

Going Solo: Representing Yourself in the South Dakota Courts



A Guide to Understanding



This information was provided by the South Dakota Unified Judicial System.

Introduction

Some day you may find you need to go to court – to settle a dispute with a business or a neighbor, to get a divorce, or collect child support. Many people hire a lawyer to take their case to court. It's a good idea. A lawyer has training and experience – and knows how the system works. Even if you end up representing yourself in court, it's good to start by talking to a lawyer about your problem. Find out if your case is a simple matter or one that could get complicated. Ask what it would cost to hire a lawyer to handle it for you.

Of course, not everyone can afford a lawyer. And others may decide to take their chances and go at it alone. Going solo in the courthouse can be very scary. Especially if everything you know about the law is from watching television. Going to court isn't as simple as they make it seem on TV. That's why the South Dakota Unified Judicial System has published this brochure for you.

In this booklet you will learn how the South Dakota court system works. You will learn the process – step by step. Take it home and read it. It could save you time and headaches later.

Keep in mind that this guide is meant to give you helpful information, not legal advice. Additional helpful information about the court system and its processes is available on the South Dakota Unified Judicial System's website at <http://ujs.sd.gov> and at the Frequently Asked Questions sections available at each Circuit's webpage which can also be accessed through a link from the UJS homepage.



The South Dakota
Unified Judicial System

MAKING THE DECISION

Can I go to court without a lawyer?



Yes. You have the right to represent yourself in state courts. In fact, many people in South Dakota go to court without a **lawyer**. Some people can't afford to hire a lawyer. Others decide that they would rather handle their legal problem on their own.

Should I go to court without a lawyer?

That is your decision to make. This guide was developed by the South Dakota Unified Judicial System to help you make that decision. Some cases are fairly simple and can be handled without a lawyer. Others involve complicated procedures and legal issues that require the experience and training of a lawyer. It is a good idea to talk to a lawyer about your case if possible. Whether you decide to hire a lawyer or to go to court on your own, it helps to know how the court system works.

Can I get help with my case if I need it?

Yes. There is a list of services on page 11 of this guide that may help you. You might want to take a moment now, before you begin your case, to find out where you can get information or advice.

What if I need extra help because of a disability or language barrier?

Everyone has a right to come to court and participate in the legal system. This includes people who are disabled, people who are hearing or vision impaired, and people who don't speak English. If you or anyone participating in your case needs special arrangements, first contact the Clerk of Court or Circuit Administrator where you filed the case. They should be able to make proper arrangements for a courtroom that is accessible, a sign language interpreter, or a translator. It is important to contact the Clerk of Court or Circuit Administrator just as soon as possible, so they have time to make the arrangements.

“Can I get help with my case if I need it?”

Is there a way to solve my problems without going to court?

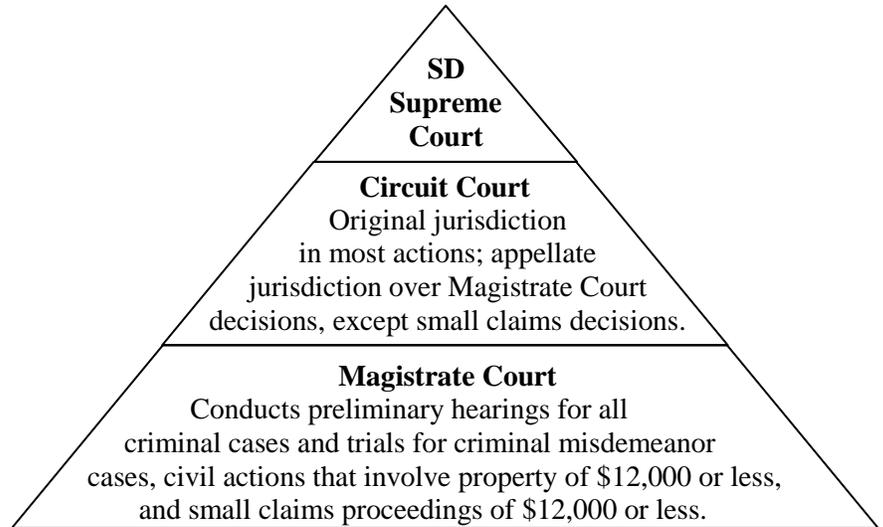


It's possible. You may be able to resolve your dispute through **mediation** without filing a lawsuit. Mediation gives people a chance to sit down with a mediator in an informal setting to try and work out their conflicts. The mediator is a trained problem-solver who will help the parties come to an **agreement**. There is a list of court approved mediators on the UJS website at <http://uj.s.sd.gov>.

SOUTH DAKOTA JUDICIAL SYSTEM

How is the court system set up in South Dakota?

The court system is like a pyramid. At the bottom of the pyramid are the **Magistrate Courts**, where misdemeanor criminal cases and small claims court cases are heard. Next in the pyramid are the trial courts called **Circuit Courts**. The highest court in the state is the **South Dakota Supreme Court**. If someone loses a case in the circuit court, they can appeal to the South Dakota Supreme Court.



