



Re-Establishment of Parental Rights and Responsibilities Research Guide

A Research Guide for a North Dakota Juvenile Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in 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 legal research into Re-Establishment of Parental Rights and Responsibilities. The information provided in this research guide **isn't** intended for legal advice and **can't** replace the advice of a lawyer licensed to practice law 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.**

Note: [Chapter 27-20.6 of the North Dakota Century Code](#) refers to this process in three different ways throughout the chapter. They are:

- Re-Establishment of Parental Rights and Responsibilities;
- Re-Establishment of the legal parent and child relationship; and
- Reunification.

This research guide uses "re-establishment of parental rights and responsibilities" throughout the guide, but this term includes all three references in Chapter 27-20.6.

No Re-Establishment of Parental Rights and Responsibilities Forms

Neither the North Dakota Legal Self Help Center **nor** the North Dakota Court System have forms or instructions available for Re-Establishment of Parental Rights and Responsibilities.

If you represent yourself, you create your own Re-Establishment of Parental Rights and Responsibilities documents, or retain a lawyer to create the documents for you.

If want to find a lawyer to represent you or prepare your Re-Establishment of Parental Rights and Responsibilities documents, go to **Pages 14 and 15 for all of the lawyer resources available through the North Dakota Legal Self Help Center.**

Overview of Re-Establishment of Parental Rights and Responsibilities

What is re-establishment of parental rights and responsibilities?

Re-establishment of parental rights and responsibilities, also called re-establishment of the legal parent and child relationship, and reunification, is when a genetic parent who had their parental rights terminated by a North Dakota Juvenile Court has their parental rights, powers, privileges, immunities, duties, and obligations restored to their child, or children, by the Juvenile Court.

The genetic parent's parental rights must have been terminated by a North Dakota Juvenile Court under [Section 27-20.3-20 of the North Dakota Century Code](#).

The child must be under 18 years old **and** under the custody of a North Dakota Human Service Zone or the North Dakota Division of Juvenile Services.

If the Juvenile Court judge or judicial referee orders re-establishment of parental rights and responsibilities, the genetic parent and child, or children, are physically reunified and parental rights and responsibilities are restored.

Who is a genetic parent?

A genetic parent is the biological mother or adjudicated mother of the child, or the presumed father or adjudicated father of the child under [Chapter 14-20 of the North Dakota Century Code](#).

An interested person may file a petition for re-establishment of parental rights and responsibilities. Who is an interested person?

An interested person is a person who participated in a North Dakota Juvenile Court case to terminate the genetic parent's parental rights, and includes:

1. The parties from the termination of parental rights case, which includes the petitioner, the child, genetic parents, guardian, or custodian of the child, if any (*a custodian is a person, other than a genetic parent or legal guardian, which stands in loco parentis (in place of the parent) to the child and to which legal custody of the child has been given by the Juvenile Court*);
2. The child's guardian ad litem from the termination of parental rights case;

3. In the case of an Indian child, and in accordance with [N.D.C.C. 27-20.2-15](#) and the Indian Child Welfare Act, the child's Indian custodian and Indian tribe through the tribal representative from the termination of parental rights case;
4. In the case of a foster child, the child's foster parents, pre-adoptive parents and relatives providing care for the child from the termination of parental rights case; and
5. Any other person from the termination of parental rights case named by the judge or judicial referee to be important to a resolution that was in the child's best interests.

I'm an interested person. What conditions do I need to meet to file a petition to re-establish parental rights and responsibilities?

A petition for re-establishment of parental rights and responsibilities may be filed by **any interested party from the original termination of parental rights proceeding if all of the following conditions are met:**

1. The state's attorney receives a copy of the petition, **and** the responsible custodian and the state's attorney agree re-establishment is in the child's best interests;
2. The genetic parent is willing and has the capability to provide day-to-day care to maintain the health, safety, and welfare of the child;
3. At least **12 months have passed** following a final Juvenile Court order terminating parental rights **and** the child remains in foster care;
4. There is **no pending litigation or appeal** related to the original termination of parental rights proceeding;
5. The child **hasn't** been adopted; and
6. The child **isn't** the subject to a pending adoption case between the responsible custodian and the prospective adoptive parents.

When **can't I bring a petition for re-establishment?**

A petition for re-establishment of parental rights and responsibilities **can't** be brought **if** the genetic parent who is the subject of the petition had their parental rights terminated based on:

1. A finding of sexual abuse; or
2. A conviction for intentional conduct resulting in the substantial bodily injury or death of a child who was under 18 years old.

Where do I file my petition to re-establish parental rights and responsibilities?

Your petition **must** be filed in the Juvenile Court in the North Dakota county where the child resides or in which the agency having the care, custody, or control of the child is located at the time.

