

## Motion for Default Divorce Judgment

### Instructions for Form 5a: Declaration of Proof for Default Divorce Judgment (With Children)

(Form MP5a: Declaration of Proof for Default Divorce Judgment (With Children) is part of the Motion for Default Divorce Judgment. [Review the instructions for the packet of forms.](#))

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 instruction sheets when you serve or file the completed form.

A Declaration of Proof for Default Divorce Judgment (With Children) is one of a set of required documents that make up a written Motion for Default Divorce Judgment.

The **MP5a: Declaration of Proof for Default Divorce Judgment (With Children)** form is your, the Plaintiff's, written statement of the jurisdictional and factual matters in the divorce complaint, including the factual basis for the grounds of the divorce.

**Important!** Use MP5a: Declaration of Proof for Default Divorce Judgment (With Children) **only** if there are minor children of the marriage.

You, the Plaintiff, arrange to serve the Declaration of Proof for Default Divorce Judgment (With Children) with all of the other documents listed on page 4.

#### **You, the Plaintiff, Complete and Sign this Form.**

- ☐ **Top of Form (Caption):** Fill in the caption exactly as you filled in the caption on the *Summons*.
- ☐ **Fill in your full legal name.** This should match your name in the Caption.
- ☐ **Paragraph 1:** Read carefully. If this information isn't true, you can't use this form.
- ☐ **Paragraph 2:** Read carefully. If this information isn't true, you can't use this form.
- ☐ **Paragraph 3:** Fill in the same date, city and state as Paragraph 2 of your Form 3: Brief.
- ☐ **Paragraph 4:** Read carefully. If this information isn't true, you can't use this form.

- ☐ **Paragraph 5:** You're required to tell the court if you or the Defendant are in the Armed Forces and currently deployed or notified of deployment.

**"Deploying or Deployed"** means a uniformed service member who has been notified of orders of movement or mobilization for more than ninety days but less than eighteen months and the orders are designated as unaccompanied, not authorized for dependent travel, or don't permit family members to move to the deployment location.

Check (✓) the box(es) that correctly show(s) the deployment status of both you and the Defendant.

If you check (✓) the "Defendant **is not** currently in the Armed Forces" box or the "I **do not know** whether Defendant is currently in active service" box, **you must** check (✓) and complete the matching boxes of Paragraph 6 of your Form 4: Declaration of Default.

If none of the boxes fit your situation, you can't use this form.

- ☐ **Paragraph 6:** Fill in your identifying information.
- ☐ **Paragraph 7:** Fill in the Defendant's identifying information. **Don't** leave a blank space.
- ☐ **Paragraph 8:** Fill in the number of minor children of the marriage. Check (✓) the box indicating if you are the mother or father and whether Defendant is the mother or father.

If you have more than three minor children of the marriage, you can't use this form.

- ☐ **Paragraph 9:** Fill in your minor child(ren)'s initials, year of birth, last 4 digits of their social security number, and state of residence for the last 6 months.

If you have more than three minor children, you can't use this form. However, you may use this form as a formatting template and create your own document.

- ☐ **Paragraph 10:** Check (✓) the box that correctly shows your children's connection to North Dakota. Fill in your name and, if the other parent also resides in North Dakota, the other parent's name.

If neither box fits your circumstances, you can't use this form.

- ☐ **Paragraph 11:** Check (✓) the box(es) that correctly show(s) whether more children are expected to be born of the marriage.

If none of the boxes fit your circumstances, you can't use this form.

- ☐ **Paragraph 12:** Fill in your monthly income. Write "\$0.00" if there is no income from the source listed. **Don't** leave a blank space.

- ☐ **Paragraph 13:** Fill in the Defendant's monthly income. Write "\$0.00" if there is no income from the source listed. If you don't know Defendant's income from the source listed, write "Unknown" in the blank space. **Don't** leave a blank space.

- ☐ **Paragraph 14:** Check (✓) the box showing whether either party needs spousal support.

If you check (✓) the second box, complete **all** of the information. **Don't** leave any blanks.

- ☐ **Paragraph 15:** Check (✓) the box for your requested residential responsibility and decision-making responsibility for the child(ren).

**"Decision making responsibility"** means the responsibility to make decisions concerning the child(ren). The term may refer to decisions on all issues or on specific issues, but not child support issues.

**"Parenting time"** (also called visitation) means the time when the child(ren) is/are to be in the care of a parent.

**"Residential responsibility"** (also called custody) means a parent's responsibility to provide a home for the child(ren).

- ☐ **Paragraph 16:** You must file a parenting plan with your motion documents. This paragraph states you believe your proposed parenting plan is best for the children.

- ☐ **Paragraph 17:** Check (✓) the first box if you have a child support order already in effect. Fill in the case number and the name of the Court. In order to choose this option, child support must already be ordered by a North Dakota state district court, another state's court, or a tribal court.