There are two kinds of legal cases: criminal and civil. A **criminal case** is when the state charges a person with a crime. A **civil case** is when someone sues an individual or a business. There are many kinds of civil cases. Some examples of a civil problem that could end up in court are: a divorce, a dispute with a landlord, a boundary disagreement with a neighbor, or a problem with a store that sold you a faulty product. **This guide covers only civil cases.**



Do I file my case where I live?

It depends. You must decide which county or state is right for your case. This is called finding the right **venue**. The case is usually filed where you live or where the action took place, but not always. Where

you file your case could affect the outcome especially in divorce and child custody cases. *See SDCL ch. 15-5 for statutes on venue of actions.*

How do I know which kind of court to go to?

That will depend on the type of case and the amount of money involved. If it is a family law matter, like divorce, child support, or custody, your case belongs in Circuit Court. If it is another kind of civil case, you may go to Magistrate Court if the amount of the money involved does not exceed \$12,000. If it is more than \$12,000, then you need to go to Circuit Court.

BASIC STEPS IN A LAWSUIT



1. **File the Summons and Complaint.** The person starting the case is called the **Petitioner** or **Plaintiff**. That person files a written statement, called the **Complaint**, telling the court what the case is about. Then they arrange to have the **Summons and Complaint** delivered to the other side. This is called “service of process.”

2. **File the Answer.** The person being sued is either called the **Defendant** or the **Respondent**. That person files a written response telling their side of the story and delivers a copy to the plaintiff. This is called an **Answer**.

3. **Prepare the case.** Both sides have time to gather evidence to prove their case. **Evidence** could include documents, photographs or the testimony of witnesses.

4. **The judge holds a hearing.** This is when both sides appear before the judge to present their evidence to prove their case.

5. **The judge makes a decision.**

FILING THE SUMMONS AND COMPLAINT

Is there a Summons and Complaint form I can use? You may purchase a packet of divorce forms from the Clerk of Court Office for \$10 or you may download the forms for free from the SD UJS's webpage at <http://uj.s.sd.gov/>. Forms for service by mail are available at SDCL 15-6-4(j).



Does it cost to file a lawsuit?

Yes. The court will charge a fee to file your case. *See* SDCL 16-2-29, 16-2-45. There are additional fees for copying and/or certifying copies, or issuing subpoenas. There is also a \$10.00 charge for a divorce forms packet if obtained from the Clerk of Court office, or you may download divorce forms from the UJS website for free and print them yourself.

How do I make sure I've done everything right?

Take it one step at a time and don't be afraid to ask for help. The courthouse staff cannot give you legal advice about your specific case, but they will answer your questions about court procedure. If you decide that there is too much at stake or your case is too difficult to handle on your own, you can always contact a lawyer at any time.

The following are two scenarios that we would like to provide relating to filing a case:

▪ **Angela** wanted to get a divorce because her husband left her. She went to the Clerk of Court Office to get a “Divorce Packet” which contains most of the forms she needs to fill out to file for divorce. There is a \$10 charge for the divorce packet. The Clerk explained that she needed to read the instructions carefully before starting to fill out the forms. She suggested she practice in pencil before making a final copy.

▪ **Bob** was sued by his landlord. The landlord filed a **Summons and Complaint** stating that Bob had not paid his rent. The landlord asked the court to force Bob to move out. Bob received a copy of the **Complaint** and a **Summons** telling how long he had to respond. Bob went to the Clerk of Court Office and was told that he needed to file an **Answer**. If Bob did not file an answer by the deadline, his landlord could have asked the court to rule against him right away. This is called a **default judgment**. Bob filed an answer stating “A pipe broke in my basement. The landlord told my wife that we should get a plumber to fix it, pay him and deduct it from the rent, so we did. The plumber cost more than the rent so that's why the landlord didn't get a check from us last month.” When the pipe broke in Bob's basement, it also damaged a rug. So, Bob filed a counterclaim to ask the court to order his landlord to pay him for it.

.... is there someone who can help me with the forms?

If I have trouble reading, is there someone who can help me with the forms?

Yes, you can ask someone in the Clerk's office to help you or contact your local library. You may also contact the South Dakota Literacy Council at 1-800-484-6690 Code 8585 or (605) 224-8212. You have to tell the person helping you what to write. The person helping you can only write down what **you** say. You can also take the forms home and ask a friend to read them to you.

How do I notify the other person that I have filed a Summons and Complaint against them? Whenever you file a lawsuit, including a divorce, you have to arrange to have the Summons and Complaint delivered to the other side and provide the court with proof of how, when and where the papers were received. This is called **service of process**. There are several ways that you can legally serve someone. The most common methods are listed below and are addressed in SDCL 15-6-4(a) – (j) and SDCL 15-6-5(a) – (i). *See also* SDCL ch. 15-39 for small claims procedures.

Personal Service: The papers are hand delivered to the defendant or respondent. This is often done by the sheriff's office or, in some larger communities, a private process server. Personal service can also be done by any credible person over the age of eighteen who is not involved in the case. An **Affidavit of Service** form proving that the person received the papers must be filled out and filed at the Clerk's office. See SDCL 15-6-4(g) for proof of service requirements.

Acceptance of Service: If the other side is willing to accept the papers, you can give them a copy, have them sign an Admission of Service form saying that he received them, and file that form with the Clerk.

