

Instructions to Start a Divorce When the Spouses Don't Agree (Divorce With Children)

Important! Read Before Using this Packet of Forms.

ND Legal Self Help staff and court employees **can't** help you fill out the form(s). If you're unsure if these forms and instructions suit your circumstances, 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.**

If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. Go to ndcourts.gov/legal-self-help/finding-a-lawyer for information about finding a lawyer to represent you.

When you represent yourself, you're expected to know and follow the law, including:

- 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; and
 - Any local court rules.

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

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

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

*These instructions and forms **aren't** a complete statement of the law. They cover the basic procedure for asking a North Dakota state district court to start a divorce that includes children when the parties **don't agree** to all issues related to the divorce. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.*

Use these forms and instructions at your own risk.

What Are the Residency Requirements?

You, the Plaintiff, must be a resident of the state of North Dakota for **six (6) consecutive months** in order to start a divorce.

Who Are the Parties in a Divorce?

Plaintiff – You, the spouse who starts the divorce case.

Defendant – The spouse who doesn't start the divorce case.

Documents to Start a Divorce when the Spouses Don't Agree (With Children)

4 Forms You Must Complete Before Filing With the Court:

Form Title	Description
Summons <i>(Plaintiff completes)</i>	Notifies the Defendant that the Plaintiff started the process for a divorce. The Summons must be signed and dated by the clerk of court to be valid.
Complaint for Divorce <i>(Plaintiff completes)</i>	Gives the court information about the Plaintiff and Defendant. Tells the court what the Plaintiff is asking for from the court.
Confidential Information Form <i>(Plaintiff completes)</i>	Lists the full confidential information that isn't allowed to appear in other documents filed with the court. This form is a part of the court record that isn't seen by the public.
Declaration of Service <i>(Person who serves documents completes)</i>	Proves a copy of the completed summons and complaint were served (given to) the Defendant. Your divorce doesn't begin until service is completed.

All of the Forms Must be Filled out Completely!! Don't leave any of the paragraphs within the forms unanswered.

If a section of the form doesn't apply to you, type or write "N/A" or "Not Applicable".

If a form(s) isn't completely filled out, it could result in the clerk not accepting your form(s) for filing, or the court may send the form(s) back to you to complete.

Follow and Carefully Read All Instructions! There are boxes () before each step. Check each box as you finish the step. Don't go on to the next step **until** the previous step is completed.

Warnings!

Forms are available **only** for divorces involving common and uncomplicated circumstances. If these forms don't work for your situation, you need to create your own documents, or [retain a lawyer](#) to create the documents for you.

Caution Regarding Domestic Violence

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

If there is a domestic violence protection order or disorderly conduct restraining order in effect, review the order to see if you are allowed to contact or serve your spouse! **Be careful not to violate the order!** Violating the order could have legal consequences for you and/or your spouse.

Before using these forms, consult a lawyer or a domestic violence intervention center in your area to help you navigate your situation.

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

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Step 1: Fill Out the “Complaint for Divorce” Form

Fill out the "Complaint for Divorce" form. The Complaint is divided into two parts. The first part gives the Court basic information about you, your spouse, and your property. The second part tells the Court and your spouse what you're asking for from the Court.

***You, the Plaintiff, complete this form.**

Fill in the Top Part of the Form:

The information to fill out the top part of the form (“the caption”) is the same as on the Summons form.

Paragraphs 1 and 2: Review. *(If paragraph 1 and 2 aren't correct, you can't use this form).*

Paragraph 3:

Fill in all information regarding you, the Plaintiff.

Fill in all information regarding your spouse, the Defendant. *(If you don't know any of the information, write “unknown.”)*

Paragraph 4: Fill in your marriage information.

Paragraph 5: Put a checkmark in the box next to the statement that's true. *(You can't use this form if neither statement is true.)*

Paragraph 6: Review carefully. *(You can't use this form if the statement isn't true.)*

Paragraph 7: This paragraph is regarding the children of the marriage. For each minor child, fill in the following:

- Minor child's initials and year of birth;
- Last four digits of minor child's social security number *(if the minor child doesn't have a social security number, type or write “N/A”);* and
- Minor Child's full address.

If you have more than three children together, attach a sheet that lists the information for each child.

Put a checkmark in the box at the end of Paragraph 7.

Type or write “Complaint Paragraph 7” on the top of the additional sheet(s).

