

## INSTRUCTIONS FOR REQUESTING THE EARLY DESTRUCTION OF JUVENILE COURT RECORDS

### IMPORTANT! READ BEFORE USING THIS PACKET OF FORMS

ND Legal Self Help Center staff and court employees can't help you fill out forms.

If you're unsure how to proceed, unsure if this information suits your circumstances, or need legal advice or representation, consult a lawyer licensed to practice in North Dakota.

Carefully read this information and any instructions to which you're referred.

**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 Juvenile Procedure;
  - 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](http://www.ndcourts.gov).

A glossary with definitions of legal terms is available at [www.ndcourts.gov/legal-self-help](http://www.ndcourts.gov/legal-self-help).

**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.**

- For more information about finding a lawyer, [www.ndcourts.gov/legal-self-help/finding-a-lawyer](http://www.ndcourts.gov/legal-self-help/finding-a-lawyer).

***These instructions and forms aren't a complete statement of the law. They cover basic procedure for requesting the early destruction of juvenile court records of a delinquent child, or a child in need of services (also called unruly). There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the information provided. Use at your own risk.***

**NOTE:** (In 2021, the North Dakota State Legislature changed the term “unruly” to “child in need of services.”)

## Who May Use this Packet?

An individual who was the subject of a proceeding in North Dakota Juvenile Court **AND:**

- The proceeding in Juvenile Court was for a delinquent child or for a child in need of services (also called unruly);
  - Delinquent acts are considered crimes whether they are committed by a child or an adult.
  - A child in need of services (unruly) commits offenses that only apply to children, including truancy and ungovernable behavior.
- The proceeding in Juvenile Court was handled by a judicial referee or a judge;
  - You may choose to include informal adjustments and diversions in your request.
- The individual believes he/she has good cause for the records to be destroyed early; and
- The individual **doesn't** have any juvenile or criminal charges pending in any other court.

**Important!** If juvenile court received a referral alleging certain sex offenses or obscenity offenses, per North Dakota Century Code (NDCC) [Section 25-03.3-04](#), all juvenile case files and court records concerning the alleged offenses must be retained for twenty-five (25) years.

The list of offenses is found in NDCC Chapters [12.1-20](#) and [12.1-27.2](#).

## STEP 1: REVIEW RULE 19(d) OF THE N. D. RULES OF JUVENILE PROCEDURE

**“(d) Early Destruction of Records.** A party who is the subject of a delinquency or unruly proceeding may petition the court for early destruction of records. The state's attorney of the county in which the records are held must be notified of the request. The judge may order the early destruction upon a showing of good cause to destroy the records by the party. The records may not be destroyed if it is known that the subject of the motion has criminal charges pending before any other court.”

*(This space left intentionally blank.)*

## STEP 2: PREPARE THE FORMS TO REQUEST EARLY DESTRUCTION OF RECORDS

\*\*\* Please note that you'll need the case number(s) of your delinquent and/or child in need of services (unruly) proceedings in order to complete the forms. You may need to contact the Juvenile Court Officer who managed your case (or cases) and ask for the case number(s).

\*\*\***Court employees can't help you fill out the forms.**

Form Title	Purpose
<b>Notice of Motion</b> for Early Destruction of Juvenile Records (NRJuvP 19 Notice)	Tells the Juvenile Court that the Respondent (you) in the original Juvenile Court case or cases is requesting early destruction of the records. Tells the State's Attorney they have 14 days to respond to the motion.
<b>Motion</b> for Early Destruction of Juvenile Records (NRJuvP 19 Motion)	Tells the Juvenile Court why you're making the request.
<b>Brief in Support of Motion</b> for Early Destruction of Juvenile Records (NRJuvP 19 Brief)	Tells the Juvenile Court the facts of your charges, the reasons for the request, and the laws and rules supporting your argument.
<b>Affidavit in Support of Motion</b> for Early Destruction of Juvenile Records (NDRJuvP 19 Aff)	Gives the Juvenile Court information that the Respondent (you) is required to provide about the delinquent and/or unruly charges, the outcome of the Juvenile Court proceeding(s), and why you're making the request.
<b>Finding of Fact and Conclusions of Law</b> for Early Destruction of Juvenile Records (Proposed) (NDRJuvP 19 FFCL)	After reviewing all of the evidence presented, the proposed explanation of facts the court found to be true and the legal consequences of those facts. The proposed findings of fact and conclusions of law aren't effective until signed by the court.
<b>Order</b> for Early Destruction of Juvenile Records (Proposed) (NDRJuvP 19 Order)	Proposed order of the court for early destruction of the juvenile records identified in the motion and affidavit. The proposed order isn't effective until it is signed by the court.