Service by Publication: This method is used only if the person you're suing lives out of state or you don't know how to locate them. Putting an ad in the newspaper usually does it but it can be a little tricky. Service by publication is explained in greater detail in SDCL 15-9-7 – 15-9-22. A court order is needed before you may serve someone by publication. Proof of such service is described in SDCL 15-6-4(g)(4).

Do I serve the papers the same way when filing an Answer?

You can serve an Answer by mailing it to the person who sued you. You will still need to file an **Affidavit of Mailing Service** with the court showing when and where you sent the papers.

PREPARING FOR THE HEARING



My papers have been filed and served. What do I do to get ready for the hearing? Now is the time to prepare your case. You need to gather the evidence that will help prove your case to the judge. The evidence could be papers, like receipts or bills that you bring to court with you. You could also use witnesses to tell the court what they know about your case. Let's look at how Angela and Bob prepared for their hearing.



Angela received a Divorce Packet by the Clerk of Court. There are specific things that Angela needs to do before the hearing. These are spelled out in a divorce packet and include:

- Filling out a **Financial Affidavit** to help the judge make decisions about dividing property and providing child support and setting alimony. The Court will need copies of financial records, like income tax returns, pay check stubs, monthly bills, deeds to property, bank account statements, and retirement or pension plan statements.
- Filling out a **Stipulation and Settlement Agreement**. This spells out plans to separate assets and debts and the parties' plan to care for the children. It is completed if both parents agree to the terms of the divorce.
- Attending **Parent Education Class**, where required.

Bob needs to figure out what evidence he needs to prove his case. The kinds of things he should consider are:

- The receipt from the plumber or a copy of his cancelled check. The plumber's **testimony** might also be helpful. He could testify that he did the repair and identify the bill.
- **Testimony** from Bob's wife. She can testify that the landlord told her to hire a plumber and deduct the cost from their rent.
- A receipt showing what Bob paid for the rug. If Bob uses receipts or checks as evidence, he should make sure that he has three sets: the original for the court, one copy for the landlord, and one copy to keep for his own records.

If his wife or the plumber is going to testify, Bob needs to write out his questions and go over them with each witness before the hearing. If the plumber does not want to come to court, Bob can get a **subpoena** forcing him to come to court. The Clerk's office can provide Bob with a subpoena form that includes instructions for service. But he should be careful - a witness who doesn't want to testify may hurt his case more than he helps it.



Can I find out what the other side is going to say and bring to the hearing?

It is possible to find out what evidence the other side is going to present through a process called **discovery**. In civil cases, you have the right to get information about witnesses and copies of documents before the hearing. There are complicated rules about what you can get through discovery and strict time limits apply. In South Dakota, discovery rules are generally located at SDCL 15-6-26 through 15-6-37. If you need to use discovery, you may want to talk to a lawyer.

Can I try to settle my case before the hearing?

Absolutely. Many cases settle out of court without a hearing. For example: Bob's case might be just a simple misunderstanding and could be settled with a phone call to his landlord or the landlord's lawyer. He might also want to use a mediator to help Bob and his landlord reach a **settlement** or an **agreement**.

In Angela's case, it will be better for everyone if they can agree on the parenting plan before the hearing. If the parents can't agree on how the children will be cared for, what arrangements will be made for custody and visitation, the Circuit Court Judge may appoint a mediator. See SDCL 25-4-56 through 25-4-62. The mediator will sit down with both parents in an informal setting and help them resolve some or all of their differences in caring for the children. A list of court approved mediators can be found on the UJS website at <http://uj.s.sd.gov> or you may ask a circuit court administrator for a list in that circuit. These mediators do charge a fee for their services and the parties can agree on how to pay for this service.



THE HEARING

How do I get a hearing? Will the court just schedule one?

Ask the clerk of the court where your case was filed whether you need to request a hearing or whether the court will schedule one on its own. In most Magistrate and small claims court cases, the court will send both sides a **notice of hearing** telling them when and where the hearing will take place. In Circuit Court cases, the hearing will be scheduled only upon request. In that case, it's up to you to contact the Clerk of Court's office to request that a hearing be scheduled. Then, you must send out a notice to the other side telling them the time and date of the hearing.

I've never been to court. What should I expect?

Each court is a little different. Some courts use formal rooms like the ones you see on television. But some hearings may be held in a small room or the judge's office, called the judge's chambers. In general, this is what you can expect to see at your hearing.



Magistrate Court	Circuit Court
<ul style="list-style-type: none">• Magistrate Judge or Clerk• May be less formal setting• Court reporter and/or taped recording of proceeding• Clerk of Court, who keeps track of official court file	<ul style="list-style-type: none">• Judge in robe on bench• More formal• Court reporter and/or taped recording of proceeding• Clerk of Court, who keeps track of official court file

What will happen at the hearing?

That will also depend on the kind of court and the judge. The chart below describes what you can usually expect to happen in each of these kinds of courtrooms.

Magistrate Court: The judge will probably start off by asking you to tell the court what your case is about. It will also be up to you to question your witnesses and present your evidence. The judge will probably ask questions and each side has the right to question the other's witnesses.

