

FINISHING YOUR DEFAULT PATERNITY

INSTRUCTIONS

AND

COURT PAPERS

Third Judicial District Court, Dona Ana County, NM

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.

Finishing your Default Paternity ✓

Step 2 – Finishing the paperwork



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



☐ *FORM Application for Default Judgment and Final Decree of Parentage*

☐ *FORM(4A-405) Default Order Establishing Paternity, Custody/Visitation and Assessing Child Support*



☐ *FORM(4A-302) Custody Plan and Order and...*

☐ *Request for hearing.*

MAKE COPIES OF THE FOLLOWING:

...Original + 2 copies of Application for Default Judgment;
...Original + 2 copies of Default Order Establishing Paternity
(Must attach completed Child Support Worksheet - csc.nmcourts.gov);
...Original + 2 copies of Custody Plan and Order;
...Original + 3 copies of Request for Hearing

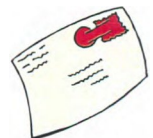


ADDRESS... two (2) stamped letter envelopes One to YOU and one to the RESPONDENT

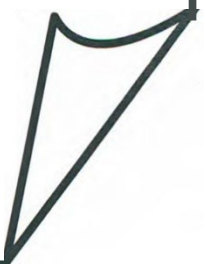


TAKE...these things to the court clerk:

- Application for Default Judgment;
- Default Order Establishing Paternity;
- Custody Plan and Order;
- Request for Hearing
- Your Envelopes addressed to you and the Respondent



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



Domestic relations forms; instructions for default proceedings. Paternity.

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 a judgment without the agreement of the Respondent. This is called a default judgment. You may request a default judgment 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; 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 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 from the Clerk, attach the certificate to an Application for Default Order Establishing Parentage, Custody, Time-Sharing, and Child Support, and file the application with the Court Clerk's Office; and

C. Submit a copy of the Default Order Establishing Parentage, Custody, Time-Sharing, and Child Support (Form 4A-405 NMRA). Check with the clerk of your district to determine if your district has additional requirements.

The Court may sign and file the Default Order Establishing Parentage, Custody, Time-Sharing, and Child Support without further notice, or it may order you to appear for a hearing. **WARNING:** Once the Court enters the Default Order Establishing Parentage, Custody, Time-Sharing, and Child Support, your divorce will be final, and the terms of your Default Order Establishing Parentage, Custody, Time-Sharing, and Child Support will be legally binding on both parties.

Application for default judgment and final decree of dissolution of marriage.

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

_____,
Petitioner,

v.

D-307-DM- _____

_____,
Respondent.

**APPLICATION FOR DEFAULT ORDER ESTABLISHING
PARENTAGE, CUSTODY, TIME-SHARING, AND 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 to Establish Parentage, Determine Custody and Time-Sharing, and Assess Child Support, and as more specifically stated in the proposed Default Order Establishing Parentage, Custody, Time-Sharing, and Child Support submitted with this application.

Signature of party

Name (*printed*)

Mailing address

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

Telephone number

4A-405. Default order establishing parentage, custody, time-sharing, and child support.

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

_____,
Petitioner (Parent 1),

D-307-DM-_____

v.

_____,
Respondent (Parent 2),

**DEFAULT ORDER ESTABLISHING PARENTAGE,
CUSTODY, TIME-SHARING, AND CHILD SUPPORT**

THIS MATTER comes before the Court upon Petitioner's Petition to Establish Parentage, Custody, Time-Sharing, and Child Support. The Court has considered the evidence before it and being fully advised in the premises, hereby enters its Finding of Fact, Conclusions of Law, and Final Order as follows:

THE COURT FINDS and ORDERS:

1. BACKGROUND.

A. Petitioner lives in the State of _____ and resides in _____ County. Respondent lives in the State of _____ and resides in _____ County.