- Paragraph 8:** Put a checkmark in the box next to the residential responsibility option you are requesting from the Court. **Don't** put a checkmark in more than one box.
- Paragraph 9:** Put a checkmark in the box next to the statement that's true for your situation. *(If neither statement is true, you can't use this form.)*
- Paragraph 10:** Put a checkmark in the box next to the statement that's true for your situation.
 - Fill in the full, legal name of the parent.
 - Fill in the relationship to the child(ren).
- Paragraph 11:** Complete all 5 parts of Paragraph 11 (a-e).
 - Paragraph 11(a):** Fill in the information for each minor child listed in Paragraph 7. (Initials **only**)
 - Paragraph 11(b):** Fill in the information for each minor child listed in Paragraph 7. (Initials **only**)
 - Paragraph 11(c):** Put a checkmark in the box next to the statement that's true for **your situation. If you select the second option, fill in the additional information.**
 - Paragraph 11(d):** Put a checkmark in the box next to the statement that's true for your situation. **If you select the second option, fill in the additional information.**
 - Paragraph 11(e):** Put a checkmark in the box next to the statement that's true for your situation. **If you select the second option, fill in the additional information.**

If you need more space to answer any of Paragraph 11, attach a sheet or sheets with the additional information.

- Put a checkmark in the box at the end of Paragraph 11.
- Type or write "Complaint Paragraph 11" on top of the additional sheet(s).
- Paragraph 12:** Put a checkmark in the box next to the statement that's true for your situation. **If you select the second option, fill in the case number of the child support order.**
 - If you already have a child support order, make sure you have a copy so you can write or type the correct case number in Paragraph 12.
- Paragraphs 13 & 14:** Review carefully. *(If any statements in Paragraphs 13 and 14 **aren't** true, you **can't** use this form.)*

- Paragraph 15:** Put a checkmark in the box indicating whether you want to restore your name.
- Paragraphs 16 through 21:** Review carefully. *(If any of paragraphs 16 through 21 don't fit your situation, **Stop!** You can't use this form.)*
- Date and Signature:**
 - Fill in the date you signed this document.
 - Sign the signature line.
 - Type or print your name.
 - Fill in the address lines. *(If you have a physical address **and** a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.)*
 - Fill in your phone number.
 - Fill in your email address.

You make copies of the completed Complaint in Step 4.

Step 2: Fill Out the "Summons" Form

A "Summons" tells your spouse that you, the Plaintiff, have filed a lawsuit against them asking for a divorce, and also tells your spouse that if they don't file a written Answer to your complaint, the court may give you everything you ask for in your divorce case.

***You, the Plaintiff, complete this form. You also need a date and signature from the Clerk of Court.**

- Fill in the Top Part of the Form (Caption):**

Note: the top part of each form is known as the "caption," and the information will be the same on every form you fill out.

- On the line marked "county," write the name of the North Dakota county where you'll file the divorce case.
- On the line marked "judicial district," write the name of the judicial district where you'll file the divorce case. (Judicial District information is located at ndcourts.gov/district-court.)

- Don't** fill in the "Case No." The Clerk of Court assigns a case number after your divorced documents are accepted for filing.
- On the line marked "Plaintiff," write your full name (first, middle, and last). From now on you'll be called the Plaintiff. (You must be a resident of the State of North Dakota for at least the last six months. If you aren't a resident of North Dakota, **Stop!** You can't use this set of forms.)
- On the line marked "Defendant," write the full name of your spouse (first, middle, and last). From now on your spouse will be called the Defendant.
- Both parties are required to obey the Summons after it's served on the Defendant. Read it carefully!**
- Date and Signature:**
 - Fill in the date, city, county, state, and country where you signed this document.
 - Sign the signature line.
 - Type or print your name.
 - Fill in the address lines. (If you have a physical address **and** a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.)
 - Fill in your phone number.
 - Fill in your email address.
- In Step 4, You Must go to the District Clerk of Court's Office and ask the Clerk of Court to sign and date the Summons.** (The Summons won't be accepted for filing unless the District Clerk of Court has also signed the Summons).

You make copies of the completed Summons in Step 4.

Step 3: **Fill Out the "Confidential Information Form"**

Court records are generally available to the public, and anyone can request to look in almost any court file. However, certain information is required to remain confidential, even if it's part of a public court record.

Only you are responsible for making sure confidential information doesn't appear in the documents you prepare.

Confidential information includes:

- Social security numbers
- Taxpayer identification numbers
- Birthdates
- Full names of minor children
- Financial-account numbers.

Documents filed with the Court with references to confidential information must include only:

- The last four (4) digits of the social security number and taxpayer identification number
- The year of birth
- The minor child's initials
- The last four (4) digits of the financial-account number

Since the forms in this packet include references to confidential information, you must prepare a Confidential Information form. The form must contain the full confidential information that's referenced in the documents.

Fill in the Top Part of the Form:

***You, the Plaintiff, complete this form.**

The information to fill out the top part of the form ("the caption") is the same as on the Summons form.

