

# Instructions to Start a Parenting Responsibility Case (Custody & Visitation) When the Parents Don't Agree

## Serve Summons and Complaint – Service by Sheriff

ND Legal Self Help Center Staff and Court employees can't help you fill out forms. If you're unsure how to proceed, consult a lawyer.

ND Legal Self Help Center forms aren't official court forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

Don't include these instructions when you serve or file the completed form(s).

### Caution Regarding Domestic Violence

Domestic violence protection orders and disorderly conduct restraining orders generally don't allow communication between the party protected by the order and the party the order is against.

If there's a domestic violence protection order or disorderly conduct restraining order in effect, review the order to see if you're allowed to contact or serve the other parent.

**Be careful not to violate the order!** Violating the order could have legal consequences for you and/or the other parent.

Before serving the other parent, consult a lawyer or a domestic violence intervention center in your area to help you navigate your situation. **Only follow the steps below once you know you can serve the other parent.**

Contact North Dakota Domestic & Sexual Violence Coalition for information about domestic violence/sexual assault (DA/SA) victim advocacy centers across North Dakota staffed with professionals who can help you with safety planning, findings shelter, obtaining a protection order, and more.

North Dakota Domestic & Sexual Violence Coalition  
521 E Main Ave, Suite 320  
Bismarck, ND 58501  
(701) 255-6240, Ext. 1016  
(888) 255-6240

[nddsvc.org/FIND-HELP](http://nddsvc.org/FIND-HELP)

# 1: Arrange to Serve Copies of Completed Summons and Complaint on the Defendant Parent

*(These instructions are for service by sheriff.)*

**Caution!** Your parenting responsibility case **doesn't start** until the Defendant is served.

Arrange to serve the Defendant parent copies of the following documents:

- Summons (*Contested Parenting Responsibility*)
  - Must be signed by the Plaintiff **and** Clerk of Court.
- Complaint (*Contested Parenting Responsibility*)
  - Must be signed by Plaintiff.

---

**Service Methods:** The following methods from [Rule 4 of the North Dakota Rules of Civil Procedure](#) may be used to arrange to serve the Defendant:

- Service by Sheriff
- Service by Personal Delivery
- Service by Mail
- Service by Publication

Instructions for each service method are available at [Start a Parenting Responsibility Case on Your Own - For Plaintiff](#).

Your Parenting Responsibility case can't start until you have proof you completed service on the Defendant by one of the methods in [Rule 4 of the North Dakota Rules of Civil Procedure](#).

---

*(This space left intentionally blank.)*

## **Instructions for Service by Sheriff**

If you, the Plaintiff, decide to have a sheriff serve the Defendant parent, contact the Sheriff's office of the county where the Defendant lives or is located. Ask what they need in order to serve the Defendant. Also ask about the cost of service by sheriff.

At minimum, you must give the Sheriff's office a copy of the summons and a copy of the complaint.

If the Sheriff's office is able to complete service on the Defendant, the Sheriff's office gives you a completed Certificate of Service or Sheriff's Return of Service.

**The service document you receive from the Sheriff's office must show the summons and complaint were served on the Defendant. This is your proof of service.**

- If the service document **doesn't show** the Defendant was served, **you must use a different service method.**

**Once service on the Defendant is complete,** make a copy of the completed Certificate of Service or Sheriff's Return of Service for your records.

You file the original with the original Summons and Complaint later in the process.

## **2: Your Parenting Responsibility Case Starts When the Defendant Parent is Served by Sheriff – Neither You nor the Defendant May Take Your Child(ren) Out of North Dakota**

If the service document you receive from the Sheriff's office shows the summons and complaint were served on the Defendant parent, look for the date the Defendant was served.

**Your Parenting Responsibility case started the day the Defendant was served the Summons and Complaint by a sheriff.**

**Review the Summons.** As of the day the case started, if you or the Defendant want to take any of your children out of North Dakota, you must get written permission from the Defendant or the court.

### 3: Decide Whether to File the Summons & Complaint Now or Later; if You Choose Now, Complete these #3 Instructions

You may choose to file the original, completed Summons, Complaint, and Certificate of Service or Sheriff's Return of Service with the Clerk of Court:

- 1) **Now**, which isn't required at this point; **or**
- 2) **No later than 37 days after service on the Defendant**, which is **Required** by [Rule 8.3.1 of the North Dakota Rules of Court](#).

If you choose to file no later than 37 days after service on the Defendant, go directly to the "What are the Next Steps" section on Page 5 of these instructions.

If you choose to file now, continue following these #3 instructions.

---

Take the original, completed documents to the Clerk of Court's Office in the North Dakota county listed in the Caption of your parenting responsibility forms.

- **You're required to pay the \$160.00 filing fee.**
- If you're not able to pay the filing fee, you may be able to have the fee waived. Fill out and give the [Filing Fee Waiver Form](#) to the Clerk of Court.

File the following **original, completed** documents with the Clerk of Court's Office:

1. Summons (*Contested Parenting Responsibility*) (signed by Plaintiff **and** Clerk of Court);
2. Complaint (*Contested Parenting Responsibility*);
3. Confidential Informational Form; and
4. Sheriff's Return of Service, or Certificate of Service (*received from the Sheriff's office*).

If the Clerk's Office accepts your documents for filing, your case is assigned a case number.

---

**You must serve a Notice of Filing on the Defendant** after your original, completed Summons, Complaint, and Certificate of Service or Sheriff's Return of Service are filed.

A [Notice of Filing](#) form and instructions are available on the North Dakota Legal Self Help Center webpage.

## What Are the Next Steps?

You've completed Step Two.

### Step Three requires the Defendant parent to serve a written Answer on you:

The Defendant has **21 days after they were served** a copy of the Summons and Complaint to serve a written Answer on you (the Plaintiff).

### Calculate the 21 Day Deadline for the Written Answer:

1. Don't include the day the Defendant parent was served a copy of the Summons and Complaint:
  - **Service by Sheriff** – start your count the day after the Defendant was served.
  - **Personal Service** – start your count the day after the Defendant was served.
  - **Service by Mail** – start your count the day after the return receipt for the Summons and Complaint was signed and dated.
  - **Service by Publication** – the Defendant is considered served fifteen (15) days after the first publication of the Summons in the newspaper. Start your count the day after the 15<sup>th</sup> day.
2. Count every calendar day, including Saturdays, Sundays, and North Dakota state holidays.
3. Include the last day of the deadline, but if the last day falls on a Saturday, Sunday, or North Dakota state holiday, the deadline continues to run until the end of the next day that isn't a Saturday, Sunday, or North Dakota state holiday.
  - For example, if the last day of the 21 day deadline lands on a Sunday, the deadline extends until the end of the next day, which is Monday.

---

If the Defendant parent **serves** a written Answer on you within the 21 day time period, the parenting responsibility case continues. Review the information and forms located at [Steps You Must Take Before the Court Can Establish Parenting Responsibility - Both Parents](#).

If the Defendant parent **doesn't serve** a written Answer on you within the 21 day deadline, you may file a Motion for Default Divorce Judgment. Instructions and forms are located at [Get the Final Parenting Responsibility Judgment - Both Parents](#).