

STARTING 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.

(Revised 10/16/23)

STEPS TO GET A DEFAULT PATERNITY

Third Judicial District Court, Dona Ana County, NM

It takes this paperwork to start a Judgment for a Default Paternity

(See attached Instructions for default proceedings for more details.)

STEP 1:

Complete the following forms:

- Affidavit as to Respondent's Failure to Plead (Paternity)
- Certificate as to the State of the Record (Paternity)

AND

ATTACH... Military Duty Certificate

- Check for instructions for the Military Website at
(<https://scra.dmdc.osd.mil/scra>)

AND

- One (1) self-addressed, stamped envelope

Turn the page for instructions and steps...



Starting your Default Paternity

Checklist Instructions



FILL-OUT and sign the Affidavit as to Respondent's Failure to Plead (**Paternity**). *This is the attached Form.*



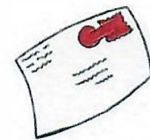
ATTACH a Military Duty Certificate to your Affidavit as to Respondent's Failure to Plead. *This is not a Court form. Print this Certificate online at <https://scra.dmdc.osd.mil/scra>.*



FILL-OUT the Certificate as to the State of the Record. *This is the attached Form. Only fill-out the Caption. The Court Clerk will fill-out the rest.*



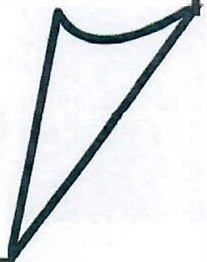
ADDRESS one (1) stamped letter envelope to you.



BRING your two (2) Forms and your envelope to the court Clerk's Office.



WAIT... For the court clerk to mail the Certificate back to you. *While you are waiting, you can work on FINISHING your Default Paternity.*



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 (Form 4A-312 NMRA) 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.

4A-311. Affidavit as to Respondent's failure to plead or otherwise defend (*domestic relations actions*). (rev 06/23)

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

Petitioner,

v.

No. _____

Respondent.

**AFFIDAVIT AS TO RESPONDENT'S
FAILURE TO PLEAD OR OTHERWISE DEFEND
(*domestic relations actions*)¹**

Petitioner affirms under penalty of perjury under the laws of the State of New Mexico that the following statements are true and correct:

(1) I am the Petitioner, and I submit this Affidavit to show that Respondent has failed to file an answer or otherwise respond to the Petition For Dissolution of Marriage that I filed on _____.

(2) Respondent was served as follows (*choose and complete one*):

As shown by the Affidavit of Service filed on _____,
Respondent was personally served on _____.

(Or)

As shown by the Affidavit of Publication filed on _____,
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

(4) Upon information and belief, Respondent is not in the military service of the United States and is not an infant or incompetent person.

YES (*required*) I have attached a certificate verifying Respondent's active duty status.²

WHEREFORE, Petitioner asks the Clerk of this Court to certify Respondent's Default.

Signature of party

Name (*printed*)

Mailing address

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

Telephone number

VERIFICATION

I, _____, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Affidavit are true to the best of my Knowledge and belief.

Signature of Petitioner

Date

USE NOTE

1. This form may be used anywhere in this state to request the clerk of the court to issue a certificate as to the state of the record (Form 4A-312 NMRA) in a domestic relations action.

2. This affidavit must include a certificate verifying the petitioner's active duty status, which you can obtain online at <https://scra.dmdc.osd.mil/appj/scra>.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-312. Certificate as to the state of the record (*domestic relations actions*). (revised 5/18)

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT

_____,
Petitioner,

v. No. _____

_____,
Respondent.

CERTIFICATE AS TO THE STATE OF THE RECORD
(*domestic relations actions*)¹

I, Clerk of the District Court of this Judicial District in this County, New Mexico, pursuant to the Affidavit as to Respondent’s Failure to Plead or Otherwise Defend on file herein, certify as follows:

(1) The Petition for Dissolution of Marriage was filed on _____.

(2) Respondent was served as follows (*choose and complete one*):

As shown by the Affidavit of Service filed on _____,
Respondent was personally served on _____.

(Or)

As shown by the Affidavit of Publication filed on _____,
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

WHEREFORE, I, _____, hereby certify Respondent’s default.

BERNICE A. RAMOS
Clerk of the District Court

By: _____
Deputy Clerk

USE NOTE

1. This form may be used anywhere in this state by the clerk of the court to certify a default in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-017, effective for all pleadings and papers filed on or after December 31, 2015, in all cases filed or pending on or after December 31, 2015.]