Circuit Court: There are strict rules for presenting evidence and questioning witnesses in Circuit Court. You will be expected to know what those rules are and follow them. The other side may be represented by a lawyer. In cases tried without a jury, the judge decides the case. In cases tried before a jury, the judge rules on what evidence may be considered by jurors in reaching their verdict. The judge also instructs the jury on points of law pertaining to the case.

When will the judge decide my case?

The judge may make a decision at the hearing. But often judges will take additional time to consider the evidence and the law before deciding.

7 Tips

when representing yourself in court

- 1. Make a good impression.** If you dress nicely, it tells the judge that you respect the courtroom and care about your case.
- 2. Be respectful.** Be respectful to everyone in court, including the other side – and don't argue with the judge. Try to stay calm.
- 3. Know what to ask.** You can ask court officials for information about the process and what type of information to put on the forms. But remember, court employees cannot tell you what to write on the forms or what to say at the hearing.
- 4. Arrive early.** Arrive early. Most judges like to start on time. But some cases take longer than expected, so be prepared to wait.
- 5. Tell your story.** Tell the judge in a few brief sentences what your case is about and how you plan to prove the facts of your case. Lawyers call this an **opening statement**.
- 6. Come prepared.** Bring the original document and at least **two copies** of any evidence you plan to use. Write out the questions you plan to ask and go over them with your witnesses before the hearing.
- 7. Use a lawyer if you need help.** Most important of all, you can use a lawyer if you need help. You may start this case on your own, but later realize that you need the help of an attorney.

MAKE AN INFORMED CHOICE



The South Dakota Unified Judicial System hopes that this guide has given you a better idea of how the court system works. If you ever decide to go to court, you'll know the basic steps. You can decide whether to hire a lawyer or you can do it on your own. You also understand the risks you are taking if you go to court without a lawyer. Some cases work fine with a "do-it-yourself" approach. Some don't. Keep in mind that some cases are better left to a trained professional – if you can possibly afford it. Just be smart. Decide what is best for you.

Legal Terms

Affidavit of Indigency – a sworn statement used to determine if someone meets the income guidelines so that they are not required to pay court fees

Agreement – an oral or written promise to do something

Answer – The defendant’s written response to allegations in the case

Certificate of Service – Form filed with the Clerk’s office stating that the opposing party in a lawsuit received the papers filed in the case

Circuit Court – Original jurisdiction in most actions, appellate jurisdiction over Magistrate Court decisions, except small claims decisions. South Dakota’s 66 counties are divided into 7 circuits

Civil Case – an action brought by a person, company, or other entity to protect some right or to help recover money or property from another person or company

Complaint – (civil) written statements by the plaintiff setting forth the claims against the defendant

Counterclaim – a claim filed by the Defendant or Respondent in a legal action

Criminal Case - a criminal lawsuit filed by the State of South Dakota against a defendant for violation of a criminal law

Default – failure to act, appear or perform an act or obligation that is legally required

Default Judgment – when a party who has been sued fails to answer, either the Clerk or the court may enter a judgment by default against that party

Defendant – the person against whom a civil lawsuit is brought. In divorce cases, the person against whom the divorce is being filed

Discovery – a pretrial proceeding where a party to an action may be informed of the facts known by other parties or witnesses

Divorce Packet - a series of forms and instructions developed by the South Dakota Unified Judicial System to assist persons filing for divorce

Evidence – any presented proof, which may be established by witnesses, testimony, records, documents, etc.

Interrogatory – a written question or set of questions submitted (with the court’s permission) by one party to a civil suit to the opposing party on any matter relevant to the case

Lawyer – a person licensed and authorized to practice law, conduct lawsuits, or give legal advice

Magistrate Court – may hear small claims and uncontested civil cases and minor misdemeanor criminal cases

Mediation – a method of solving problems without going to court

Notice of Hearing – an official notice telling the parties when a hearing is scheduled

Opening Statement – summary of the case and the evidence that will be presented given at the beginning of the trial

Petitioner – in a civil case, the person or other entity who files a claim against another person; may be called Plaintiff depending on type of action (see Plaintiff)

Plaintiff – in a civil case, the person or other entity who files a claim against another person. In divorces, this is the person who files or starts the divorce

Respondent – the person against whom a civil lawsuit is being brought; may be called Defendant depending on type of action (see Defendant)

Restitution – a payment made by a defendant to a victim for monetary losses suffered by the victim as a result of the defendant’s conduct

SDCL - South Dakota Codified Laws - these are the laws of South Dakota. Copies can be found in public libraries or on the web at <http://legis.state.sd.us/statutes/index.aspx>

Service of Process – legal methods of delivering the papers to the other side in a lawsuit and proving to the court (by filing an affidavit of service or a certificate of service) that they were received

Settlement – an oral or written promise to resolve a problem, usually entered into before going to court

Subpoena – a written legal notice requiring a person to appear in court and give testimony or produce documentary evidence

Summons – a writ notifying the person named that an action has been filed against the person

Testimony – a solemn statement made under oath

Venue – The specific county, city or geographical area in which a court has jurisdiction

South Dakota Supreme Court – South Dakota’s highest court where five Supreme Court Justices hear appeals of circuit court decisions and interpret the laws and constitutions of South Dakota and the United States

RESOURCES AVAILABLE

For Mediation Services:

A list of court-approved mediators is maintained on the UJS website at <http://uj.s.sd.gov>.

