



OBJECTION TO NAME CHANGE OF A MINOR CHILD

An Informational Guide to a North Dakota State Civil Court Process

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 in this informational guide isn't intended for legal advice but only as a general guide to a civil court process.

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

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;
 - Any local court rules.

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

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

- If you would like to learn more about finding a lawyer to represent you, go to www.ndcourts.gov/legal-self-help/finding-a-lawyer.

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

This information isn't a complete statement of the law. This covers basic information about the process of objecting to a name change of a minor child in a North Dakota State District Court. The Center isn't responsible for any consequences that may result from the information provided. The information can't replace the advice of competent legal counsel licensed in the state of North Dakota. **Use at your own risk.**

This Informational Guide is made up of three sections:

Section One – Information about objections to the name change. (Pages 2-4)

Section Two – Basic court process for objecting to the name change. (Pages 4-11)

Section Three – Formatting examples of common objection documents. (Pages 11-14)

SECTION ONE:

INFORMATION ABOUT OBJECTIONS TO THE NAME CHANGE OF A MINOR CHILD IN NORTH DAKOTA STATE DISTRICT COURT

The parent or guardian of a minor child may petition (*request*) a North Dakota state district court to legally change their minor child's name.

A North Dakota state district court may legally change a minor child's name if:

- The minor child is a resident of the North Dakota county for at least the past 6 months before the parent or guardian files the request;
- The minor child is either a United States citizen, or a United States permanent resident alien; and
- The request is in the best interest of the minor child, is made in good faith, isn't made to defraud or mislead, won't cause injury to an individual, and won't compromise public safety.

Objections to the requested name change must be made within 30 days of the date of publication of the Notice of Petition for Name Change.

OVERVIEW OF THE PROCESS FOR OBJECTION TO NAME CHANGE OF A MINOR CHILD

- Step One:** The objecting party must serve an Objection to Petition for Name Change of a Minor Child on the Petitioner, or their attorney, within 30 days of the date of publication of the Notice of Petition for Name Change. *(The Notice is published in the newspaper in the North Dakota county where the Petitioner and minor child reside. If the child has a non-custodial parent, the Notice is also published in the newspaper where the non-custodial parent resides.)*
- Step Two:** The person who mailed the Objection to Petition for Name Change of a Minor Child completes an Affidavit of Service by Mail.
- Step Three:** The objecting party files the Objection to Petition for Name Change of a Minor Child and Affidavit of Service by Mail. *(The objecting party cannot file the Objection and Affidavit of Service until the Petitioner has filed the petition.)*
- Step Four:** If a hearing is scheduled and you receive notice, you **MUST** attend the hearing if you would like your objection considered.

LAWS AND RULES

Requirements for name changes are found in [North Dakota Century Code Chapter 32-28](#).

Laws constantly change through legislation, administrative rulings and court decisions. To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions. Notes of court decisions related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

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

DEFINITIONS

Clerk of Court: A court official who keeps track of court files, records and exhibits. All documents that are required to be filed with a North Dakota state court, are filed with the office of the clerk of court.

Minor Child: An individual who is under eighteen years of age.

Noncustodial Parent: A parent with less than 50% of the residential responsibility.

Notice of Petition of Name Change: The notice published in an official county newspaper giving notice of the Petitioner's intent to change their minor child's name. This notice must be published 30 days before the petition can be filed with the court. The notice is published in the North Dakota county where the Petitioner and minor child reside. If the minor child has a non-custodial parent, the notice is also published in the county where the non-custodial parent resides, if different.

Objecting Party: The person who objects to the name change of a minor child and serves and files an objection regarding the name change.

Petitioner: The minor child's parent or guardian who resides with the child. The Petitioner starts the request to legally change their minor child's name by publishing a notice of name change in the newspaper and files their Petition for Name Change with the clerk of court.

Waiver of Publication: The petitioner may ask the North Dakota state district court to allow them to skip (waive) the requirement to publish notice of their name change when:

- The Petitioner only wants to change their minor child's first or middle name; or
- The Petitioner and/or minor child is the victim of domestic violence.

