

FINISHING YOUR DEFAULT PATERNITY

INSTRUCTIONS AND COURT PAPERS

THIS PACKET IS NOT A SUBSTITUTE FOR PROFESSIONAL LEGAL ADVICE

Inside are basic, fill-in-the-blank forms; they do not deal with every situation.

Paternity can be complicated and using legal forms without a lawyer's help can harm your legal rights. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents.

DEFAULT PATERNITY

Step 2 - Finishing the paperwork



FILL-OUT . . . EACH FORM in the "Finishing Your Paternity" packet

FORM (3) Application for Default Judgment and Final Decree of Parentage

FORM (4) Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support and . . .

4A-206 Request for Hearing



**FILL OUT....FORM (3)
(Application for Default Judgment)**



**FILL-OUT FORM (4)
(Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support)**

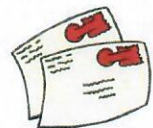


MAKE COPIES OF THE FOLLOWING:

....Original + 2 copies of Application for Default Judgment;
....Original + 2 copies of Default Order Establishing Paternity,
Custody/Visitation and Assessing Child Support
....Original + 3 copies of Request for Hearing



ADDRESS . . . 2 stamped, letter envelopes
One to YOU and one to the RESPONDENT



TAKE . . . these things to the court clerk:

- *Application for Default Judgment*
- *Default Order Establishing Paternity Custody/Visitation and Assessing Child Support*
- *Your Envelopes addressed to you and your spouse*



WAIT . . . your court date and time will come in the mail

STEPS TO GET A DEFAULT PATERNITY

Third Judicial District
Las Cruces
(Revised)

It takes these forms to start a Judge for a default paternity

Form (3) - Application for Default Judgment and
Final Decree of Parentage

Form (4) - Default Order Establishing Paternity,
Custody/Visitation and Assessing Child
Support

AND

Form 4A-206 - Request for Hearing

AND

Two (2) letter sized envelopes with a stamp on each

- One addressed to you;
- One addressed to Respondent.

Turn the page for
instructions and steps



Instructions for default proceedings.

If you are the Petitioner AND more than thirty (30) days have passed since you served the Respondent with Petition AND the Respondent has failed to file a Response or to otherwise respond to the Petition, you may be granted an Order without the agreement of you the Respondent. This is called a default judgment. You may request a Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support by doing the following:

A. Complete and file with the Court Clerk's Office an Affidavit as to Respondent's Failure To Plead or Otherwise Defend (Paternity Actions); your Affidavit must include a certificate verifying the other party's active duty military status, which you can obtain online at <https://scra.dmdc.osd.mil/scra>; when you file your Affidavit, bring a blank Certificate as to the State of the Record (Paternity Actions) and a self-addressed, stamped envelope so that the Clerk can return a completed certificate to you:

B. After you receive the completed Certificate as to the State of the Record (Paternity Actions) from the Clerk, attach the Certificate to an Application for Default Judgment and Final Decree of Paternity (Form (3)), and file the Application with the Court Clerk's Office; and

C. Submit a copy of the Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support. Check with the District Court Clerk to determine if your district has additional requirements.

The Court may sign and file the Order Establishing Paternity, Custody/Visitation and Assessing Child Support without further notice, or it may order you to appear for a hearing. **WARNING:** Once the Court enters the Order Establishing Paternity, Custody/Visitation and Assessing Child Support, your paternity case will be final, and the terms of your Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support will be legally binding on both parties.

FORM (3). Application for default judgment and final decree of paternity

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

Petitioner,

v.

No. _____

Respondent.

**APPLICATION FOR DEFAULT JUDGMENT
AND FINAL DECREE OF PATERNITY
(Paternity, Custody, Timesharing & Child Support)**

Petitioner applies for entry of judgment by default against Respondent and in support of the application states:

(1) The statements in the Affidavit as to Respondent's Failure to Plead or Otherwise Defend are included here by reference.

(2) As shown by the Certificate as to the State of the Record filed in this case on _____, the Clerk of this Court has certified Respondent's default.

WHEREFORE, Petitioner applies to the Court for entry of judgment by default against the Respondent as requested in the Petition for Paternity (Paternity, Custody, Time-sharing, & Child Support), and as more specifically stated in the proposed Default Judgment and Final Decree for Paternity (Paternity, Custody, Time-sharing, & Child Support) submitted with this application.

Signature of party

Name (*printed*)

Mailing address

City, state, and zip code (*print*)

Telephone number

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT COURT

Petitioner,

v.