For Parenting Coordinator Services:

A list of approved parenting coordinators is maintained on the UJS website at <http://uj.s.sd.gov>.

For Assistance with UJS-Approved Legal Forms found at <http://uj.s.sd.gov>:

Contact the USD School of Law Legal Form Help Line Toll Free at 1-855-784-0004.

Legal Aid Services of South Dakota:

Residents who meet financial eligibility guidelines can get free legal aid services in SD. To determine if you are eligible, contact one of the following:

Dakota Plains Legal Services, Inc.

160 Second St.
P.O. Box 727
Mission, SD 57555

Phone: (605) 856-4444
Toll Free: 1-800-658-2297

Dakota Plains Legal Services

528 Kansas City St.
P.O. Box 1500
Rapid City, SD 57708

Phone: (605) 342-7171

East River Legal Services

335 North Main Ave., Suite 300
Sioux Falls, SD 57102

Phone: (605) 336-9230
Toll Free: 1-800-952-3015

Access to Justice, Inc.

This is a statewide program designed to supplement the legal aid programs in SD. Residents must be income eligible to qualify for legal services at a reduced rate or at no cost to you. Clients are responsible for paying case costs. Access To Justice Inc. also offers clinics periodically to assist self-represented litigants in filling out UJS approved legal forms.

Access to Justice Inc
State Bar of South Dakota
222 E capitol Ave #3
Pierre, SD 57501

Phone: 1-855-287-3510
Or Visit: www.statebarofsouthdakota.com/page/access-to-justice

RESOURCES AVAILABLE

(Continued)

For Assistance with Complaints Regarding Businesses:

Office of the Attorney General
Division of Consumer Protection
1302 E. Hwy 14, Suite 3
Pierre, SD 57501

Phone: (605) 773-4400
Toll Free: 1-800-300-1986 (in state only)
Or Visit: <http://atg.sd.gov/Consumers.aspx>

For Assistance in Finding a Lawyer:

The State Bar of South Dakota offers a listing of lawyers and firms in South Dakota and can be found at the following: <http://www.sdbar.org/new/public/resources.html>. These are private practitioners who will charge for their services.

State Bar of South Dakota
Toll Free: 1-800-952-2333

For further information regarding the court system in South Dakota or to obtain legal forms, please visit the South Dakota Unified Judicial System's website at <http://uj.s.sd.gov>.



The South Dakota
Unified Judicial System
(605) 773-3474
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CHECKLIST

The following is a checklist to ensure that you have all of the forms completed, help you prepare for court, and assure you that the process is complete:

Step One:

_____ Civil Case Filing Statement
Date filed _____

_____ Completed Verified Petition for Name Change of Minor Child
Date filed _____
Date sent or handed a copy to other parent _____
Was this a minimum of 10 days before the hearing? _____

_____ Date of hearing _____

_____ Completed Notice of Hearing by Publication **(if applicable)** _____
Date filed _____
Dates published (4x) _____
Date sent or handed file-stamped copy to other parent _____
Was this a minimum of 10 days before the hearing? _____

- **At the end of step one, you should have filed the Verified Petition and the Case Filing Statement with the Clerk of Courts.**

Step Two:

_____ Served a copy of the Verified Petition and a file-stamped copy of Notice of Hearing on the other parent
By hand delivery? _____ Mail delivery? _____ Sheriff? _____
If hand delivery, date Admission of Service filed _____
If mail delivery,
Date Notice and Admission filed _____
Date Affidavit of Mailing filed _____
Green card showing receipt of certified mail delivery filed _____
If Sheriff, date Sheriff's Office return filed _____

_____ Consent form completed by the other parent
Date filed _____

_____ Consent form completed by the minor child **(if applicable)**
Date filed _____

_____ Affidavit of Publication from _____ (newspaper) **(if applicable)**
Date received _____
Date filed _____

_____ Take a copy of the minor child's birth certificate to Clerk of Courts with you

- **At the end of step two, you should have served the other parent the Verified Petition and Consent form, and filed the Admission of Service, the other parent's Consent form, a copy of the child's birth certificate, the child's Consent form, and the Order for Name Change of a Minor Child with the Clerk of Courts.**

Step Three:

_____ Order for Name Change of a Minor Child
Complete two copies to take to court date with you _____
Date signed _____
Date filed _____
Get a minimum of 3 certified copies from the clerk of court _____

- **At the end of step three, you should have prepared your Order for Name Change of a Minor Child and had your hearing.**

Step Four:

_____ Notice of Entry
Date filed _____

_____ Affidavit of Service – for service of Order for Name Change of a Minor Child and Notice of Entry to the other parent
Date served certified copy of Order copy of Notice of Entry to other parent _____
Date filed _____

- **At the end of step four, you should have obtained 3 certified copies of the Order for Name Change of a Minor Child, served the other parent the Notice of Entry of the Order and a certified copy of the order, and filed an Affidavit of Service with the Clerk of Courts.**

INSTRUCTIONS

Uncontested Name Change of a Minor Child

The procedure for legally changing the name of a minor child is complicated. Some laws and rules regarding this process can be found at [SDCL ch. 21-37](#), [SDCL 34-25-51](#), and [ARSD 44:09:05:02](#). These authorities have also been interpreted by the South Dakota Supreme Court in various cases. It is up to you to decide whether and how you use a lawyer in your case. The law allows you to do the case without a lawyer, which is also known as proceeding *pro se* (pronounced “pro-say”).