LAWYERS RESOURCES AND LIMITED LEGAL REPRESENTATION

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

Lawyer Resources

See www.ndcourts.gov/legal-self-help/finding-a-lawyer for information about finding a lawyer to represent you. If you decide to find a lawyer to represent you, 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 www.legalassist.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 www.sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- For a list of all lawyers who are licensed to practice in North Dakota, go to the North Dakota Supreme Court website at www.ndcourts.gov/Lawyers. You can narrow your search by name or location.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (*sometimes called "unbundling"*) is a way that 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. For example:

- You may want an attorney to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with an attorney to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with an attorney who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire an attorney just to make court appearances for you.

You and the lawyer must agree in writing to Limited Legal Representation.

SECTION TWO: THE BASIC COURT PROCESS FOR OBJECTING TO THE NAME CHANGE OF A MINOR CHILD

COMMON DOCUMENTS FOR OBJECTING TO THE NAME CHANGE OF A MINOR CHILD

If you want to object to the requested name change of a minor child, you will need to create your own objection documents.

The legal documents that are commonly required for objecting to the name change of a minor child are:

Document Name	Purpose of the Document
Objection to Petition for Name Change	Written document created by the individual who wants to object to the petition for a name change of a minor child. This legal document describes the reasons for their objection.
Affidavit of Service by Mail	Document which states that the Petitioner has been served with the Objection to Petition for Name Change.

Formatting examples of the legal documents listed above are found in Section Three of this guide.

Other documents that aren't listed above may be required by the individual District Court where the petition is filed.

If you don't know if you should use this informational guide and the formatting examples of objection to petition for name change documents, consult a lawyer who is licensed to practice in the state of North Dakota.

If you would like assistance 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 your civil action.

You and the lawyer must agree in writing to Limited Legal Representation.

STEP ONE: THE OBJECTING PARTY SERVES AN OBJECTION ON THE PETITIONER WITHIN 30 DAYS OF THE DATE OF PUBLICATION OF THE NOTICE OF PETITION FOR NAME CHANGE.

IMPORTANT! The written Objection to Petition for Name Change **MUST** be served on the Petitioner, or the Petitioner's lawyer, within 30 days of the date of publication of the Notice of Petition for Name Change.

Petitions for name changes don't require an in-person hearing. The District Court may grant the name change of a minor child based only on the documents filed with the clerk of court.

If you miss the deadline for serving your objection on the Petitioner, or the Petitioner's lawyer, the District Court may not consider your objection when deciding whether to grant the petitioner's request to legally change their minor child's name.



FIRST: You, the objecting party, calculate your deadline for serving your written Objection to Petition for Name Change.

You have 30 days from the date of publication of the Notice of Petition for Name Change to serve your objection on the Petitioner.

The Notice of Petition for Name Change is published in the official newspaper of the North Dakota county where the Petitioner and the minor child resides. If the county doesn't have an official newspaper, the Notice is published in a newspaper that has general circulation in the county.

If the minor child has a non-custodial parent, the Notice of Petition for Name Change is also published in the official newspaper of the county where the non-custodial parent resides. If the county doesn't have an official newspaper, the Notice is published in a newspaper that has general circulation in the county.

When calculating your 30-day deadline for service:

- Don't include the day of the event that triggers the start of the 30-day period;
- Count by calendar days, including Saturdays, Sundays, and legal holidays; and
- Include the last day of the 30-day period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.



SECOND: You, the objecting party, create your written Objection to Petition for Name Change.

The objecting party is required to create their written Objection to Petition for Name Change.

See the formatting example of an Objection to Petition for Name Change in Section Three of this guide (Pages 11-14).

At minimum, include the following in your written Objection to Petition for Name Change:

- The Caption, or top, of your Objection must include the same information as the Caption of the Notice of Petition for Name Change published in the newspaper.
 - Include “Case Number: _____” in your Caption.
 - If the Notice published in the newspaper lists a case number (or civil number), type or write in the number.
 - If the Notice DOESN’T include a case number, leave yours blank.
 - See the Caption of the formatting example in Section Three of this guide.
- Each paragraph must be numbered. All documents that are intended to be filed with a North Dakota state district court must have numbered paragraphs.
- Your full legal name and relationship to the Petitioner and the minor child must be stated in your Objection.
- State your objections in detail. Stick with the facts and avoid opinions.
 - If your Objection is more than one page, type or write only on one side of each page. DON’T type or write on the back of any page.
- Date and sign your name after the last paragraph of your Objection.
- Type or print your name, address, telephone number, and email address below the date and your signature.



THIRD: You, the objecting party, make at least two copies of your completed Objection to Petition for Name Change.

