

INSTRUCTIONS

Generic Family Motion and Affidavit

Forms you may need for this process:

- *Notice of Motion and Motion* (FAM602);
- *Affidavit in Support of Motion* (FAM603);
- *Affidavit of Service by Mail* (SOP104);
- *Affidavit of Personal Service* (SOP102);

What You Need to Do

1. Complete the court forms following all of the steps in these instructions.
2. Schedule a hearing date by contacting Court Administration in the county where the case is located.
3. File your forms (electronically or at the courthouse), and pay the motion filing fee (or ask for a fee waiver if you cannot afford to pay the fee).
4. Appear at the hearing. Each “step” here is described in more detail below.

Important Notices and Resources

The court has forms and instructions for some types of cases as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Do you have a question about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the MN Courts Self Help Center at (651) 435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Helpful materials may be found at your public county law library. For a directory, visit <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

General Information

The information contained in this document is not intended as legal advice but as a general guide to you to explain the legal process. If you do not understand these procedures, talk to an attorney. Court staff cannot give legal advice.

A **generic motion** is a way to ask the court to do something within a family case that is already open. In very simple terms, the motion is where you state **what** you want the court to order. Along with every motion, you need an **affidavit**. The affidavit is where you state **why** the court should give you what you have asked for.

You may be able to use this packet **IF**:

- A family case has already started and you have a Court File Number;
- You want to ask the court to do something within the case;
- The court does not publish a specific form for the request you want to make; and
- You want to have a hearing on your request.

IMPORTANT: It is strongly recommended that you get legal advice. The court publishes forms for most common requests that are made in Family Court, such as change of custody, parenting time assistance, and modification of child support. This form should not be used if a more specific form fits your situation. If you do not know whether to use this form, you should get legal advice. If you use this form and do not know what you should write in your motion, want the motion reviewed by an attorney, or do not already have a family case open, you should get legal advice.

Step 1

Fill Out *Notice of Motion and Motion* (FAM602)

The Caption

Fill out the top part of the Notice of Motion and Motion (this is called “the case caption”):

<p>State of Minnesota County of: A</p>	<p style="text-align: right;">B District Court</p> <p>Judicial District: _____ Court File Number: _____ Case Type: _____</p>
<p>C _____ Name of Petitioner (First, Middle, Last)</p> <p style="text-align: center;">vs</p> <p>D _____ Name of Respondent (First, Middle, Last)</p>	
<p>Notice of Motion and Motion (Family Court)</p>	

You will find the information you need to fill out the caption on a court document from your existing family case. If you do not have any documents from your court file, and if you do not know the information, you will need to look in your court file.

- Some limited case records can be viewed online at www.mncourts.gov/publicaccess.
- If you cannot view your case online, you may need to contact the court to request a copy or go to a courthouse to view your court file.

- Write the name of the county where the case is located.
- Write the Judicial District. Fill in your court file number (for example, 27-FA-20-0001).
- Write the petitioner’s full name on the petitioner line just as it appears on your court documents. The person who was the petitioner when the case started will always be the petitioner.
- Write the respondent’s full name on the respondent line just as it appears on your court documents. The person who was the respondent when the case started will always be the respondent.

NOTE: If a party’s name has changed since the case first started, you can write the name as it appears in the court record, then write “NKA,” which stands for “now known as,” and then write the party’s current name. For example: Jane Reneé Doe, NKA Jane Reneé Smith.

The Notice

TO:	<div style="display: flex; justify-content: space-between; width: 80%; margin: 0 auto;"> First Middle Last </div>
E	<div style="display: flex; justify-content: space-between; width: 80%; margin: 0 auto;"> Street Address Apt. No. </div>
	<div style="display: flex; justify-content: space-between; width: 80%; margin: 0 auto;"> City County State Zip Code </div>
NOTICE	
I will ask the court for an Order at a hearing scheduled as follows:	
F	Date: _____ Time: _____ a.m./p.m. Courthouse address: _____ Telephone: _____
NOTE: Please contact the court with your current phone number and mailing address in case they need to notify you of any location or date/time change.	