Check (✓) the second box if there's no child support order already in effect. Check (✓) the box showing who should be ordered to pay child support.

- ☐ **Paragraph 18:** You must file a property and debt listing with your motion documents. This paragraph states you completed and are filing an Exhibit A: Confidential Division of Property & Debts & Values. You complete Exhibit A **before** you serve and file your motion.

- ☐ **Paragraph 19:** Check (✓) the box showing whether you're requesting to restore your name. If you are, write the name you're requesting.

- ☐ **Paragraphs 20 through 22:** Read carefully. If these statements aren't true, you can't use this form.

- ☐ **Signature:** You must sign and date the Declaration of Proof for Default Divorce Judgment (With Children).

### What do I do next?

- ☐ Set aside the completed Declaration of Proof for Default Divorce Judgment (With Children).
- ☐ Complete the next form in the set. (The proposed Findings of Fact, Conclusions of Law, and Order for Default Divorce Judgment is the next form.)
- ☐ Once you complete all of the forms listed on page 4, you serve the Declaration of Proof for Default Divorce (With Children) with those forms.
- ☐ The originals are filed with the court in **Step 7**, with the Declaration of Service by Mail.

### For divorces **(With Children)**, the following forms are required:

- MP1: Notice of Motion for Default Divorce Judgment;
- MP2: Motion for Default Divorce Judgment;
- MP3: Brief in Support of Default Divorce Judgment;
- MP4: Declaration of Default, Identification and Active Military Status;
- **MP5a: Declaration of Proof for Default Divorce Judgment (*With Children*)**;
- MP6a: Proposed Findings of fact, Conclusions of Law, and Order for Default Divorce Judgment (*With Children*);
- MP7a: Proposed Judgment (*With Children*);
- MP8: Exhibit A: Confidential Division of Property & Debts & Values
  - Summary Real Estate Disposition Judgment (*if needed*);
- MP9: Exhibit B: Parenting Plan;
- MP10a: Confidential Information Form (*With Children*); and
- MP11a: Declaration of Service by Mail.

State of North Dakota

In District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_) )

Plaintiff, )

Case No. \_\_\_\_\_

vs )

\_\_\_\_\_) )

Defendant. )

**Declaration of Proof for  
Default Divorce Judgment  
(With Children)**

I, \_\_\_\_\_ (Plaintiff name), the

undersigned, state as follows:

1. I am the Plaintiff in the above-captioned action for divorce.
2. I am a resident of the State of North Dakota, and have been a resident for the entire six months before serving the Summons and Complaint.
3. The Defendant and I were married to each other on \_\_\_\_\_ (date) in \_\_\_\_\_ (city, state) and have since that date remained spouses.
4. To the best of my knowledge, no decree, judgment or order of divorce, separation or annulment has been granted to either party against the other in a Court of North Dakota or a Court of any other state, territory or country, and there is no other action pending for divorce by either party against the other in any Court.
5. **Military Deployment Status** (select all that apply; continues on page 2):

☐ I am not currently in the Armed Services of the United States of America or its allies.

☐ I **am** currently in the Armed Services of the United States of America or its allies but not currently deployed or notified of deployment.

☐ Defendant **is not** currently in the Armed Services of the United States of America or its allies.

☐ Defendant **is** currently in the Armed Services of the United States of America or its allies but not currently deployed or notified of deployment.

☐ I **do not know** whether Defendant is currently in active service in the Armed Services of the United States of America or its allies.

**6. My Identifying Information:**

My full name: \_\_\_\_\_

Address where I live: \_\_\_\_\_

\_\_\_\_\_

My occupation and employer name and address: \_\_\_\_\_

\_\_\_\_\_

My Year of Birth: \_\_\_\_\_ Last 4 Digits of my Social Security Number: \_\_\_\_\_

**7. Defendant's Identifying Information:**

Defendant's full name: \_\_\_\_\_

Address where Defendant lives, or last reasonably ascertainable address: \_\_\_\_\_

\_\_\_\_\_

Defendant's occupation and employer name and address: \_\_\_\_\_

\_\_\_\_\_

Defendant's Year of Birth: \_\_\_\_\_ Last 4 Digits of Defendant's Social Security Number: \_\_\_\_\_

8. The Defendant and I have \_\_\_\_\_ minor child(ren) together. I am the (*choose one*)

☐ mother/ ☐ father of the child(ren). The Defendant is the (*choose one*) ☐ mother/

☐ father of the child(ren).