This form gives the court the confidential information that can't be included in any other forms filed in the divorce. This form remains confidential and isn't a public record.

Fill in the Plaintiff and Defendant Information:

- Fill in the full information for you, the Plaintiff, and the full information for the defendant.
- Fill in the year of birth and last 4 digits of the social security number for you and Defendant.

Fill in the minor child's information:

- Fill in the minor child's full legal name. In the redacted section, fill in **only** the minor child's initials.
- Fill in the minor child's birth date. In the redacted section, fill in **only** the year.

Fill in the social security number for each minor child. In the redacted section, fill in **only** the last four digits of the social security number.

- If a minor child doesn't have a social security number, type or write "N/A."
- If you have more than three minor children together, attach a sheet that lists the information for each additional child.

Fill in the Financial Account Information:

- Fill in this information for **all** financial accounts.
 - Fill in the name of the account;
 - Fill in the full account number; and
 - Fill in the last 4 digits of the financial account.

Attach another sheet of paper if you need more space.

- You, the Plaintiff, must sign and date the Confidential Information Form.**

**Step 4:
Get Summons Signed by Clerk of Court. Make Copies of Completed
Forms**

Signing of Documents

- You, the Plaintiff must make sure the Summons has been signed and dated by the clerk.**
You also sign and fill in your information.
- You, the Plaintiff, must sign and complete the following forms:**
 1. Complaint for Divorce; and
 2. Confidential Information Form.

Making Copies

- After obtaining all signatures as indicated above, make 2 copies of the following:**
 1. Summons; and
 2. Complaint for Divorce.

One copy is for your records, one copy is for the Defendant. The original is filed with the Court in Step 6.

Make one copy of the following:

1. Confidential Information Form.

One copy is for your records. You don't need to serve the Confidential Information Form on the Defendant. The original is filed with the Court in Step 6.

Step 5: Serve Copies of Completed Forms on the Defendant

Caution Regarding Domestic Violence

If there is a domestic violence protection order or disorderly conduct restraining order in effect, review the order to see if you are allowed to contact or serve your spouse! **Be careful not to violate the order!** Violating the order could have legal consequences for you and/or your spouse.

Before serving your spouse, 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 your spouse.**

Serve your spouse, the Defendant, the following documents:

1. Summons
 - Must be signed by the Plaintiff and Clerk of Court; and
2. Complaint for Divorce
 - Must be signed by Plaintiff.

Service Methods: The following methods may be used to serve your spouse, the Defendant:

1. **Personal Service by the Sheriff:**

- Contact the sheriff of the county where your spouse lives or is located to ask what they need in order to serve your spouse.
- Once service has been completed, the sheriff will send you a bill and a Sheriff's Return of Service to be filed with the court in Step 6.

2. **Personal Service by a Process Server or Other Person:**

- The process server must be at least 18 years of age and not a party to this case.
- **Review** the instructions attached to the Declaration of Service by Personal Delivery form.
- Once service has been completed, obtain the Declaration of Service by Personal Delivery to be filed with the court in Step 6.

3. **Service by Mail:**

- **Review** the instructions at "[Service Information for Starting a Civil Action.](#)"
- Once service has been completed, obtain the Declaration of Service by Mail to be filed with the court in Step 6.

4. **Service by Publication:**

Note: Service by Publication **can only be used** if you were unable to serve your spouse (Defendant) by the Sheriff, Personal Service, or Mail.

- **Review** the instructions attached to the Declaration of Service by Publication.

Step 6:

After You, the Plaintiff, Receive Notification the Defendant Has Been Served, File the Original, Completed Forms With the Clerk of Court.

- Take the completed **original** of each of the following forms to the Clerk of Court's Office in the North Dakota county where you'll file your divorce forms:
 - If You Had the Documents Served by Sheriff, Personal Service, or Mail, you file the following:**
 1. Summons;
 2. Complaint for Divorce;
 3. Confidential Information Form;
 4. One of the following Declarations (for the Summons and Complaint):
 - Declaration of Service by Personal Delivery;
 - Declaration of Service By Mail; or
 - Sheriff's Return.

- If You Had the Documents Served by Publication, make sure you file all of the following:**

(Review the instructions – **not** all of the documents **are filed** at the same time!)

1. Summons;
2. Complaint for Divorce;
3. Confidential Information Form;
4. Declaration for Service by Publication;
5. Declaration of Service by Mail (Summons and Complaint); and
6. Affidavit of Publication (from newspaper).

- Pay the filing fee. The filing fee for a divorce is currently **\$80**.

- If you can't afford to pay the filing fee, the judge may waive it under certain circumstances. The fee waiver forms are found at ndcourts.gov/legal-self-help/fee-waiver.

- Fill out this application, date, and sign.