- After the word “TO:” write the full name and address of each party (do not include yourself here).
- Leave this section blank for now. You will fill in this section when you get to Step 3 (below).

1

MOTION

I will ask the court for an order as follows:

- 1. _____

- 2. _____

- 3. _____

- 4. _____

(Use another piece of paper if you need more room)

The Motion

- 1. In the numbered paragraphs, state only **what** you want the court to order at the hearing (do not state **why** in this section). If you need more space, add more paper (do not write on the back of the page or in the margins).

The Acknowledgment

2

ACKNOWLEDGMENT

By presenting this form to the court, I certify that to the best of my knowledge, information, and belief, the following statements are true. I understand that if a statement is not true, the court can order a penalty against me (such as to pay money to the other party, pay court costs, and/or other penalties).

- 1. The information I included in this form is based on facts and supported by existing law.
- 2. I am not presenting this form for any improper purpose. I am not using this form to:
 - a. Harass anyone;
 - b. Cause unnecessarily delay in the case; or
 - c. Needlessly increase the cost of litigation.
- 3. No judicial officer has said I am a frivolous litigant.
- 4. There is no court order saying I cannot serve or file this form.
- 5. This form does not contain any "restricted identifiers" or confidential information as defined in Rule 11 of the General Rules of Practice (https://www.revisor.mn.gov/court_rules/gp/id/11/) or the Rules of Public Access to Records of the Judicial Branch (https://www.revisor.mn.gov/court_rules/rule/ra-toh/).
- 6. If I need to file "restricted identifiers," confidential information, or a confidential document, I will use Form 11.1 and/or Form 11.2, as required by Rule 11.

- 2. Read the **Acknowledgment** carefully. There can be serious consequences if you do not have a good reason for using the *Notice of Motion and Motion*.

The Signature Block

Sign the form on the signature line, and write in the date you signed it. Write your personal contact information below your signature.

Step 2

Fill out the *Affidavit in Support of Motion* (FAM603)

The Caption

Fill out the caption the same way you did for the *Motion*.

The Statement of Facts

In the *Affidavit in Support of Motion*, you are supposed to write down facts that support the requests you made in your motion. This is where you explain *why* you are asking the court to do the things you asked for in the *Notice of Motion and Motion*.

My name is 1 _____
(First, Middle, Last)

My written statement of facts that support my Motion are as follows: 2

1. Write your full name.
2. Write down the information you want the court to know. This section is your “statement of facts.” If you run out of room, add more paper. Do not write on the back of the page or in the margins.

If you want to include an attachment that supports a statement you make, it is good practice to label your attachment something like “Attachment A.” or “Attachment 1.” Then, next to the statement in your *Affidavit* that talks about the attachment, you can write something like “See *Attachment A*” or “See *Attachment 1*.” For example: “I pay \$600 per month in child care costs.” See *Attachment 1*.” And Attachment 1 would be the child care bill. If you have many attachments, you may want to include the form called List of [Supporting Documents \(FAM903\)](https://www.mncourts.gov/GetForms.aspx?c=18&p=127) (<https://www.mncourts.gov/GetForms.aspx?c=18&p=127>).

If you add attachments to support a statement you make, be sure to add page numbers to the attachments so that they are easy to refer to.

NOTE! Most documents filed with the court are considered public documents and are available to the public. Certain information that is filed with the court may be considered confidential based on court rule and not available to the public. To keep this information confidential and not available to the public, you must take certain steps that are described below.

The steps listed below are for filers who are filing paper documents. Filers who are using eFS to submit their court documents must identify and designate their filings as required in Minn. Gen. R. Prac. 11.02 and 14.06.

Confidential Information Form 11.1

All social security numbers, employer identification numbers, and financial account numbers (also called “restricted identifiers”) must not be listed on papers you file with the court. This is to protect your privacy, the other parties and your children. Only provide social security numbers, employer identification numbers, and financial account numbers when the court requires this information to be provided to the court. For example, if you must provide the court with bank account numbers, or medical account numbers, do not include any account number in your document (your motion, supporting affidavit, etc.). Instead, you must use Form 11.1 to list these confidential numbers.

