

SERVICE INFORMATION AFTER CONSERVATORSHIP OF A PROTECTED PERSON IS ESTABLISHED BY A NORTH DAKOTA STATE DISTRICT COURT

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 is not intended for legal advice but only as a general guide to a civil court process.

If you decide to represent yourself, you will need to do additional research to prepare.

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;
 - Any local court rules.

Links to the laws, case law, and court rules can be found at www.ndcourts.gov.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help.

When you represent yourself, you are held to same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you are unsure if this information suits your circumstances, consult a lawyer.

This information is not a complete statement of the law. This covers basic information about the service requirements after a North Dakota state district court established a conservatorship of a protected person. The Center is not responsible for any consequences that may result from the information provided. The information cannot replace the advice of competent legal counsel licensed in the state of North Dakota. Use at your own risk.

***IMPORTANT – Service is an important step in the legal process.
Everything filed with the court in the conservatorship case must be served on the
protected person and all others as required by
[North Dakota Century Code Chapter 30.1-29.](#)***

Documents that MUST be served after a conservatorship case has started.

[Rule 5 of the North Dakota Rules of Civil Procedure](#) gives the requirements for the types of documents that must be served after a civil action has been started. Conservatorship cases are considered civil actions.

Generally, each of the following documents must be served under Rule 5 on every person who is required to served, **unless** the rules and laws that apply to conservatorship cases, or the court provide otherwise:

- An order;
- A pleading served after the original notice and petition (see [Rule 7 of the North Dakota Rules of Civil Procedure](#) for types of documents that are pleadings);
- A discovery document required to be served on a party (see [Rule 5\(d\)\(3\) of the North Dakota Rules of Civil Procedure](#) for discovery documents that are filed with the court);
- A written motion, except one that may be heard ex parte;
- A written notice, appearance, demand, or offer of judgment, or any similar document; and;
- Every document filed with the clerk or submitted to the judge.

Review the [North Dakota laws](#) and [rules](#) that apply to conservatorship cases. If a North Dakota law or rule tells the specific method of service that must be used, use that method of service.

If a person who is required to served **is not** represented by a lawyer, serve the person. If the person who is required to served is known to be represented by a lawyer, serve the lawyer instead of the person.

In general, copies of documents are served. Original documents are filed with the court.

Documents that are required to be served MUST be served on ALL persons listed in [Section 30.1-29-05](#) of the North Dakota Century Code.

The following persons listed in [Section 30.1-29-05](#) of the North Dakota Century Code MUST be served copies of all documents that are required to be served:

- The protected person;
- The conservator and any co-conservators;
- Any interested persons listed in the court's order and defined by [Section 30.1-01-06\(26\)](#);
- Any other persons listed in the court's order; and
- Any person who has filed a request for notice under [Section 30.1-29-06](#).

The person filing the documents is responsible for ensuring the documents are served as required by [Section 30.1-03-01](#) and [Section 30.1-29-05](#) of the North Dakota Century Code.

Proof of service tells the North Dakota state district court how, when and where the documents were served.

If proof of service is not filed, the court will not act on the documents.

Proof of service is an important step in the legal process. If proof of service is not filed, the court will not act on your documents.

The proof of service tells the court when, how, and where all people required to served were served copies of the documents you file.

- A certificate of service gives the court proof of service when a sheriff or other officer served the documents.
- An affidavit of service gives the court proof of service when a person other than a sheriff or other officer served the documents.

Self-Represented parties are not required to serve documents electronically.

[Rule 5 of the North Dakota Rules of Civil Procedure](#) requires electronic service of documents.

Self-represented parties are exempt from this requirement. (See [Rule 3.5 of the North Dakota Rules of Court](#).)

The person filing the documents, must locate the addresses or locations for service.

Following are examples of ways to find people for service:

- Last known address.
 - Contact the U.S. Post Office for information on how to determine if the person left a forwarding address.
- Friends, family, employers.
- Online search engines.
- Government entities, such as Department of Motor Vehicles or County Recorder.
- Social Security Death Index.
- Social networking websites.
- Reverse directories.
 - A reverse directory allows someone to search by phone number to find an address. (Your local public library may have access to reverse directories.)

The documents may be served as follows:

1. Service by Personal Delivery

See [N.D.C.C. § 30.1-03-01](#).

You, the person filing the documents, cannot personally serve the documents yourself. You arrange for personal service as follows:

- a. The person who personally serves a copy of the documents that will be filed with the court must be at least 18 years old and not a party to the petition or an interested party.
- b. The person who serves the documents must complete, sign and date an Affidavit of Service by Personal Delivery. This is your proof of service of the documents.
 - If the Sheriff or other law enforcement officer personally serves the documents, the Sheriff or other law enforcement officer will provide a completed certificate of service.
- c. Make a copy of each affidavit or certificate for your records.

File the original of each Affidavit of Service by Personal Delivery with the clerk of court.

3. Service By Mail:

See [N.D.C.C. § 30.1-03-01](#).

You, the person filing the documents, arrange for service by mail as follows:

- a. The person who mails a copy of the documents that will be filed with the court must be at least 18 years old.
- b. The copy of the documents must be sent by certified or ordinary first-class mail addressed to the person's office or place of residence.
- c. The person who mails the documents must complete, sign and date an affidavit of service by mail. This is your proof of service of the documents.
- d. Make a copy of each affidavit of service by mail for your records.
- e. File the original of each Affidavit of Service by Mail with the clerk of court.

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE CONSERVATORSHIP OF

Case No. _____

AFFIDAVIT OF SERVICE BY PERSONAL DELIVERY
(A separate affidavit is required for each person served.)

The person personally serving court documents swears:

1. My name is: _____ *(person who personally served documents)*. I am at least 18 years of age. **I am not a party or interested in the above named matter.**

2. **List of Court Documents Served:** *(Write the name of the document and ✓ the box.)*

- _____
- _____
- _____
- _____

3. **Personal Service:**

I served a true and correct copy of each of the court documents listed in Paragraph 2 to _____ *(name of person served)* by:
(choose one)

- Giving the court documents directly to him/her.
- Leaving the court documents with: _____ *(name)*,
a person of suitable age and discretion who lives at the same address.

(Paragraph 3 continues on next page.)

STATE OF NORTH DAKOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE CONSERVATORSHIP OF

_____.

Case No. _____

AFFIDAVIT OF SERVICE BY MAIL

(May serve multiple persons ONLY IF envelopes are mailed same day from same Post Office.)

The person serving court documents by mail swears:

1. My name is: _____ *(person who mailed documents)*. I am at least 18 years of age.

2. **List of Court Documents Served:** *(Write the name of the document and ✓ the box.)*

- _____
- _____
- _____
- _____

3. **Service by Mail:**

I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by Certified Mail *(OR)* First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to each person listed in Paragraph 5.

4. **Date and Post Office Location of Service by Mail:**

Date Court Documents Were Served by Mail: _____

United States Post Office Location:

(city)

(county)

(state)