Exception: If the judge or judicial referee decides that the North Dakota county where the petition is filed is inconvenient to the parties, the court may transfer the case to another North Dakota county, stay the case (*a stay stops an action taken by a North Dakota state court*), or dismiss the case in whole or in part.

What do I need to include in my petition?

You **must** include the following information in the petition:

1. **Genetic parent's information**, including:
 - a. Full name,
 - b. Date of birth,
 - c. Address, and
 - d. All other legal names and aliases the genetic parent has been known by at any time.
2. **Information for each child** for whom you seek to re-establish parental rights and responsibilities, including:
 - a. Full name; and
 - b. Date of birth.
3. **Your (Petitioner's) relationship to each child** for whom you seek to re-establish parental rights and responsibilities;
4. **For which genetic parent, or parents, you seek to re-establish their parental rights and responsibilities;**
5. **Reasons you seek to re-establish parental rights and responsibilities and why re-establishment is in the child's best interests.**
6. **Details of the termination of parental rights**, including:
 - a. The date and jurisdiction of the order;
 - b. The court file number, and
 - c. Date of any previous order terminating parental rights.

7. **Details of any other active juvenile court case** in which the genetic parent is a named party, **including** the case's court file number.
8. **Steps the genetic parent has taken towards personal rehabilitation** since the order terminating parental rights, **including** treatment, work, or other personal history demonstrating rehabilitation.
9. **How the genetic parent seeking re-establishment of their parental rights and responsibilities has corrected the conditions** leading to the order terminating their parental rights.
10. **Reasons the genetic parent is willing and capable** to provide day-to-day care and maintain the health, safety, and welfare of the child.
11. **Any previous requests you, the Petitioner, made**, whether for the present order terminating parental rights or for any other order terminating parental rights **and** whether it was or wasn't granted.
12. **Your signature must be verified.**

Review the [Caption and Signature for Verified Petition form](#) under [Checklists and General Use Forms](#) in the Juvenile Court section of the North Dakota Legal Self Help Center webpage.

You **may** need to include the following information in the petition:

- **Whether the current responsible custodian of your child and the state's attorney agree** that re-establishment of your parental rights and responsibilities is in your child's best interests.

If you have written proof of the agreement, file your written proof when you file your petition.

Do I give a copy of my completed petition to anyone before I file it?

Yes. One of the conditions you must meet before you may file a petition is to give a copy of your completed petition to the state's attorney. You file proof you gave the state's attorney a copy when you file your petition.

For instructions on how to serve (give) copies of documents you file in Juvenile Court, go to the Juvenile Court section of the North Dakota Legal Self Help Center webpage and click on [Service Instructions and Forms](#). Declaration of Service forms (proof of service) are also available.

I filed my petition for re-establishment. What happens now?

After the petition for re-establishment of parental rights and responsibilities is filed, the judge or judicial referee reviews the petition before scheduling oral arguments or an evidentiary hearing.

The judge or judicial referee reads what you wrote in your petition to decide if your petition establishes a **prima facie case** to re-establish the genetic parent's parental rights and responsibilities.

If the judge or judicial referee decides your petition **establishes** a prima facie case, the Juvenile Court **sets a date for an evidentiary hearing**. The clerk of court provides a copy of the petition and summons to any interested party.

If the judge or judicial referee decides your petition **doesn't establish** a prima facie case, the judge or judicial referee **dismisses your petition**. (*Chapter 27-20.6 of the North Dakota Century Code doesn't say if or when you can file another petition for re-establishment of parental rights and responsibilities.*)

What does prima facie case mean?

"Prima facie case" isn't defined in the North Dakota Century Code, but is defined in case law.

Case law is appeals court opinions, also called decisions, based on the appeal court's review of challenged trial court decisions. The written opinions 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 courts deciding later cases with similar facts and issues.

"... [A] prima facie case requires only enough evidence to permit a factfinder to infer the fact at issue and rule in the moving party's favor. A prima facie case is a bare minimum and requires facts which, if proved at an evidentiary hearing, would support a change of custody that could be affirmed if appealed. Allegations alone do not establish a prima facie case, and affidavits supporting the motion for modification must include competent information, which usually requires the affiant have firsthand knowledge. Affidavits are not competent if they fail to show a basis for actual personal knowledge, or if they state conclusions without the support of evidentiary facts."

([Schoenberg v. Schoenberg](#), 2024 ND 148, ¶ 10, 10 N.W.3d 98)

Does the child have the right to an appointed attorney?

Yes. A child in a case for re-establishment of parental rights and responsibilities has the right to be represented in **all** proceedings in which a petition has been filed.

The judge or judicial referee appoints an attorney for the child regardless of income, unless an attorney is retained for the child, in any proceeding in which the child is of sufficient age and competency to assist the attorney.

