paternity adjudication case, genetic testing may be requested. North Dakota state district courts aren’t allowed to order in utero genetic testing.

The request for genetic testing is made in a written motion.

For general information about the motion process in North Dakota civil court cases, go to [ndcourts.gov/legal-self-help/making-a-motion](https://ndcourts.gov/legal-self-help/making-a-motion).

## The Court Hearing

**Prepare For the Hearing**

The Petitioner must prove the allegations in the Petition and the grounds (*reasons*) to adjudicate paternity. The Respondent may present evidence to disprove the Petitioner’s allegations and proof.

**Caution!** Preparing a case is often a complex and confusing process.

You’re held to same requirements and responsibilities as a lawyer, even if you don’t understand the rules or procedures.

**You need to conduct additional research to prepare.**

At minimum, review and research the laws and rules listed in Section Two. The North Dakota Rules of Evidence, in particular, are used to present and object to evidence.

Review pre-trial and trial guidebooks for self-represented litigants and lawyers. Your local public or academic library may have resources available.



Organize the information, documents, etc., that you think you need for the hearing. At a minimum, prepare an outline of your remarks and arguments.

### **Both Parties Must Attend the Hearing(s)**

#### **Remember:**

- If the Petitioner doesn't attend the hearing, the Petition may be dismissed.
- If the Respondent doesn't attend the hearing, the Judge or Judicial Referee may move forward with the hearing and make decisions about paternity without the Respondent's input.

If the hearing is in-person and a party, or a party's witness, can't appear in person, they can ask the court for permission to attend a hearing by reliable electronic means.

- **Note:** The court isn't required to grant this type of request.

The [Appear by Phone or Other Electronic Means](#) form set is available in the "Miscellaneous" section.

There may be more than one hearing, depending on the specific circumstances of the case. Be prepared for every hearing.

### **For an In-Person Hearing, Arrive Early to the Courthouse on the Date of the Hearing:**

If the hearing is held in-person at the courthouse, arrive early.

If a party has a serious, unavoidable reason they can't get to the courthouse on the date and time scheduled for the hearing, call the Clerk of Court **immediately**.

**Note:** Even if you call the courthouse, the Judge or Judicial Referee may still decide to hold the hearing at the scheduled time and date.

### **For a Remote Hearing, Test the Connection to the Hearing Software (Zoom):**

If the hearing is held remotely, likely by Zoom, well before the hearing begins, test the connection to Zoom and the party's ability to function in Zoom.

Don't be late to the Zoom hearing. If a party has a serious, unavoidable reason they can't attend the remote hearing on the date and time scheduled for the hearing, call the Clerk of Court **immediately**.

Don't miss the hearing date and time. If you have a serious, unavoidable reason you can't get to court on the date and time scheduled for hearing, you **must call** the courthouse as soon as you can.

### **Conduct of the Hearing:**

The Judge or Judicial Referee hears both sides and then decides whether to issue a Judgment based on the court's findings. Sometimes, the Judgment is issued at the end of the hearing. Sometimes, the Judgment is issued at a later date.

In general, a hearing goes in the following order:

- Opening Statements
  - Each party gives an opening statement. Usually, the Petitioner goes first.
- The Petitioner Presents Witnesses and Evidence
  - The Respondent may cross-examine witnesses and object to the Petitioner's evidence.
- The Respondent Presents Witnesses and Evidence
  - The Petitioner may cross-examine witnesses and object to the Respondent's evidence.
- Closing Arguments
  - Each party gives a closing statement. Usually the Respondent goes first.

If the Judge or Judicial Referee decides the Petitioner proved the Petition, a Judgment is issued.

### **If The North Dakota State District Court Establishes Paternity:**

If the North Dakota State District Court establishes paternity of the child, the Order may include any or all of the following:

- Payment of child support;
- Payment of expenses of the mother's pregnancy;
- Custody of the child;
- Visitation with the child;
- Furnishing of bond or other security for payment of support.

### **Before You Leave The Hearing**

Make sure you understand what happens next. Ask if you aren't sure what, if anything, you need to do next.

## **The Judge or Judicial Referee May Require the Petitioner and/or Respondent to Prepare, Serve, and File a Proposed Findings of Fact, Conclusions of Law, and Order for Judgment and a Proposed Judgment**

The Judge or Judicial Referee may require one or more parties to prepare, serve, and file the following:

- Proposed Findings of Fact, Conclusions of Law and Order for Judgment; and
- Proposed Judgment.

### **Step 1: Prepare the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment**

See [Rule 52 of the North Dakota Rules of Civil Procedure](#) and [Rule 7.1 of the North Dakota Rules of Court](#).

Findings of Fact are the Judge's or Judicial Referee's written determination of the facts made from the evidence presented. This explains what facts the Judge or Judicial Referee found to be true.

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 the legal consequences of the facts the Judge or Judicial Referee found to be true.

### **Step 2: Prepare the Proposed Judgment**

Review [Rule 54 of the North Dakota Rules of Civil Procedure](#) and [Rule 7.1 of the North Dakota Rules of Court](#).