Case No: DM - _____

Judge _____

Respondent,

and involving _____, **Minor Child(ren).**

**DEFAULT ORDER ESTABLISHING PATERNITY,
CUSTODY /VISITATION AND ASSESSING CHILD SUPPORT**

THIS MATTER having come before the Court upon Petitioner's Petition to Establish Paternity, Determine Custody and Time-Sharing, and Assess Child Support, the Respondent failed to respond to the Petition to Establish Parentage, Determine Custody and Time-Sharing, and Assess Child Support, the Court having considered the evidence presented before it and being fully advised in the premises, hereby enters its Findings of Fact, Conclusions of Law, and Final Order as follows:

THE COURT FINDS:

I. BACKGROUND

1. Petitioner lives in the State of New Mexico and resides in _____ County.
2. _____ is the mother of the minor child(ren).
3. This Court has jurisdiction to determine custody and time-sharing issues.

II. PARENTAGE

1. The Court finds that _____ is the father of the child(ren):

Names of the Children

| <u>Name</u> | <u>Date of Birth</u> | <u>Present Age</u> |
|-------------|----------------------|--------------------|
| | | |
| | | |
| | | |
| | | |

III. CHILD CUSTODY.

(Provide identification and contact information for each parent and child)

| Parent's Name | Physical address and phone number | Place of employment and phone number |
|----------------------|------------------------------------------|---------------------------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

| Child's name | Year of Birth | Age |
|---------------------|----------------------|------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

[] The parties shall advise each other of any change to this contact information within ten (10) days of new information becoming available.

(Choose either Option A, Sole legal Custody, or Option B, Joint legal custody)

A. **Sole Legal Custody and Visitation Plan.** (Do not fill out Option B if you choose this option)

(Complete 1, 2, and 3)

1. _____ (name of parent with sole custody) shall have sole legal custody of the children. The parent with sole custody shall make the important decisions regarding the children.

2. The reason that sole custody is in the best interest of the children is because:

3. This is the visitation plan:

(Choose a, b, or c)

a. There shall be **no visitation** until further order of the Court.

(OR)

b. _____ (name of other parent) shall have **unsupervised visitation** with the children as follows: *(Fully describe visitation plan to include who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)*

(OR)

c. _____ (name of other parent) shall have **supervised visitation** with the children as follows: *(Fully describe visitation plan to include who shall supervise the visitation, who shall transport the children, and where and when the visitation shall occur. Attach additional sheets if necessary.)*

[] B. **Joint Legal Custody and Parenting Plan.** (Do not fill out Option A if you choose this option)

1. **Important decisions.** The parents shall share joint legal custody of the children and shall make important decisions about the children together. No change regarding any of the following shall happen unless the parents both agree to the change in writing or the court changes it:

- a. City and county of residence: _____
- b. Religion: _____
- c. Activities: _____

| | Name | Address and telephone |
|---------------|-------------|------------------------------|
| d. Doctor | _____ | _____ |
| e. Dentist | _____ | _____ |
| f. School | _____ | _____ |
| g. Child care | _____ | _____ |
| h. Other | _____ | _____ |

2. **Solving arguments.** The parents shall resolve any parenting or time-sharing disputes regarding the children by talking together or communicating in writing. If a parent requests a change to the plan and gives reasons for the change, the answering parent should respond within five (5) days. If the answering parent does not agree to the change, that parent must say why, and if possible make a new proposal.

3. **Timesharing schedule.**

(Complete "Schedule 1" or "Schedule 2" below.)

Schedule 1. Same schedule each week or every two weeks.

(Set out the time that each parent shall have the children for that day.)

| Week 1 | _____ 's time (name of parent) | _____ 's time (name of parent) |
|---------------|-----------------------------------|-----------------------------------|
| Monday | _____ | _____ |
| Tuesday | _____ | _____ |
| Wednesday | _____ | _____ |
| Thursday | _____ | _____ |
| Friday | _____ | _____ |
| Saturday | _____ | _____ |
| Sunday | _____ | _____ |

| Week 2 | _____ 's time (name of parent) | _____ 's time (name of parent) |
|---------------|-----------------------------------|-----------------------------------|
| Monday | _____ | _____ |
| Tuesday | _____ | _____ |
| Wednesday | _____ | _____ |
| Thursday | _____ | _____ |
| Friday | _____ | _____ |
| Saturday | _____ | _____ |
| Sunday | _____ | _____ |

Schedule 2. Write your own schedule. (Write your own schedule here or attach a separate sheet or calendar or make additions to Schedule 1.)