Can the child waive their right to an appointed attorney?

Yes. A child may waive their right to an attorney if the child is **14 years of age or older**.

The waiver must be made on the record. If the child waives their right to an attorney, the judge or judicial referee informs the child of their right to change their mind and request an attorney at any other hearings in the case.

When can the genetic parent apply for an appointed attorney?

A genetic parent may apply for a court-appointed attorney **only after**:

1. The petition has been accepted by the clerk of court for filing; **and**
2. The judge or judicial referee determines the petition establishes a prima facie case.

The genetic parent must then fill out an application. If the judge or judicial referee determines the genetic parent is indigent, an attorney is appointed to represent them.

The child was appointed a guardian ad litem. Why?

If the judge or judicial referee decides the child needs a guardian ad litem; if any party asks the court to appoint a guardian ad litem; or if the parties reach an agreement to appoint the child a guardian ad litem, the judge or judicial referee appoints a guardian ad litem child.

A guardian ad litem is an individual appointed by the judge or judicial referee to represent the best interests of a child in Juvenile Court.

When a guardian ad litem is appointed for the child in a case to re-establish parental rights and responsibilities, they advocate for what's best for the child, rather than what the child wants.

This is different than the child's attorney. They advocate for what the child wants or wishes.

The judge or judicial referee ordered the parties to create a transition plan instead of immediately ordering a hearing. What happens now?

1. After you file your petition, the judge or judicial referee may order the necessary parties to create a **transition plan**. The plan **must**:
 - a. Provide for the health and safety of the child; **and**
 - b. Outline the transition services to the genetic parent(s), as well as the conditions and supervisions required by the Human Service Zone for transitioning the child into the home on a trial basis.

The ultimate goal is full reunification before the hearing on the petition.

2. The Human Service Zone monitors the genetic parent during implementation of the plan and identifies and assists the genetic parent in using appropriate family preservation strategies, as well as accessing community resources to provide for the health and safety of the child.
3. During the transition period, the Human Service Zone must remove the child from the genetic parent's home on any abuse or neglect allegation. **If the child is removed**, the Human Service Zone notifies the judge or judicial referee of the removal and the judge or judicial referee must **deny the petition**.

The judge or judicial referee set a hearing date. What does the Petitioner need to prove?

Important!! You, the Petitioner, have the burden of proving your case at the evidentiary hearing. It's your, **the Petitioner's, responsibility to provide clear and convincing evidence** that the judge or judicial referee should grant the petition and order re-establishment of parental rights and responsibilities.

Clear and convincing evidence is "[e]vidence indicating that the thing to be proved is highly probable or reasonably certain. This is a greater burden than preponderance of the evidence, the standard applied in most civil trials, but less than evidence beyond a reasonable doubt, the norm for criminal trials." (Black's Law Dictionary (12th ed.2024).)

"Clear and convincing evidence is evidence that leads to a firm belief or conviction the allegations are true." ([Interest of B.F.](#), 2025 ND 127, ¶ 11, 23 N.W.3d 718, 723)

You, the Petitioner, must prove the following:

1. Re-establishment of parental rights and responsibilities is in the child's best interests;
2. There's no pending litigation or appeal related to the original termination of parental rights proceeding;
3. The genetic parent whose rights are being sought to be re-established isn't named in any other active juvenile case;
4. The child hasn't been adopted;
5. The child isn't subject to a written adoption placement agreement between the social service agency and the prospective adoptive parents;
6. At least **12 months** have passed following the final order terminating parental rights **and** the child remains in foster care;
7. The genetic parent has corrected the conditions that led to the order terminating parental rights; and
8. The genetic parent is willing and has the capability to provide day-to-day care and maintain the health, safety, and welfare of the child.

Does the judge or judicial referee consider the child's preferences before making their decision on the petition?

Maybe. The judge or judicial referee must take the following into account when deciding whether to consider the child's preferences:

1. Child's age;
2. Child's maturity; and
3. Child's ability to express a preference.

The petition was granted and the order signed by the judge or judicial referee. How does this affect the genetic parent and the child?

The judge or judicial referee enters their findings in a written order providing that from the date of the order of re-establishment of parental rights and responsibilities, the child is the child of the genetic parents whose rights had been terminated.

The written order **must** include that all legal rights, powers, privileges, immunities, duties, and obligations to each other as genetic parent and child are re-established.

As of the effective date of the Juvenile Court order re-establishing parental rights and responsibilities:

1. The child **is** the legal child of the genetic parent;
2. The genetic parent whose rights were terminated under a previous court order is restored to the status of legal parent of the child, and all rights, powers, privileges, immunities, duties, and obligations that were severed and terminated are **restored**;
3. The order placing the child under the care of the Human Service Zone or Division of Juvenile Services is **terminated**;
4. Permanent legal and physical custody of the child **is awarded** to the genetic parent.