THE USE OF THESE FORMS IS LIMITED TO UNCONTESTED CASES:

Cases where the minor child’s other parent consents to the change of the minor child’s name and signs the consent form. The other parent will ideally appear at the hearing as well, although it is not required.

YOU CANNOT USE THESE FORMS IF:

You do not know if the minor child’s other parent will consent to the change of the minor child’s name; or you know the minor child’s other parent will contest the change of the minor child’s name.

If the other parent appears at the hearing and contests the name change, the name change will be denied.

There are no forms offered for a contested name change of the minor child action. That is a matter in which you are strongly encouraged to consult an attorney.

REQUESTING A NAME CHANGE IN SOUTH DAKOTA

- In South Dakota, a “minor” is a child who has not yet turned age 18.
- You may change the minor child’s first, middle and/or last name.
- Unless otherwise provided below, if you have more than one minor child in your custody, they have the same biological parents and you want to change their names at the same time, you may do so by including all of the children on the same verified petition. You need open only one file.
- If the parents of the minor children are NOT the same and/or you are requesting different name changes for more than one child, you will need to file a separate verified petition for each child. This will involve paying a separate filing fee for each child. They will be considered separate actions.
- If, for example, you are a single mother who has more than one minor child in your custody whose names you want to change, but there is more than one father involved,

you will need to file a separate verified petition for each child. This will involve paying a separate filing fee for each child. They will be considered separate actions.

- Once you file the verified petition, the case will be assigned a case number. This number must be on all documents filed with the court. You should be aware that there may be additional costs associated with providing notice that you intend to change a minor child's name.

If you file a Verified Petition for Name Change of a Minor Child without the assistance of an attorney **you** must complete all the forms necessary. The Clerk of Court's office cannot assist you in preparing any legal documents, or advise you of the process. However, you may contact the **Legal Form Help Line at 1-855-784-0004 or e-mail the UJS for help with forms at this link - <https://ujslawhelp.sd.gov/emailstaff.aspx>**--if you have questions regarding completion of the forms. **If you have any legal questions, please contact an attorney of your choosing.**

COMPLETION OF FORMS

READ ALL INSTRUCTIONS PRIOR TO FILLING OUT ANY OF THE FORMS.

In order to legally change a name, you must file a **Verified Petition for Name Change of a Minor Child form (UJS-030)** with the Clerk of Court office in the county where you reside, provided you and the minor child have resided there for more than six months immediately before the filing of the verified petition. You will also be required to pay the civil case filing fee. You will be referred to as the petitioner in this name change proceeding.

You must also submit a completed **Civil Case Filing Statement form (UJS-232)** to the Clerk of Court's office at the time of filing your verified petition. The case name should appear in the "*In the Matter of*" caption. For example, if John Smith is requesting to change his daughter's legal name from Emma Doe to Emma Smith, he should print in the "*In the Matter of*" caption: *John Smith's Petition Regarding a Name Change of Emma Doe, Minor Child, to Emma Smith*. Since you are initiating a civil action, you must check the Petitioner participant role box under the Civil case type. Please provide your personal information as requested on the form. If you have an attorney representing you in the proceeding, provide their information as well.

Captions: All of the forms for this proceeding have a caption at the top that, except the name of the form, appear as follows:

STATE OF SOUTH DAKOTA)		
)		IN CIRCUIT COURT
COUNTY OF _____)	_____	JUDICIAL CIRCUIT

IN THE MATTER OF THE PETITION RE: _____ (Birth Certificate Name), A Minor Child FOR A CHANGE OF NAME TO: _____ (Proposed Name)	FILE NO: _____ <p style="text-align: center;">VERIFIED PETITION FOR NAME CHANGE OF A MINOR CHILD (UNCONTESTED)</p>
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Each form will be completed identically using the following instructions:

- On the top left, enter the name of the county where you are filing the Verified Petition.
- On the top right, enter the judicial circuit (First through Seventh) of the county. This information can be obtained from the Clerk of Court's office or on the UJS website.
- Enter the name (first, middle, and last name) of the minor child as it appears on their birth certificate.
- Enter the proposed first, middle, and last name of the minor child.
- The Clerk of Court's office will give you a case number when you file the Verified Petition. You must include the case number on all papers you file, which is documented above the name of the form (File No. _____).

FORM UJS-030: VERIFIED PETITION FOR NAME CHANGE OF A MINOR CHILD

- Complete the caption as set forth in the Instructions beginning on page 3.
- Use the numbers below for completing the numbered paragraphs with the same numbers in the verified petition.