## **Notice of Motion:**

### **Top of Form (Caption):**

- Fill in the name of the County in North Dakota where the original Juvenile Court proceeding was decided.
- Fill in the case number(s) of the original juvenile court proceeding(s) on the Case No. line. If you don't know the case number(s), contact the Juvenile Court Officer who managed your case.
- Fill in your name and date of birth in the spaces following "In the Interest of \_\_\_" and "DOB \_\_\_"
- Fill in your name as Respondent.

### **Date and Signature:**

- Fill in the date you sign the Notice.
- Sign and print your name. Include your address, phone number, and email address.

## **Motion:**

### **Top of Form (Caption):**

- Fill in the caption of the Motion the same as you did in the Notice.

### **Date and Signature:**

- Fill in the date you sign the Motion.
- Complete the signature section the same as you did in the Notice.

## **Brief in Support of Motion:**

### **Top of Form (Caption):**

- Fill in the caption of the Brief the same as you did in the Notice.

**Paragraph 1:**

- Fill in the date you were charged as a delinquent child, or as a child in need of services (unruly) and write the description of each charge.
- If the charges were dismissed, put a checkmark (✓) on the line next to “charges against the Respondent were dismissed.” Fill in the date the charges were dismissed.
- If you successfully completed the terms as ordered by the juvenile court, put a checkmark (✓) on the line next to “Respondent successfully completed the terms as ordered by the court.” Fill in the date you completed the terms. Successful completion includes probation, custody with the Department of Juvenile Services, and custody with the county.
- If you paid restitution in full, put a checkmark (✓) on the line next to “Respondent paid the required restitution in full.” Fill in the date you made full payment.

**Paragraph 3:**

- If you want the court to consider destroying the juvenile court office records of any informal adjustments or diversions related to the juvenile court proceeding records, put a checkmark (✓) in the box next to “The Respondent is ...” Otherwise, put a checkmark (✓) in the box next to “The Respondent is not ...”

**Date and Signature:**

- Fill in the date you sign the Brief.
- Complete the signature section the same as you did in the Notice.

**Affidavit in Support of Motion:**

**Top of Form (Caption):**

- Fill in the caption of the Affidavit the same as you did in the Notice.

**Paragraph 1:**

- Fill in your full, legal name.

**Paragraph 2:**

- Fill in the date you were charged as a delinquent child, or as a child in need of services (unruly) and write the description of each charge.

**Paragraph 3:**

- If the charges were dismissed, put a checkmark (✓) on the line next to “charges against the Respondent were dismissed.” Fill in the date the charges were dismissed.
- If you successfully completed the terms as ordered by the juvenile court, put a checkmark (✓) on the line next to “Respondent successfully completed the terms as ordered by the court.” Fill in the date you completed the terms. Successful completion includes probation, custody with the Department of Juvenile Services, and custody with the county.
- If you paid restitution in full, put a checkmark (✓) on the line next to “Respondent paid the required restitution in full.” Fill in the date you made full payment.

**Paragraph 4:**

- Tell the juvenile court why you believe the juvenile court records should be destroyed early. Write the reason or reasons why you’re making the request.