Important!! An order re-establishing parental rights and responsibilities to **one genetic parent** of the child **has no effect on**:

1. The legal rights of any other genetic parent whose rights to the child have been terminated by the court; or
2. The legal sibling relationship between the child and other children of the genetic parent.

My petition was denied after the hearing. Can I file a new petition for re-establishment of parental rights and responsibilities?

If the judge or judicial referee denies the petition **after a hearing**, the judge or judicial referee may issue an order stopping the genetic parent from filing another petition.

If the judge's or judicial referee's order stops the genetic parent from filing another petition, the order **must** include the following:

1. **The length of time** the genetic parent must wait to file another petition;
2. Written findings in support of the order; **and**
3. An evaluation of the best interests of the child.

Legal Research Resources

North Dakota Statutes Related to Re-Establishment of Parental Rights and Responsibilities

(North Dakota statutes are 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.)

[North Dakota Century Code Chapter 14-20](#): Uniform Parentage Act.

[North Dakota Century Code Chapter 27-20.2](#): Juvenile Court Act.

- [North Dakota Century Code Section 27-20.2-15](#): Indian Child Welfare

[North Dakota Century Code Chapter 27-20.3](#): Child Welfare

- [North Dakota Century Code Section 27-20.3-20](#): Termination of Parental Rights

[North Dakota Century Code Chapter 27-20.6](#): Re-Establishment of Parental Rights and Responsibilities.

[North Dakota Century Code Chapter 27-21](#): Division of Juvenile Services.

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.)

You may research case law at ndcourts.gov/supreme-court/opinions. Search by keywords, or enter the case name or case citation.

Links to some recent prima facie case law are provided as a starting point:

- [Schoenberg v. Schoenberg](#), 2024 ND 148, 10 N.W.3d 98 (ND 2024).
- [Falcon v. Knudsen](#), 2023 ND 94, 990 N.W.2d 749 (ND 2023).
- [Jensen v. Jensen](#), 2023 ND 22, 985 N.W.2d 679 (ND 2023).
- [Canerdy v. Canerdy](#), 2022 ND 61, 971 N.W.2d 873 (ND 2022).
- [Lessard v. Johnson](#), 2022 ND 32, 970 N.W.2d 160 (ND 2022).

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 available online.)

At minimum, review the following:

- [North Dakota Rules of Court](#)
- [North Dakota Rules of Evidence](#)
- [North Dakota Rules of Juvenile Procedure](#)

Laws Constantly Change Through Legislation and Court Decisions.

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

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

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)

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 is a selection of library resources on ODIN that may be of interest to you:

- **A Short & Happy Guide to Advanced Legal Research**, Ann Walsh Long, West Academic Publishing, 2020.
- **A Short & Happy Guide to Evidence**, Sydney A. Beckman, West Academic Publishing, 2018.
- **Finding the Answers to Legal Questions**, Virginia M. Tucker & Marc Lampson, Second Edition, American Library Association, 2018.

- **Legal Research: How to Find & Understand the Law**, Stephen Elias & the Editors of Nolo, Seventeenth Edition, Nolo, 2015.
- **Represent Yourself in Court: Prepare & Try a Winning Civil Case**, Paul Bergman & Sara J. Berman, Tenth Edition, Nolo, 2019.
- **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)

[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).

General-Use Template Forms

The North Dakota Legal Self Help Center **doesn't** have forms or instructions available for Re-Establishing Parental Rights and Responsibilities.

If you decide to represent yourself, you create your own legal documents. You're responsible for the information on the documents you file with the court.

Although the North Dakota Legal Self Help Center doesn't have forms or instructions for Re-Establishing Parental Rights and Responsibilities, General-Use template forms are available under [General Use Forms](#) in the Juvenile Court section of the Center's webpage.

If you need help 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 action, such as preparing legal documents, while you handle the rest of the action. You and the lawyer must agree in writing to Limited Legal Representation.

Lawyer Resources & Limited Legal Representation

You're not required to hire a lawyer to bring a civil case in North Dakota State District Court. If you decide to represent yourself, you must follow all of the rules, laws and procedures a lawyer is required to follow.

Go to ndcourts.gov/legal-self-help/finding-a-lawyer for more information about how to find a lawyer.

Lawyer Resources

You may find the following options of interest:

- **Legal Services of North Dakota** is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is lsnd.org.
- **The State Bar Association of North Dakota** provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- **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.
- **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.

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 legal documents, 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 court appearances 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 or information about the program, the online application, and, if you qualify, ask your civil legal question.

This program **doesn't** provide any assistance with criminal legal questions.