- Paragraph 1. As the Petitioner, enter your first, middle, and last name.
- Paragraph 2. Enter the minor child's name (first, middle, and last name) as it appears on their birth certificate.
- Paragraph 3. Enter the minor child's date of birth (month, day, and year).
- Paragraph 4. Circle the child's gender at birth.
- Paragraph 5. Enter the city, county, and state where the minor child was born. Paragraph 6. Enter your relationship to the minor child (mother, father, or guardian).
- Paragraph 7. Enter your physical address, including city and county.
- Paragraph 8. Enter the name of the county where you reside, and the date you began residing in that county.
- Paragraph 9. Enter the minor child's physical address, including city and county, and how long the minor child has resided in that county.
- Paragraph 10. Enter the first, middle, and last name of any other parent or guardian as well as the other parent or guardian's last known physical address. If the other parent pays child support, enter the address last provided to the Clerk of Court or Office of Child Support Enforcement, unless you are aware of a more current address.
- Paragraph 11. (a) Indicate where the child has lived during the past five years, who the minor child has lived with, and the dates the child lived in each location. If the child has not lived with anyone but the parents or guardian, please write out in the lines provided: "With the parents only" or "With the guardian only" and then simply provide the county/state and date information for the past five years.
(b) Indicate whether there have been previous court hearings concerning the custody of the child. If so, indicate in which county, state and year(s) those proceedings happened, and provide a copy of the most current custody order).
(c) Indicate whether anyone other than the parents has ever had legal custody (court-ordered) of the child.
- Paragraph 12. Enter the first, middle, and last name of the minor child's mother's maiden name as it appears on the minor child's birth certificate.
- Paragraph 13. Enter the first, middle, and last name of the minor child's father as it appears on the minor child's birth certificate. If the father's name is not listed on the birth certificate, enter "N/A" in the blank.
- Paragraph 14. Enter the mother's date of birth as well as her place of birth, including city, county, and state.
- Paragraph 15. Enter the father's date of birth as well as his place of birth, including city, county, and state.
- Paragraph 16. Enter the child's name (first, middle, and last) as it appears on their birth certificate in the first blank, the proposed name for the child (first, middle, and

last) in the second blank, and the reasons you desire the name change in the third blank.

If you are seeking to have the child's name changed without publishing notice or having a hearing in open court, and the child is a victim of human trafficking, you may check the box.

Paragraph 17. Nothing is required, just verification that you are not submitting this Petition for fraudulent or illegal purposes.

Paragraph 18. This entry is optional. If you seek amendment of the child's birth certificate, in the event the child's legal name change is granted, you must check the box here and provide a reason for why you want the child's birth certificate amended in addition to the child's name changed. If you do not want the child's birth certificate amended, leave this portion blank.

In the final paragraph, enter the minor child's name (first, middle, and last), as it appears on their birth certificate, followed by the minor child's proposed first, middle, and last name.

- Date the verified petition with the day, month, and year.
- On the first line, sign your first, middle, and last names.
- On the remaining lines, enter your personal information.

Do not fill out the verification (page 4) until you are in the presence of a Notary Public or Clerk of Court. Make sure to bring identification to show the Notary Public or Clerk of Court. A Notary Public can usually be found at the bank and sometimes at the courthouse.

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be prosecuted for not telling the truth.

FORM UJS-031: NOTICE OF HEARING FOR CHANGE OF NAME OF MINOR CHILD

Pursuant to SDCL 21-37-5.1, if the following three items are true, you can skip this step and begin working on the section entitled "Service to the Other Parent":

1. The minor child has been a resident of the county where you are filing your petition for at least six months.
2. The minor child's parents or legal guardians give written consent to the name change.
3. If the minor child is twelve years or older, the minor child consents in writing to the name change.

If even one of the three items listed above is not true, than pursuant to SDCL 21-37-4, you must publish the **Notice of Hearing on Change of Name of a Minor Child**. The notice must state the time and place and object thereof with the current and proposed names of the minor child. It must be published one time each week for four successive weeks in any legal newspaper of the county

of petitioner's residence. **If you are unsure whether a newspaper is considered to be a legal newspaper for your county, contact the county Auditor's Office.**

You need to contact the clerk of court or court administrator's office and request that a hearing be scheduled approximately six weeks in the future. When scheduling, make sure you have a copy of your filed verified petition to refer to. Additionally, make sure you allow enough time for publication and the receipt of the **Affidavit of Publication** prior to the hearing. In order to do this, you should know the day of the week the newspaper has to receive the **Notice of Hearing on Change of Name of a Minor Child** to begin publication in the next circulation and in what form. It is suggested you ask about the expense of publication as well so you are prepared for that expense in advance.

If another hearing has to be scheduled because enough time was not allowed for publication, the Court may order that another **Notice of Hearing on Change of Name of a Minor Child** be published again. This would be an additional expense for you. You will not be refunded any fees or expenses.

- Complete the caption as set forth in the Instructions, beginning on page 3.
- Next, in the first blank, enter your name (first, middle, and last), as the petitioner.
- In the second blank, enter the name (first, middle, and last) of the minor child, as it appears on the birth certificate.
- In the third blank, enter the proposed first, middle, and last name of the minor child.
- In the second sentence, enter the hearing date (day, month, year) and the time. Circle am or pm. Enter the name of the Judge who will be presiding over the hearing. Enter the name of the courthouse, the city and the county where the courthouse is located.

A Judge or the Clerk of Court must date and sign the notice of hearing, not the petitioner. The Clerk of Court must put a seal on the document.