4. **Vacation and holiday plan.**

a. **Vacations.** The parents shall each have ____ [days] [weeks] (*circle one*) of uninterrupted time with the children each year. Each parent shall give the other parent at least ____ [days] [weeks] (*circle one*) notice of the vacation time.

b. **Holidays.** Regardless of the day of the week, the children shall spend holidays as follows: (*Insert name of parent who will have the children on each holiday*)

| Holidays: | Even year | Odd year | Times <i>(if split)</i> |
|------------------------------|------------------|-----------------|-----------------------------------|
| Mother's Day | _____ | _____ | From _____ To _____ |
| Father's Day | _____ | _____ | From _____ To _____ |
| Child's Birthday | _____ | _____ | From _____ To _____ |
| Halloween | _____ | _____ | From _____ To _____ |
| Thanksgiving break | _____ | _____ | From _____ To _____ |
| Winter religious holidays | _____ | _____ | From _____ To _____ |
| 1st 1/2 winter break | _____ | _____ | From _____ To _____ |
| 2nd 1/2 winter break | _____ | _____ | From _____ To _____ |
| Spring Break | _____ | _____ | From _____ To _____ |
| July 4th | _____ | _____ | From _____ To _____ |
| Other religious holidays | _____ | _____ | From _____ To _____ |
| Others: | _____ | _____ | From _____ To _____ |

The Monday of a 3-day weekend due to a school, federal, or state holiday is the same as the Sunday schedule unless the parents both agree differently in writing or the court orders a different arrangement.

5. ***Details about the timesharing.***

a. **Communication.** Each parent may have reasonable communication with the children at all times. Neither parent shall unreasonably interfere with the children's communications with the other parent.

b. **Transfer of children.** Responsibility for transferring the children from one parent to the other shall be as follows (*write what the parents will do here*):

c. **Long-distance transfer of children.** Responsibility for transferring the children from one parent to the other in long-distance arrangements shall be as follows (*write down what the parents will do here*):

d. **Emergencies.** If there is a medical emergency, the parent with the children shall try to call the other parent about the emergency. If the other parent cannot be reached, any decision for emergency medical treatment shall be made by the available parent in the best interest of the children.

e. **Changes.** Each parent may ask the other for changes to this schedule. The other parent has the right to say "no." If the other parent says "no," the parent asking for changes shall not argue or criticize the other parent's decision.

IV. CHILD SUPPORT OBLIGATION.¹³

- A. **Child Support Worksheet.**¹⁴ A signed child support worksheet is attached to this plan.
(Complete and sign a child support worksheet prior to completing this section.)

Child support: _____ pays _____
\$ _____ per month. Payments shall begin on _____ (date)
and shall be paid in the amount of \$ _____ every [] week [] two weeks [] month.
Payments shall continue each month until the youngest child turns eighteen (18); however,
if the youngest child turns eighteen (18) while still attending high school, payments shall
continue until the month the child graduates or turns nineteen (19), whichever occurs
first.¹⁵

(Choose 1 or 2)

- [] 1. This amount is the amount shown on the worksheet;

(Or)

- [] 2. This is a deviation from the amount shown on the child support worksheet
because (fill in the reason here)¹⁶

_____.

- B. **Health insurance coverage**¹⁷

(Choose 1, 2, or 3)

- [] 1. _____ (name of parent) shall keep the minor children
covered by health and dental insurance under the policy of insurance
available from his or her employer or other group health care insurance
plan.

(Or)

- [] 2. Neither parent has private health or dental insurance coverage available at a
reasonable cost. If the children are covered under Medicaid, the child
support obligor shall pay a cash medical support payment as determined at a
subsequent hearing in which the State of New Mexico, Child Support
Enforcement Division ("CSED"), has been given sufficient notice, or upon

the stipulation of the parties and with the agreement of CSED. The notification to and agreement of CSED is required only for cash medical support.

(Or)

3. Other health insurance coverage shall be provided as follows:

C. **Additional healthcare expenses to be determined by percentage.** The parents shall split the cost of uncovered necessary healthcare expenses in proportion to their income on the child support worksheet.

D. **Wage withholding of child support.**

(Choose and complete 1 or 2)

1. **Withhold wages for child support.** Child support payment shall be withheld from _____'s paycheck.

(Choose a or b)

a. Attached is a completed Form 4A-304 NMRA Wage Withholding Order which directs all withheld payments to the Child Support Enforcement Division ("CSED").

(Or)

b. _____ *(name of parent)* shall I take a copy of this child support obligation after it is signed by the Court to CSED to open a case and to request that CSED issue a notice of wage withholding on [his] [her] behalf.

(Or)

2. **Other plan.** Wage withholding is not appropriate at this time as the parties have made the following alternate arrangements for the payment of support *(describe alternate payment arrangements, subject to approval by the Court)*:

E. **Health and dental insurance.** The parents shall do the following:

1. follow the insurance plan in selecting a doctor or dentist;
2. use doctors and dentists who are part of the insurance plan;
3. make sure each parent has a copy of the insurance card and policy; and
4. cooperate and work together to promptly submit all insurance forms.

F. **Exchange of information.** Once a year either parent can ask, in writing, for both parties to exchange the following information *(this paragraph is required by statute, Section 40-4-11.4 NMSA 1978)*:¹⁹

1. federal and state tax returns for the prior year;
2. W-2 statements for the prior year;
3. IRS form 1099s for the prior year;
4. work related day care statements for the prior year;
5. dependent medical insurance premiums for the prior year; and
6. wage and payroll statements for the four months prior to the request.