If account numbers are not required to be provided to the court, and the numbers appear on documents that are considered available to the public, (such as medical invoices or credit account numbers on statements) you must remove the number on the document before filing the document with the court.

Cover Sheet for Non-Public Documents Form 11.2

Most documents filed with the court are public. However, some documents are considered non-public documents based on court rules. You must identify these documents as non-public at the time you file the documents with the court. You must complete and file the “Cover Sheet for Non-Public Documents Form 11.2 (also called Form 11.2 cover sheet) when you file non-public documents. The most common non-public documents are called “financial source documents.” Examples of financial source documents include:

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

You may also need to submit other documents that court rules identify as non-public documents, such as a medical record. For example, a report from a doctor that provides a medical diagnosis or treatment plan for you or your child would qualify as a medical record.

You must use the Form 11.2 cover sheet when filing other non-public documents, such as medical records, with the court. One Form 11.2 cover sheet can be used for submitting all non-public documents.



The failure to use Form 11.2 or Form 11.1 may result in your document being rejected by court administration, being available to the public, stricken from the court record, and sanctions from the court.

See Rule 11 of the Minnesota General Rules of Practice for more information about how to file documents containing social security numbers, financial account numbers, “financial source documents” and other non-public documents.

Form 11.1 and Form 11.2 can be found at www.mncourts.gov/forms under the court forms category of “Confidential Information” and is court form number CON111 and CON112.

The Signature Block

When you sign your *Affidavit in Support of Motion*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

Date and sign the *Affidavit*. Write the names of the county and state you are in when you signed it, and write your personal contact information below your signature.

Step 3

Contact Court Administration About a Hearing Date

In some districts, you need to schedule the hearing *before* you serve and file your motion. In other districts, you get a hearing date *after* you have filed. It is important that you check with your local court administration to see how to schedule a hearing for your motion. You can find court contact information at <https://www.mncourts.gov/Find-Courts.aspx>. If you do not schedule a hearing, the court will not do anything with your motion.

If you are able to schedule a hearing date right away:

- Go back to the “Notice” section (The Notice) on the first page of your *Notice of Motion and Motion*. Write the hearing information in the boxes (hearing date, time, location, and name of judicial officer).

If your district schedules the hearing after you file:

- Write “To Be Determined” on the date line of the “Notice” section of your *Notice of Motion and Motion*. Note: be sure to fill in the name, address, and telephone number of the courthouse.

If you filed your *Notice of Motion and Motion and Affidavit in Support of Motion* **without a hearing date**, then you need to use the *Notice of Hearing* form (CIV604) (<https://www.mncourts.gov/GetForms.aspx?c=7&f=515>) to let the other party know when the hearing date is scheduled.

If you use the *Notice of Hearing* form, follow these instructions to fill it out:

1. Fill out the caption like you did for the *Notice of Motion and Motion*.
2. After the word "TO," write the name and address of each party except yourself.
3. Fill in the details of the hearing (date, time, location, name of judicial officer).
4. Fill in the date that you **filed** the original *Notice of Motion and Motion*. If you do not remember the date, you may be able to look it up online at www.mncourts.gov/publicaccess.
5. Date and sign the form, then print the requested information.
6. Make one copy of this *Notice of Hearing* form for each party (including for yourself).
7. Serve a copy of the *Notice of Hearing* form on each of the other parties, like you did with the *Notice of Motion and Motion*. See Steps 5 and 6 below.
8. File the original *Notice of Hearing* form and one *Affidavit of Service* form (for each party other than yourself) with court administration.

Step 4

Make Copies

You will need to make one copy of the *Notice of Motion* and the *Affidavit in Support of Motion* (plus the *Notice of Hearing* form (CIV604) if you used it, and any attachments) for each party, including yourself. Be sure to bring your copy with you to court when you go to the hearing.

Step 5

Serve Notice on the Other Party

Overview

The other party must receive notice of the hearing and copies of all documents you have prepared for the hearing. This is called "service of process." The papers can be served personally (handed to the other party), or by mail. The other party must receive the papers at least 21 days before the hearing. If the papers are served by mail, court rules require adding three days, so the papers must be postmarked at least 24 days before the hearing.