**Paragraph 5:**

- If you want the court to consider destroying the juvenile court office records of any informal adjustments or diversions related to the juvenile court proceeding records, put a checkmark (✓) in the box next to “I am ...” Otherwise, put a checkmark (✓) in the box next to “I am not ...”

**Sign and Date the Affidavit:**

- The date and signature are at the end of the Affidavit.
- IMPORTANT:** Review the North Dakota court rules [www.ndcourts.gov/legal-resources/rules](http://www.ndcourts.gov/legal-resources/rules) to determine if any rule that applies to your civil action specifically requires the affidavit to be notarized.
- The individual giving their written statement of fact signs and dates the Affidavit, fills in their address, phone number, and email address and fills in the name of the State, County, and Country where they signed the affidavit.

- If a court rule requires the affidavit to be notarized, the individual giving their written statement of fact must sign and date the affidavit in the presence of a notary public or clerk of court. The notary public or clerk of court will witness the signature and indicate this on the document.

**Notary Block (if applicable):**

If you determine that a court rule that applies to your juvenile court action requires a notarized signature, you may use the following formatting. Place the following directly after your signature block:

State of: \_\_\_\_\_  
County of: \_\_\_\_\_

Signed and sworn to before me on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public or Clerk of Court

If Notary, my commission expires: \_\_\_\_\_

**Findings of Fact and Conclusions of Law (Proposed):**

This is your proposed Findings of Fact and Conclusions of Law for Early Destruction of Juvenile Records.

The Juvenile Court Judge or Referee assigned to your request will ultimately decide whether or not to grant your request.

The Juvenile Court Judge or Referee will also decide whether or not to use this document.

**Top of form:**

- Fill in the caption of the Order the same as you did in the Notice.

**Order (Proposed):**

This is your proposed Order for Early Destruction of Juvenile Records. The Juvenile Court Judge or Referee assigned to your request will ultimately decide whether or not to grant your request.

The Juvenile Court Judge or Referee will also decide whether or not to use this document.

**Top of form:**

- Fill in the caption of the Order the same as you did in the Notice.

**STEP 3: SERVE COPIES OF THE COMPLETED FORMS ON THE STATE'S ATTORNEY OF THE COUNTY THAT HOLDS YOUR JUVENILE COURT RECORDS.**

**The person who served the States Attorney completes an affidavit of service.**

**Service means giving a copy of each of the following completed forms to the State's Attorney.**

- Notice of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Notice)
- Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Motion)
- Brief in Support of Motion for Early Destruction of Juvenile Records (NDJuvP 19 Brief)
- Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff)
- Findings of Fact and Conclusions of Law for Early Destruction of Juvenile Records (Proposed) (NDRJuvP 19 FFCL)
- Order for Early Destruction of Juvenile Records (Proposed) (NDRJuvP 19 Order)

You serve the State's Attorney of the County that holds the records of your Juvenile Court proceeding(s).

Proof of service is an important step in the legal process and the document showing proof of service must be filed with the clerk of court in Step 4. If proof of service isn't filed, the Juvenile Court won't read your completed forms or act on your request until you show that the State's Attorney was served.

**Before serving copies of the completed forms on the State's Attorney, contact the Juvenile Court in the County where you'll file the motion. Juvenile Court staff may agree to serve the State's Attorney for you.**

If Juvenile Court staff won't serve the State's Attorney for you, you must arrange for the State's Attorney to be served.

**Review Rule 7 of the N. D. Rules of Juvenile Procedure.** Rule 7 includes the six different methods to serve documents. You must decide which of the methods to use. No matter which method you choose, you must prove to the Juvenile Court that copies of the documents were served as required by Rule 7.



Service Form Title	Description
Affidavit of Service by Mail (Juv Ct Rule 19 ASM)	Proof that copies of the completed forms listed above were mailed to the State’s Attorney and the date the forms were mailed.
Affidavit of Service by Personal Delivery (Juv Ct Rule 19 APS)	Proof that copies of the completed forms listed above were handed to the State’s Attorney.
Affidavit of Office Service (Juv Ct Rule 19 AOS)	Proof that copies of the completed forms listed above were left with a clerk or other person in charge at the State’s Attorney’s office.