Minor child(ren) subject to this proceeding:

Name	Date of birth	Present age
(a) _____	(b) _____	(c) _____
_____	_____	_____

2. PARENTAGE

A. The Court finds that _____ (*name of Parent 1*) is the parent of the minor child(ren).

This finding of parentage is based upon: (*check all that apply*)

- ☐ having given birth to the child(ren);
- ☐ named on the birth certificate;
- ☐ a court order adjudicating paternity;
- ☐ adopting the child(ren);
- ☐ genetic test(s);
- ☐ a valid Acknowledgement of Paternity
- ☐ an un rebutted presumption of paternity;
- ☐ a consent for assisted reproduction that resulted in the birth of the child(ren)

B. The Court finds that _____ (*name of Parent 2*) is the other parent of the child(ren).

This finding of parentage is based upon: (*check all that apply*)

- ☐ having given birth to the child(ren);

- ☐ named on the birth certificate;
- ☐ a court order adjudicating paternity;
- ☐ adopting the child(ren);
- ☐ genetic test(s);
- ☐ a valid Acknowledgement of Paternity;
- ☐ an un rebutted presumption of paternity;
- ☐ a consent for assisted reproduction that resulted in the birth of the child(ren).

C. If either parent is not currently named on the child(ren)'s birth certificate, on the request of either parent, the Bureau of Vital Records and Health Statistics of the New Mexico Department of Health must prepare a new certificate(s) of birth reflecting the parents of the child(ren) as adjudicated herein and must substitute the new certificate(s) for the original certificate(s).

3. CHILD CUSTODY (*Complete one of the following:*)

☐ Both Petitioner and Respondent are fit and proper persons to have care, custody, and control of the minor child(ren) of the parties.

OR:

☐ _____ is a fit and proper person to have primary care, custody, and control of the minor child(ren) of the parties and should be awarded sole legal and physical custody of the child(ren).

4. TIME-SHARING (*Complete one of the following:*)

☐ Petitioner requests that _____ (*name of other parent*) have visits with the child(ren) as follows:

☐ **No visits;**

☐ **Visitation at the discretion of the custodial parent;**

☐ (*write your own plan*) _____

OR:

☐ Petitioner has submitted a Parenting Plan that describes the proposed time-sharing schedule of each parent with the minor child(ren). The parenting plan is being submitted to the court at the same time as this order. (*Use Form 4A-302 NMRA, Custody Plan and Order*).

5. CHILD SUPPORT

☐ _____ is an able-bodied person, capable of paying child support in the amount of (ii) \$ _____ per month, which is the amount on the Child Support Worksheet. A Child Support Worksheet is attached to this order and signed by Petitioner.

OR:

☐ _____ is an able-bodied person who is capable of paying child support and should be required to contribute (ii) \$ _____ per month for child support. A Child Support Worksheet is attached to this order and signed by Petitioner.

The amount of child support is different from Child Support Guidelines.

OR:

[] The Child Support Guidelines are waived in this matter because following the Guidelines would create a substantial hardship due to these circumstances:

It is therefore determined that application of the Guidelines would be unjust or inappropriate.

This on-going child support obligation will continue until the court changes it in an Order of the Court or until the emancipation of the child(ren). If one of the children named in the order turns eighteen (18) years of age (or nineteen (19) years of age if they are still in high school), either party may file a motion for an order modifying child support for the remaining child(ren) or may request the court to end ongoing child support if all children are eighteen (18) years of age (or nineteen (19) years of age if the child is still in high school). Modifying or ending ongoing child support does not change unpaid child support that may still be due and owing.

6. WAGE WITHHOLDING

[] A. _____ has waived income withholding. The parent responsible for child support will make payments directly to:

NAME: _____

ADDRESS: _____

OR through direct payments via _____ (*direct deposit, smart phone app, etc.*)

Parties must keep track of all payments, and records of payment are encouraged.

[] B. Immediate wage withholding is ordered. The employer of the parent obligated to pay child support must make child support payments to:

HSD, Child Support Enforcement Division

P.O. Box 200796

Dallas, TX 75320-0796

OR online (*e-check, credit or debit cards – parents only*) using E-Bill Express, available at <https://www.e-billexpress.com/ebpp/NMHSDCSED/Login/Index>.

The CSED account number must be shown on each payment and an Income Withholding for Support form must also be filled out by the parties and signed by the judge. Direct payments between parents must occur until wage withholding begins.