If the other party is represented by an attorney, serve the other party's attorney instead of the party directly.

Papers **CANNOT** be served on legal holidays as defined in Minn. Stat. § 645.44 (<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

Who Can Serve

If your hearing is in front of a judge or referee, the forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

Except:

If your hearing is in front of a child support magistrate, **you cannot serve the forms yourself.** You must have another adult who is not involved in the case, or a sheriff or professional process server, serve the forms on the other party or parties.

Personal Service

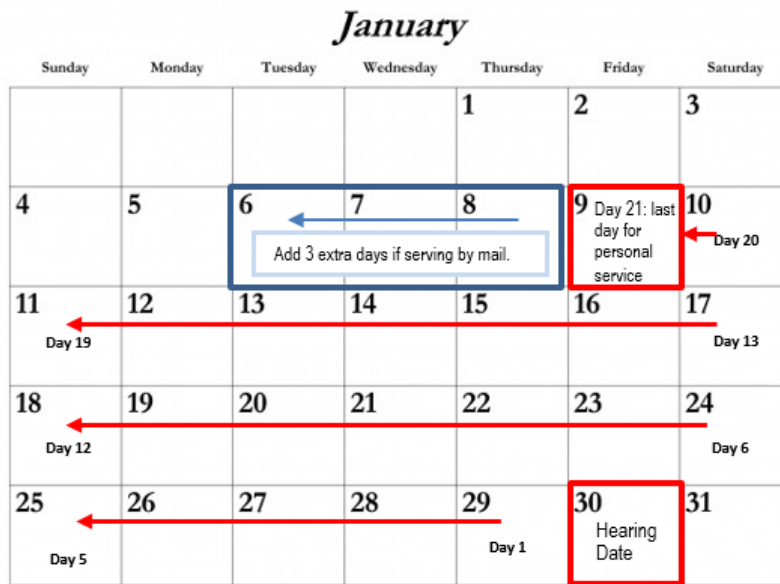
At least 21 days before the hearing date, the server hands to the other party **one copy** of the completed *Notice of Motion and Motion*, **one copy** of the *Affidavit in Support of Motion*, and one copy of all attachments (example: if the hearing date is January 30, the papers must be served on or before January 9. If January 9 is a Saturday, Sunday, or legal holiday, keep counting backwards to the next day that is not a Saturday, Sunday, or legal holiday to determine the service deadline).

Service by Mail

The server places **one copy** of the completed *Notice of Motion and Motion* form, **one copy** of the *Affidavit in Support of Motion*, and one copy of all attachments in an envelope.

The server must mail the envelope containing the forms to the other party by first class U.S. mail **at least 24 days before the hearing date** (example: if the hearing is January 30, the papers must be postmarked no later than January 6. If January 6 is a Saturday, Sunday, or legal holiday, keep counting backwards to the next day that is not a Saturday, Sunday, or legal holiday to determine the service deadline).

Warning: If your forms are not personally served on the other party at least 21 days before the hearing OR mailed to the other party at least 24 days before the hearing date, your *Motion* may NOT be heard by the court. If there is more than one Petitioner or more than one Respondent, please note that ALL of the other parties must be served.



Count backwards from the hearing date. The day before the hearing date is Day 1.

Step 6
Affidavit of Service (Proving Other Parties Were Served)

After the paperwork is served on all of the other parties (either personally or by mail), the server must fill out the *Affidavit of Service* form for each party who is served. This form serves as your proof for the court that papers were served on the other party.

IF THE PAPERS WERE SERVED PERSONALLY, FOLLOW THESE INSTRUCTIONS:

Use the *Affidavit of Personal Service* form (<https://www.mncourts.gov/GetForms.aspx?c=33&f=27>) .

YOU:	1. Fill out the caption the same way you did for the <i>Notice of Motion and Motion</i> (see Step 1, above).
THE SERVER:	1. Write the server's name and date of birth.
	2. Write the date the server handed the papers to the other party.
	3. Write a list of all of the papers the server handed to the other party (<i>Notice of Motion and Motion, Affidavit in Support of Motion, attachments, etc.</i>).
	4. Write the other party's name.
	5. Write the location (where) the server handed the papers to the other party.
	6. Write in the server's name, address, and telephone number. The server should sign and date the form, and list what county and state they are in when they sign the <i>Affidavit of Personal Service</i> .