Keep one copy for your records.

The other copy of your completed Objection to Petition for Name Change is served on the Petitioner.



FOURTH: You, the objecting party, arrange to serve a copy of all pages of your completed Objection to Petition for Name Change on the Petitioner.

A copy of all pages of your completed Objection must be mailed to the Petitioner from a United States Post Office. The completed Objection must be mailed First Class, postage prepaid.

IMPORTANT! If the petitioner is represented by a lawyer, mail a copy of your completed Objection to the lawyer instead of the petitioner.

- If the Notice of Petition for Name Change lists a lawyer, the petitioner is represented.

STEP TWO: THE PERSON WHO MAILED THE OBJECTION TO PETITION FOR NAME CHANGE COMPLETES THE AFFIDAVIT OF SERVICE BY MAIL.

The person who took the copy of the Objection to Petition for Name Change to the Post Office and mailed it to the Petitioner, or the Petitioner’s lawyer, completes an Affidavit of Service by Mail.

You may use the formatting example of an Affidavit of Service by Mail in Section Three of this guide (Pages 11-14).

- The formatting example ISN’T fillable online, but you may print and handwrite in dark ink. Make sure your handwriting is readable.

Complete the Affidavit of Service by Mail:

- The Caption, or top, of the Affidavit of Service by Mail must include the same information as the Caption of the Notice of Petition for Name Change published in the newspaper.
 - Include “Case Number: _____” in your Caption.
 - If the Notice published in the newspaper lists a case number (or civil number), type or write in the number.
 - If the Notice DOESN’T include a case number, leave yours blank.
- Paragraph 1. Fill in the name of the person who took the documents to the Post Office and mailed them.
- Paragraph 2. If this statement isn’t true, you can’t serve documents by mail.
- Paragraph 3. Put a checkmark (✓) in the checkbox next to “Objection to Petition for Name Change.” If you served any other documents, write their names on the lines provided, and put a checkmark (✓) in the checkbox next to each document name.

- Paragraph 4. If this statement isn't true, you can't use this formatting example as your Affidavit of Service by Mail.
- Paragraph 5. Fill in the city and state of the Post Office where the copies of the documents were mailed.
- Paragraph 6. Fill in the name and address of the Petitioner, or the Petitioner's lawyer, where the documents were mailed.
- Paragraph 7. Read carefully! When the person who mailed the documents dates and signs the Affidavit of Service by Mail, they are stating that everything stated in the Affidavit is true and correct, under penalty of perjury.
- Fill in the State, County, and Country where the person who mailed the documents signed the Affidavit of Service by Mail.
- Fill in the date when the person who mailed the documents signed the Affidavit of Service by Mail.
- Sign and fill in the address, telephone number and email address. The person who mailed the documents signs and fills in the information below their signature.

Make a copy of the completed, dated and signed Affidavit of Service by Mail for your records.

STEP THREE: FILE THE ORIGINAL OBJECTION TO PETITION FOR NAME CHANGE AND AFFIDAVIT OF SERVICE BY MAIL WITH THE CLERK OF COURT.

IMPORTANT! Since the Petition for Name Change can't be filed with the court until at least 30 days after notice of the petition is published in the newspaper, the Petition for Name Change may not yet be filed with the clerk of court.

You can't file your Objection to Petition for Name Change documents with the clerk of court until after the Petition for Name Change is filed by the Petitioner. The clerk of court may ask you to check the website frequently to determine if the petition has been filed.

Name Change of Minor cases are publically available state court records. You may search publically available North Dakota state court records by the first and last name of the Petitioner or the minor child.

You can find individual court cases and lists of the documents filed in each case by going to www.ndcourts.gov/public-access.

- Read the information, then click "Click Here to Proceed."
- Select a location from the pull down menu. Select a county or the State of North Dakota.
- Click the "Civil, Family & Probate Case Records" link.
- To search for the petitioner by name:
 - Select "Name"
 - In the "Party Information" box:
 - Enter at least the first three letters of the petitioner's current last name, followed by an asterisk (*). For example, if the last name is Smith, enter at least smi*.
 - Enter at least the first letter of the petitioner's current first name, followed by an asterisk (*). For example, if the first name is Jane, enter at least j*.
 - In the "Case Types" box, select "Name Change."
 - Click the "Search" box.
- The screen will list publically accessible court cases based on your search.
- **To review an individual case and to see the list of documents filed, click on the case number.** Case numbers are listed on the left-hand side of the page. (*You cannot view the documents themselves.*)

IMPORTANT! Be diligent in checking whether the petition has been filed and file your objection immediately after you determine the petition has been filed.