7. MEDICAL SUPPORT.

A. (*pick one of the selections below*)

[] _____ (*write name of parent who has/will provide insurance coverage for the child(ren)*) will ensure that the child(ren) are covered under a group

health insurance policy and that parent will pay for the insurance.

OR

☐ The child(ren) is/are covered by Medicaid.

B. Medical expenses not paid by insurance and/or Medicaid will be paid as follows:

Parent _____ is responsible for ____% of these expenses; and

Parent _____ is responsible for ____% of these expenses.

(The total % must add up to 100%).

8. LIFE INSURANCE (optional)

☐ _____ will purchase life insurance with a benefit of \$ _____, naming the other parent as trustee for the benefit of the minor child(ren) to pay the child support upon the paying parent's death.

9. ☐ The Department of Health, Bureau of Vital Records and Statistics shall change the birth records of the minor child(ren) to reflect this parentage determination. *(A copy of this order must be provided by the parties to Vital Records).*

IT IS SO ORDERED:

DISTRICT COURT JUDGE

SUBMITTED AND APPROVED:

Petitioner

4A-302. Custody plan and order.

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

_____,
Petitioner,

v.

D-307-DM- _____

_____,
Respondent.

CUSTODY PLAN AND ORDER¹

_____ and _____ are the parents of the children listed below. This document is the custody plan and is in the best interests of the children.

I. IDENTIFICATION AND CONTACT INFORMATION

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.

II. CUSTODY OF THE CHILDREN²

(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 dispute regarding the children in this way (*steps continue until problem solved*):

- a. Talk together; or
- b. Communicate in writing as follows:
 - i. parent requests change, and gives reasons for the change; and
 - ii. answering parent sends response within _____ days.

If the answering parent does not agree to the change, that parent must say why, and, if possible, make a new proposal.

- c. Take the following steps:
(*check all that apply and number them if there is a particular order*)
 - ☐ _____. Go to couple, family, or other counseling;
 - ☐ _____. Go to mediation with a neutral party;
 - ☐ _____. Other: _____;
 - ☐ _____. Go to court.

3. ***Timesharing schedule.***

(Complete ASchedule 1@ or ASchedule 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	(if
			<i>split</i>	
Mother=s Day	_____	_____	From _____	
			To _____	
Father=s Day	_____	_____	From _____	
			To _____	
Child=s Birthday	_____		_____ From	

Halloween	_____		To _____	
			_____ From	

Thanksgiving			To _____	
break	_____	_____	From _____	
			To _____	
Winter religious			From _____	
holidays	_____	_____	To _____	
1st 1/2 winter			From _____	
break	_____	_____	To _____	
2nd 1/2 winter			From _____	
break	_____	_____	To _____	
Spring Break	_____		_____ From	

			To _____	
July 4th	_____		_____ From	

			To _____	
Other religious			_____ From	
holidays	_____		_____	
			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 we agree differently.

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 you 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 you 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 *Ano.@* If the other parent says *Ano,@* the parent asking for changes shall not argue or criticize the other parent=s decision.

f. **Review of plan.** The parents agree to meet [] every year (*or*) [] every ____ years to make sure this plan continues to work well.

VERIFICATION

I affirm under oath and penalty of perjury under the laws of the State of New Mexico that I have read this document, that I agree with everything in it, and that the statements in it are true and correct to the best of my knowledge and belief.

Name of parent (*print*)

Name of parent (*print*)

Parents signature

Parents signature

Date

Date

Mailing address

Mailing address

Physical address

Physical address

Telephone

Telephone

STATE OF NEW MEXICO)
COUNTY OF _____)

ss

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

Notary public

My commission expires: _____.

STATE OF NEW MEXICO)
COUNTY OF _____)

ss

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

Notary public

My commission expires: _____.

Approved, adopted, and ordered
by the District Court

Date

District Court Judge

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	☐ HSD (✓)
NAME		SEE SIGNATURE BELOW	HUMAN SVCS. DEPT.
ADDRESS		USE ADDRESS BELOW	653 UTAH AVE.
CITY/STATE/ZIP		USE ADDRESS BELOW	LAS CRUCES, NM 88001
TELEPHONE		USE TELEPHONE BELOW	524-6118

(SIGN YOUR NAME) _____

(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.