After the server signs the *Affidavit of Personal Service* (SOP102), make one copy for your records. The original is filed with the court as part of Step 7 below.

IF THE PAPERS WERE SERVED BY MAIL, FOLLOW THESE INSTRUCTIONS:

Use the *Affidavit of Service by mail* form (<https://www.mncourts.gov/GetForms.aspx?c=33&f=28>).

YOU:	1. Fill in the caption the same as you did for the <i>Notice of Motion and Motion</i> (see Step 1, above).
THE SERVER:	1. Write the server's name and date of birth.
	2. Write the date the server mailed the papers to the other party.
	3. Write a list of all of the papers the server handed to the other party (<i>Notice of Motion and Motion, Affidavit in Support of Motion, attachments, etc.</i>).
	4. Write the other party's name.
	5. Write the other party's address. Note: the address is broken up. The first line is for the street address (<i>123 Main St.</i>); the second line is for the city (<i>Mantorville</i>); then state and zip code.
	6. Write the city and state the server was in when they mailed the papers.
	7. Write in the server's name, address, and telephone number. The server should sign and date the form, and list what county and state they are in when they sign the <i>Affidavit of Service by Mail</i> .

After the server signs the *Affidavit of Service by Mail*, make one copy for your records. The original is filed with the court as part of Step 7.

Step 7
File with Court Administration

You will need to file the following forms with Court Administration at least 21 days before the hearing:

- Original *Notice of Motion and Motion*;
- Original *Affidavit in Support of Motion* (including any attachments); and
- Original *Affidavit of Personal Service* **or** *Affidavit of Service by Mail* (one *Affidavit of Service* for each party other than yourself).

There will be a motion fee due when you file your paperwork. You can find court filing fee information at <https://mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx>. You can make checks payable to "District Court Administrator."

If you cannot afford to pay the motion fee, you can ask for a fee waiver by completing the forms in the *In Forma Pauperis/IFP* packet (<http://mncourts.gov/GetForms.aspx?c=19&p=69>). If a judge does not sign the fee waiver order, then you must pay the motion fee before court administration can process your forms.

Step 8

Certificate of Settlement Efforts

See “Family Court Motions – Settlement Rule & Form” Help Topic online at <https://mncourts.gov/Help-Topics/Family-Court-Motions.aspx>.

When filing this type of motion in District Court, you must contact the other party or their attorney to initiate a settlement conference, complete a *Certificate of Settlement Efforts* form (<https://mncourts.gov/GetForms.aspx?c=18&f=286>) and file it with the Court.

Within 7 days of filing your motion, contact the other party in person, by telephone, or in writing to attempt to resolve the issues raised in your motion. If you do not reach an agreement, the *Certificate of Settlement Efforts* shows the Court that you tried to solve the issue outside of court and lets you explain why your attempts to come to a settlement agreement were unsuccessful. The *Certificate of Settlement Efforts* can be e-filed or mailed to the address below at least 24 hours before your hearing.

Step 9

Attend Your Hearing

To prepare for your hearing, it is a good idea to look at the court rules that apply to family and civil cases. You can find links to these rules online at <https://mncourts.gov/SupremeCourt/Court-Rules.aspx>. You could also visit a [law library](https://mncourts.gov/Help-Topics/Law-Libraries.aspx) to read the court rules (<https://mncourts.gov/Help-Topics/Law-Libraries.aspx>).

You must go to court (or appear online, if the hearing is held remotely) on the date set for the hearing. It is important to be on time. If you are even a few minutes late, the judicial officer may dismiss your motion.

Bring your copies of the paperwork with you to the hearing. If the other party has served you with a responsive motion, be prepared to talk about your response to their responsive motion at the hearing. If you are unsure how to prepare for the hearing, or what evidence you should bring, you should [get legal advice](https://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) before your court date (<https://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx>).