Not checking the website and filing your Objection in a timely manner may result in either you being too late to file the Objection or the Objection not being sent to the judge for review.

When you file your objection with the clerk of court, the clerk will give you the case number for the petition for name change. Write the case number on the top of your objection.

Contact information for clerks of court by county is available at www.ndcourts.gov/court-locations.

- File all pages of the following with the clerk of court of the North Dakota state district court where the Petition for Name Change is filed:
 - Original, completed Objection to Petition for Name Change;
 - Any other documents you served on the Petitioner, or the Petitioner's lawyer, with a copy of your Objection to Petition for Name Change (*you may not have any other documents*); and
 - Original, completed Affidavit of Service By Mail.

You may be asked to pay a filing fee. Contact the clerk of court where the Petition for Name Change is filed and ask if you're required to pay a filing fee when filing an objection to a name change. If a filing fee is required, ask the clerk of court for the amount.

If a filing fee is required and you're unable to afford the filing fee, forms and instructions to ask the court to waive the filing fee are available at www.ndcourts.gov/legal-self-help.

- Scroll to the "Miscellaneous" section.
- Click on the "Filing Fee Waiver – District Court/Small Claims Court" link.
- File the completed fee waiver forms at the same time as your name change documents. *(Make sure you have a copy of the completed fee waiver forms for your files!)*

STEP FOUR: IF A HEARING ON THE PETITION FOR NAME CHANGE IS SCHEDULED AND YOU RECEIVE NOTICE, YOU MUST ATTEND THE HEARING IF YOU WANT YOUR OBJECTION TO BE CONSIDERED.

A hearing is not required for petitions for name changes. However, the District Court may decide a hearing is necessary. If the District Court decides a hearing is necessary, a hearing date, time and location will be scheduled.

If you are notified in writing of the date, time and location of the hearing, you **MUST** attend if you want your objection to be considered.

Be prepared to prove your statements in your Objection to Petition for Name Change.

SECTION THREE: FORMATTING EXAMPLES OF COMMON DOCUMENTS REQUIRED FOR AN OBJECTION TO PETITION FOR NAME CHANGE

Formatting examples of common objection to petition for name change documents are found on the following pages:

- Formatting example of an Objection to Petition for Name Change; and
- Formatting example of an Affidavit of Service by Mail.

The formatting example documents **AREN'T** fillable. You may hand write in blue or black ink. Or, you may copy and paste into word processing software, such as MS Word or Google Docs.

IN DISTRICT COURT, _____ COUNTY, NORTH DAKOTA

Case No. _____

IN THE MATTER OF THE PETITION FOR A NAME CHANGE OF

_____, A MINOR CHILD

OBJECTION TO PETITION FOR NAME CHANGE

1. My name is _____.

I object to the name change requested by the Petitioner in this action. My relationship to the Petitioner and minor child in this action is _____.

2. I object to the name change requested by the Petitioner for the following reasons:

_____.

Additional sheets attached.

Dated this _____ day of _____, 20_____.

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number/Email)

IN DISTRICT COURT, _____ COUNTY, NORTH DAKOTA

Case No. _____

IN THE MATTER OF THE PETITION FOR A NAME CHANGE OF

_____, A MINOR CHILD

AFFIDAVIT OF SERVICE BY MAIL

The person serving court documents by mail swears:

1. My name is: _____.
(Name of person who mailed documents)

2. I am at least 18 years of age.

3. **List of Court Documents Served:** (Use the blanks to write of any other documents document served on a separate line. Checkmark (✓) next to each document listed.)

Objection to Petition for Name Change.

4. **Service by Mail:**

As required by Rule 5(b)(3) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court documents listed in Paragraph 3 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person listed in Paragraph 6.

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

Date Court Documents Were Served by Mail: _____

United States Post Office Location: _____
(City) (County) (State)

6. **Person Served by Mail:**

Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

7. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Affidavit of Service by Mail is true and correct.

STATE OF _____)

)

COUNTY OF _____) ss.

)

COUNTRY OF _____)

Signed on this _____ day of _____, 20_____.

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address