- This application will be reviewed by a judge who decides whether you must pay the filing fee. If the judge doesn't sign the order to waive the filing fee, you must be prepared to pay the filing fee or the Clerk of Court can't accept your divorce documents.

The original documents are kept in the court file. If your documents are accepted for filing by the Clerk of Court, a case number is assigned to your divorce case.

The Clerk of Court's office will send you a letter telling you the case number and the date that your papers were filed.

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Step 7: Complete, Serve, and File the Notice of Filing

A Notice of Filing form is required to be filed and served on your spouse (Defendant).

Complete the Notice of Filing

***You, the Plaintiff, complete this form.**

Fill in the Top Part of the Form:

- The information to fill out the top part of the form (“the caption”) is the same as on the Summons form.
- Include the case number.

Paragraph 1:

- Review to make sure you included the names of the correct documents that were filed.
- Fill in the name of the county where your divorce was filed **and** the case number assigned by the Clerk of Court.

Paragraph 2: Review.

Date and Signature:

- Fill in the date you signed this document.
- Sign the signature line.
- Type or Print your name.
- Fill in the address lines. *(If you have a physical address and a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.)*
- Fill in your email address.

Make two copies of the Notice of Filing

- One copy is for your records, one copy is for your spouse.

Serve the Notice of Filing

- The Notice of Filing must be served on your spouse. **Caution: Review the warning regarding service and domestic violence under Step 5.** This can be done by U.S. mail, first-class, postage prepaid. See the instructions for service by mail in Step 5.

Prepare the Declaration of Service by Mail

Fill in the Top Part of the Form:

- The information to fill out the top part of the form (“the caption”) is the same as on the Summons form.
- Include the case number.

Paragraph 1: Fill in your name.

Paragraph 2: Review to make sure you have the Notice of Filing listed as the document served.

Paragraph 3: Review.

Paragraph 4: Fill in the date you served the documents by mail.

Paragraph 5: List the name of the person served (your spouse) and the mailing address.

Paragraph 6: Review carefully.

Date and Signature:

- Fill in the date, city, county, state, and country where you signed this document.
- Sign the signature line.
- Type or print your name.
- Fill in the address lines. *(If you have a physical address **and** a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.)*
- Fill in your phone number.
- Fill in your email address.

File the Following Documents With the Court

- Notice of Filing; and
- Declaration of Service by Mail.

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Step 8: Court-Ordered Mediation

Family Mediation Program for **Contested** Custody and Visitation (Up to 6 hours paid by Court System)

This is a court system program **only** for resolving **disputed** parental rights and responsibilities matters through mediation. The Family Mediation Program will provide up to 6 hours of combined pre-mediation orientation and mediation at no cost to the parties. When the summons, complaint (or petition), and proof of service are filed with the clerk of court, the case is referred to the Family Law Mediation Program **if** custody or visitation is contested.

Go to the Family Law Mediation Program webpage for more information about the program. Contact information for the program administrator is available at the bottom of the webpage.

<https://www.ndcourts.gov/state-court-administration/family-law-mediation-program>.

Note: Skip this step and go directly to Step 9 if parental rights and responsibilities matters **aren't** disputed.

Step 9: You and the Defendant Must Meet to Complete and File the Rule 8.3 N.D.R.Ct., Informational Statement Within 37 Days* of Service of the Summons and Complaint

See the instructions and forms for Rule 8.3 N.D.R.Ct., Informational Statement if you had your spouse served personally or by mail.

Stop!! If you had your spouse served by **publication**, you don't need to do Step 9 at this time.

***Why 37 days?** Within 30 days after service of the complaint, the parties must meet to prepare the joint informational statement and preliminary property and debt listing. The complaint and joint information statement must be filed no later than 7 days after the compulsory meeting.

What if My Spouse and I Are Unable to Complete This Form Together?

N.D.R.Ct. Rule 8.3 requires the spouses to meet to prepare the Rule 8.3 N.D.R.Ct., Informational Statement together. Rule 8.3 doesn't say what to do if you're unable to meet with your spouse in person, by text, by email, or some other way.

If you decide to prepare, serve, and file this form on your own, Paragraph 1 includes space for you to explain why. The judge decides whether your Rule 8.3 N.D.R.Ct., Informational Statement meets the requirements of N.D.R.Ct. Rule 8.3.

What Are the Next Steps?

1. If the Defendant serves an Answer upon you, the Plaintiff, within the 21 day time period, the divorce process will continue. Review the second set of forms.
2. If the Defendant doesn't serve an Answer upon you, the Plaintiff, within the 21 day time period, you can file a Motion for Default Divorce Judgment. The instructions and forms are located at ndcourts.gov/legal-self-help/divorce/default-motion.