G. **Tax issues.**²⁰ The parents shall address tax issues, such as the dependency exemption, that relate to the children as follows:

Follow IRS regulations; or

Adopt another plan as follows:

H. **Other expenses.** Each parent shall provide the children with items that they need while they are with that parent.

The Court, having considered the evidence **FINDS AND CONCLUDES:**

1. The Court has jurisdiction over the subject matter of this action and over the parties and the children.
2. The Custody Plan in this Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support is fair, reasonable, and in the best interests of the children.
5. The Child Support Obligation in this Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support is fair, reasonable, and in the best interests of the children.
6. Respondent's default has been certified by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. _____ is determined to be the natural mother and
_____ is determined to be the natural father of the child(ren):

| <u>Name</u> | <u>Date of Birth</u> | <u>Present Age</u> |
|-------------|----------------------|--------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

2. The parties are ordered to comply with the terms of this Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support.
3. The Court has continuing jurisdiction over issues relating to the child(ren) until the child(ren) reach the age of majority as provided by law.

SO ORDERED:

Date

District Court Judge

VERIFICATION

I, _____, am the Petitioner, and I affirm under penalty of perjury under the laws of the State of New Mexico the following:

I am signing this document alone because Respondent is in default;

I have disclosed all assets and debts known to me;

This document and the statements in it are true and correct to the best of my knowledge and belief;

I understand that I can be punished both civilly and criminally if any information in this document is false.

Submitted/Approved by

Petitioner

Date

Mailing address

City, state, and zip code

Telephone number

STATE OF NEW MEXICO

)

)

COUNTY OF DONA ANA

) ss.

Acknowledged, signed and sworn to before me this _____ day of _____,
by _____, the Petitioner.

Notary public

My commission expires: _____.

**STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT**

STATE OF NEW MEXICO/HSD, (if a Petitioner or Intervenor)

_____, **Petitioner,**

v. **Case No. D-307-DM-** _____
Judge: _____

_____, **Respondent.**

REQUEST FOR HEARING

(YOU MUST FILE THIS REQUEST TO GET A HEARING [COURT DATE] ABOUT YOUR MOTION)

1. I NEED A HEARING ABOUT: MY MOTION TO/FOR _____
(print on this line what you asked for in your motion)
 FINALIZING MY CASE (TRIAL ON THE MERITS)
2. I REQUEST INTERPRETATION SERVICES(CHECK ONE): YES NO
IF YES, PLEASE DESCRIBE WHAT YOU NEED: _____
3. HOW LONG YOU THINK IT WILL TAKE TO TALK TO THE JUDGE: 15 MINUTES 30 MINUTES
 1 HOUR MORE THAN 1 HOUR
4. IS THERE A HEARING ALREADY SCHEDULED IN THIS CASE: NO YES - WHEN? _____
5. (A, B OR C) TO CERTIFY THAT THIS REQUEST WILL BE DELIVERED TO ALL OTHER PARTIES: A - ON THE SAME DAY I FILE THIS REQUEST
 B - WITH MY MOTION
 C - WITH MY PETITION
6. LIST EVERYONE IN THIS CASE SO THE COURT CAN SEND THEM A NOTICE ABOUT THE HEARING DATE:

| | OTHER PARTY OR THEIR LAWYER | ME | <input type="checkbox"/> HSD (<input 406="" 793="" 806"="" 845="" checked="" data-label="Text" type="checkbox/>)</th> </tr> </thead> <tbody> <tr> <td>NAME</td> <td></td> <td>SEE SIGNATURE BELOW</td> <td>HUMAN SVCS. DEPT.</td> </tr> <tr> <td>ADDRESS</td> <td></td> <td>USE ADDRESS BELOW</td> <td>653 UTAH AVE.</td> </tr> <tr> <td>CITY/STATE/ZIP</td> <td></td> <td>USE ADDRESS BELOW</td> <td>LAS CRUCES, NM 88001</td> </tr> <tr> <td>TELEPHONE</td> <td></td> <td>USE TELEPHONE BELOW</td> <td>524-6118</td> </tr> </tbody> </table> </div> <div data-bbox="/> <p>(SIGN YOUR NAME) _____</p> |
|--|-----------------------------|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|--|-----------------------------|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

(PRINT YOUR NAME) _____

(YOUR MAILING ADDRESS) _____

(CITY/STATE/ZIP) _____

(YOUR TELEPHONE) _____



WHEN YOU FILE THIS REQUEST, YOU MUST GIVE THE CLERK STAMPED LETTER ENVELOPES FOR YOU AND FOR EACH PARTY/LAWYER. THE COURT USES THE ENVELOPES TO MAIL OUT THE COURT DATE.