**Three common methods of service on a State’s Attorney are described below.**

1. By Mail:

If you decide to arrange to serve copies of the completed forms on the State’s Attorney by mail, you must:

- a. Have someone who is at least 18 years of age mail copies of the completed forms listed on Page 8 to the State’s Attorney. Mail the completed forms to the last known address for the State’s Attorney. Service is complete upon mailing.
- b. The person who mailed the documents must fill out an Affidavit of Service by Mail and sign the affidavit.
- c. File the Affidavit of Service by Mail with the Juvenile Court in Step 4.

Keep a copy of the completed and signed Affidavit of Service by Mail for your records.

2. By Personal Service:

If you decide to arrange to serve the State’s Attorney by personal service:

- a. Have someone who is at least 18 years of age and not a party to the case hand copies of the completed forms listed on Page 8 to the State’s Attorney.
- b. The person who handed copies of the documents to the State’s Attorney must fill out an Affidavit of Service by Personal Delivery and sign the form.
- c. File the Affidavit of Service by Personal Delivery with the Juvenile Court in Step 4.

Keep a copy of the completed and signed Affidavit of Service by Personal Delivery for your records.

3. By Office Service:

If you decide to arrange to serve the State's Attorney by leaving copies of the completed forms at the State's Attorney's office:

- a. Have someone who is at least 18 years of age and not a party to the case leave copies of the completed copies of the completed forms listed on Page 8 at the State's Attorney's office.
- b. The copies of the completed documents must be left with a clerk or other person in charge.
- c. If there is no one in charge of the office, the copies of the completed documents must be left in a conspicuous place.
- d. The person who left copies of the documents at the State's Attorney's office must fill out an Affidavit of Office Service and sign the form.
- e. File the Affidavit of Service by Affidavit of Office Service with the Juvenile Court in Step 4.

Keep a copy of the completed and signed Affidavit of Office Service for your records.

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#### **STEP 4: FILE THE ORIGINAL, COMPLETED FORMS WITH THE JUVENILE COURT.**

Take the original, completed forms to the Juvenile Court in the County that holds your records.

- Notice of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Notice)
- Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Motion)
- Brief in Support of Motion for Early Destruction of Juvenile Records (NDJuvP 19 Brief)
- Affidavit in Support of Motion for Early Destruction of Juvenile Records (NDRJuvP 19 Aff)
- Findings of Fact and Conclusions of Law for Early Destruction of Juvenile Records (Proposed) (NDRJuvP 19 FFCL)
- Order for Early Destruction of Juvenile Records (Proposed) (NDRJuvP 19 Order)
- Proof of service of copies of the original, completed forms on the State's Attorney.
  - Depending on the method of service you used, you'll file either the completed Affidavit of Service by Mail, the Affidavit of Service by Personal Delivery, or the Affidavit of Office Service

You're not required to pay a filing fee. If you're asked to pay a filing fee, contact the Juvenile Court Supervisor or Director in the County that holds your records for assistance.

#### **STEP 5: WHAT TO EXPECT AFTER THE FORMS AND SERVED AND FILED.**

**The State's Attorney has 14 days to respond to the motion.**

This doesn't include the day of service. In the response, the State's Attorney will say whether they agree or disagree with your request for early destruction of your juvenile records.

**The judicial referee or judge assigned to your request may decide to schedule a hearing, or to make a decision without a hearing.**

If the judicial referee or judge decides to hold a hearing, you'll be notified of the hearing date and time by mail. Be prepared to prove everything you included in your completed forms. The judicial referee or judge will make a decision after the hearing is held.

If the judicial referee or judge decides to make a decision without a hearing, you'll receive copies by mail of documents signed by the judicial referee or judge. The documents will tell you what the judicial referee or judge decided.