The judgment is the written order of the judge's or judicial referee's final decision. The judgment is the same as the Conclusions of Law from Step 1.

### **Step 3: Arrange to Serve the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment and Proposed Judgment on all Parties**

The proposed Findings of Fact, Conclusions of Law and Order for Judgment, and the proposed Judgment must be served on all parties, and proof of service filed with the clerk of court.

Instructions and forms for service after a civil case has started are available at [ndcourts.gov/legal-self-help/service-in-a-civil-action](https://ndcourts.gov/legal-self-help/service-in-a-civil-action).

- See the "Service after a District Court Civil Action Has Started" section.

**Step 4: The Judge or Judicial Referee Decides Whether the Proposed Findings of Fact, Conclusions of Law, and Order for Judgment, and the Proposed Judgment are Appropriate**

The Judge or Judicial Referee decides whether the proposed Findings of Fact, Conclusions of Law and Order for Judgment, and proposed Judgment reflect the decisions during the hearing.

If the Judge or Judicial Referee decides they're appropriate, the Judge or Judicial Referee signs and dates the Findings of Fact, Conclusions of Law and Order for Judgment and Judgment.

**Caution!** The Findings of Fact, Conclusions of Law and Order for Judgment, and the Judgment **aren't** official until the Findings of Fact, Conclusions of Law and Order for Judgment are signed and dated by the Judge or Judicial Referee.

**Step 5: The Prevailing Party Prepares the Notice of Entry of Judgment, and Serves The Notice of Entry of Judgment Along with a Copy of The Judgment on All Parties**

See [Rule 58 of the North Dakota Rules of Civil Procedure](#).

Within **14 days** after the Judgment is entered, the prevailing party must serve the Notice of Entry of Judgment on the other party or parties. A copy of the Judgment must be included with the Notice of Entry of Judgment.

**Note:** After service is complete, the prevailing party must file the original Notice of Entry of Judgment and proof of service on the other party or parties with the clerk of court.

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## Section Four: General-Use Template Forms

The North Dakota Legal Self Help Center **doesn't** have forms or instructions available for cases to establish, or adjudicate, paternity.

If you decide to represent yourself, you create your own legal documents, or retain a lawyer to create your legal documents for you.

Although the ND Legal Self Help Center doesn't have forms or instructions for paternity adjudication, General-Use template forms are available at [ndcourts.gov/legal-self-help](https://ndcourts.gov/legal-self-help).

- **If you're the Petitioner**, you may find the General-Use template forms to starting a district court civil case useful as a starting point for creating your own Summons and Petition.
  - The template forms are available at [ndcourts.gov/legal-self-help/starting-a-civil-action](https://ndcourts.gov/legal-self-help/starting-a-civil-action).
- **If you're the Respondent**, you may find the General-Use template forms for answering a district civil court civil case useful as a starting point for creating your own Answer and Counter-Claim.
  - The template forms are available at [ndcourts.gov/legal-self-help/answering-a-civil-action](https://ndcourts.gov/legal-self-help/answering-a-civil-action).

You're responsible for the information on the documents you file with the court.

**If you want assistance creating your legal documents, consult a lawyer licensed to practice in North Dakota.**

Ask the lawyer about Limited Legal Representation. Lawyers licensed to practice in North Dakota may agree to help you with part of your civil case, such as preparing legal documents, while you handle the rest of the case.

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

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## Section Five: Lawyer Resources and Limited Legal Representation

You're not required to hire a lawyer to access the state court system. If you decide to represent yourself, you must follow all of the rules, laws and procedures a lawyer is required to follow.

### Lawyer Resources

For information about how to find a lawyer to represent you, go to [ndcourts.gov/legal-self-help/finding-a-lawyer](https://ndcourts.gov/legal-self-help/finding-a-lawyer). You may also 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 [lsnd.org](https://lsnd.org).
- **Dakota Plains Legal Services** is a non-profit legal services organization that provides free legal assistance to low-income individuals, older Americans and veterans. Dakota Plains Legal Services (DPLS) has eight offices and serves communities across South Dakota and North Dakota, including nine tribal nations. DPLS is committed to increasing access to justice with quality legal assistance. Contact information is available on the DPLS webpage of [dpls.org](https://dpls.org).
- **The State Bar Association** 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 [sband.org](https://sband.org).
- **For a list of all lawyers who are licensed to practice in North Dakota**, go to the North Dakota Supreme Court website at [ndcourts.gov/Lawyers](https://ndcourts.gov/Lawyers).

### Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil cases. Limited Legal Representation (sometimes called "unbundling") is a way 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.

Limited legal representation examples:

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

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

### **North Dakota Free Legal Answers**

This civil legal program is a partnership of the American Bar Association and the State Bar Association of North Dakota.

The purpose of the program is to provide free answers to **specific** civil legal question to low-moderate income North Dakotans who submit their questions online. Anonymous volunteer attorneys answer your question, but can't represent you.

Go to [nd.freelegalanswers.org](https://nd.freelegalanswers.org) for information about the program, the online application, and, if you qualify, ask your civil legal question.

Please note that this program **doesn't** provide any assistance with criminal legal questions.