9. Our minor child(ren) are as follows:

a. Minor Child's Initials: \_\_\_\_\_ Year of Birth: \_\_\_\_\_

Last 4 Digits of Social Security Number: XXX-XX-\_\_\_\_\_

State of Residence for Last 6 Months: \_\_\_\_\_

b. Minor Child's Initials: \_\_\_\_\_ Year of Birth: \_\_\_\_\_

Last 4 Digits of Social Security Number: XXX-XX-\_\_\_\_\_

State of Residence for Last 6 Months: \_\_\_\_\_

c. Minor Child's Initials: \_\_\_\_\_ Year of Birth: \_\_\_\_\_

Last 4 Digits of Social Security Number: XXX-XX-\_\_\_\_\_

State of Residence for Last 6 Months: \_\_\_\_\_

10. (*Choose one*):

☐ The child(ren) has/have lived in North Dakota with a parent for at least six consecutive months immediately before the start of this divorce action. If a child is less than six months old, the child has lived in North Dakota with a parent since their birth. Name of parent(s) residing in North Dakota: \_\_\_\_\_.

☐ North Dakota was the home state of the child(ren) within six months of the start of this divorce action, and one parent continues to reside in North Dakota. Name of parent(s) residing in North Dakota: \_\_\_\_\_.

**11.** (Choose all that apply):

☐ No additional children are expected to be born of this marriage.

☐ (Choose one) ☐ I am pregnant / ☐ The Defendant is pregnant. However, the child is not at issue in this divorce because (choose one) ☐ I am not / ☐ The Defendant is not the father.

☐ I do not know whether Defendant is pregnant. However, if Defendant is pregnant, I am not the father, and the child is not at issue in this divorce.

**12.** I have the following sources of monthly income:

Employment:	\$
Public Assistance:	\$
Social Security Benefits:	\$
Unemployment/Workers Compensation:	\$
Interest/Dividend Income:	\$
Other (describe):	\$

**13.** The Defendant has the following sources of monthly income:

Employment:	\$
Public Assistance:	\$
Social Security Benefits:	\$
Unemployment/Workers Compensation:	\$
Interest/Dividend Income:	\$
Other (describe):	\$

**14.** Spousal support (choose one; continues on page 5):

☐ Neither I nor Defendant need spousal support.



☐ (choose one) ☐ I need/ ☐ Defendant needs spousal support from (choose one) ☐ me/  
☐ Defendant. This is because (choose one) ☐ I am/ ☐ Defendant is \_\_\_\_\_ years of age,  
has been married to (choose one) ☐ me/ ☐ Defendant for \_\_\_\_\_ years, has a monthly  
income totaling \$\_\_\_\_\_, and because:

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**15.** It is in the best interests of the child(ren) that (choose one):

☐ Residential responsibility and decision-making responsibility of the child(ren) be shared  
equally between me and the Defendant.

☐ I have primary residential responsibility and decision-making responsibility of the child(ren),  
subject to parenting time by the Defendant.

☐ The Defendant have primary residential responsibility and decision-making responsibility of  
the child(ren), subject to parenting time by me.

**16.** My proposed parenting plan is set forth in Exhibit B: Parenting Plan. I believe my  
proposed Parenting Plan is in the best interests of the child(ren).

**17.**     *(Choose one.)*

☐ There is a child support order currently in effect. I do not request any changes to the child support order. The case number is \_\_\_\_\_. The Court that issued the child support order is \_\_\_\_\_.

☐ There is no child support order currently in effect. I request the court order  
*(choose one)* ☐ me/ ☐ Defendant to pay child support.

**18.**     Defendant and I are owners of property and have accumulated a certain amount of debt throughout the marriage, which should be equitably divided by the Court. To the best of my knowledge, a true and correct listing of all our property, debt, and liabilities is set forth in Exhibit A: Confidential Division of Property & Debts & Values. I believe the distribution of property and debt is fair and equitable.

**19.**     *(Choose one.)*

☐ I am not requesting to restore my name.

☐ I request to restore my name to \_\_\_\_\_. I have no intent to defraud or mislead anyone by changing my name.

**20.**     Irreconcilable differences exist between the Defendant and I, and these differences have made it impossible for us to continue our marriage.

**21.**     I have submitted to the Court proposed Findings of Fact, Conclusions of Law and Order for Default Judgment, proposed Exhibit A: Confidential Division of Property & Debts & Values and proposed Exhibit B: Parenting Plan, which I believe contain an equitable division between the Defendant and I of our marital estate, as well as serving the best interests of our child(ren).

**22.** I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Proof for Default Divorce Judgment (With Children) is true and correct.

Signed on \_\_\_\_\_ (Date) in \_\_\_\_\_ (City),  
\_\_\_\_\_(County), \_\_\_\_\_ (State) \_\_\_\_\_ (Country).

\_\_\_\_\_  
(Plaintiff's Signature)

\_\_\_\_\_  
(Plaintiff's Printed Name)

\_\_\_\_\_  
(Address) (City, State, Zip Code)

\_\_\_\_\_  
(Telephone Number) (Email Address)