PUBLICATION

The original, signed **Notice of Hearing for Change of Name of a Minor Child** must be filed with the Clerk of Court. Keep a photocopy for your records. Once the forms have been filed, the clerk will give you a copy of the filed **Notice of Hearing for Change of Name of a Minor Child**. Keep a photocopy for your records.

YOU must publish the filed **Notice of Hearing for Change of Name of a Minor Child** once each week for four successive weeks in any legal newspaper of the county of the petitioner's residence. It cannot be just any newspaper. If you are unsure whether a newspaper is considered to be a legal newspaper for your court, contact the county Auditor's Office.

Upon completion of the publication, the newspaper will provide you with an **Affidavit of Publication**. You must file the original signed affidavit with the Clerk of Court on or before the day of the scheduled hearing.

SERVICE TO THE OTHER PARENT

A copy of the **Verified Petition for Name Change of a Minor Child** must also be sent to the other parent by certified mail a minimum of 10 days prior to the hearing. If you had to do publication, the other parent must also receive a copy of the file-stamped notice of hearing. If the other parent pays child support, the documents must be sent to the other parent at the address last provided to the Clerk of Court or the Office of Child Support Enforcement, unless you are aware of a more current address.

Service on the other parent may be accomplished in one of three ways, as provided below. You may choose which of the three methods of service you prefer:

1. HAND-DELIVER with form UJS-32B: NOTICE OF ADMISSION OF SERVICE OF VERIFIED COMPLAINT (Uncontested Name Change of a Minor).

In an uncontested name change of a minor proceeding, the other parent will often agree to accept service, avoiding the need to have a Sheriff or private process server serve them. As the petitioner, you may choose to hand-deliver copies of the **Verified Petition for Name Change of a Minor Child** to the other parent. That other parent then must sign the **Admission of Service of Verified Complaint (Uncontested Name Change of a Minor) (UJS-32B)**. The other parent neither admits nor denies the contents of the documents; he/she merely admits that they received the documents on the specified date.

This form must be filled out in black ink. Complete the caption (the top third of the form), where you will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don't know), the minor child's legal name (as listed on the birth certificate), and the name you wish the minor child to have. Ask your Clerk of Court for the case filing number (that goes after "CIV." in the blank).

The other parent must fill in his/her full legal name in the body of the text of the form, as well as the city, county, and state of the place where said parent received documents by hand delivery. The other parent must also fill in the date with the month, day, and year the documents were received.

The other parent must sign (as witnessed by a notary) and print his/her name, mailing address, and telephone number in the spaces provided at the bottom of the form. He/she should then make a copy of the completed **Admission of Service** for his/her own records, and then return the original document to you. You should then make a copy for your own records, and then file the original **Admission of Service of Verified Complaint (Uncontested Name Change of a Minor)** with the Clerk of Court.

2. BY MAIL with form UJS-32A: NOTICE OF ADMISSION OF SERVICE OF VERIFIED PETITION (Uncontested Name Change of a Minor).

This form must be filled out in black ink. Complete the caption (the top third of pages 1 and 4 in the Form packet). You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don't know), the minor child's legal name (from the birth certificate), and the name you wish the minor child to have. Ask your Clerk of Court for the case filing number (that goes after "CIV." in the blank).

As the petitioning parent, you need to add the other parent's name to the first and second pages of the **Notice and Admission of Service of Verified Petition (Uncontested Name Change of a Minor)**. You must add the date of mailing, the address of the other parent where you mailed the **Notice and Admission**, and then sign and date the form, including your address and telephone number.

Also, on the **Affidavit of Mailing** (page 4 of the Form), fill in your name, the date you mailed the **Notice and Admission** along with the other documents listed (to perfect service), the full legal name of the other parent, and said parent's mailing address where the copies of the documents were sent. You must fill in the date and the location from which the documents were mailed. You need to sign the **Affidavit of Mailing** in front of a notary. Also include a self-addressed, stamped envelope to allow the other parent's quick return of the signed **Notice and Admission**. Combine these documents with two copies of the **Notice and Admission**, and take them to your post office.

When you go to the post office to mail the documents, ask the post office to send it by certified mail to the other parent. You do not need to send the documents by registered mail, nor do you need to insure it. Also, you do not need to have the other parent sign for the documents when it is delivered; it is ok if any adult signs for the documents when they are delivered. Keep the green card that the post office sends back to you in case the court wants to see it.

Upon receipt of the **Notice and Admission** and enclosed documents, the other parent must fill in their name on the **Admission of Service** (page 3 of the Form), as well as the town, county, and state of the place where he/she received the documents. That parent must then enter in the **Admission of Service** the date the copies of the **Verified Petition** were received and sign and date the **Admission**, including his/her mailing address and telephone number.

The other parent should retain a copy of the completed **Notice and Admission** for his/her own records and return the original to you- in the self-addressed stamped envelope- all four pages containing his/her ink-signed **Admission of Service**. Upon receipt, you should also make a copy of the document for your own records and then incorporate the ink-signed **Admission of Service** (page 3) into the original **Notice and Admission**. Finally, file this completed document with all original signatures with the Clerk of Court's office. **Failing to file this document may result in a denial of the proposed name change.**

- 3. If attempts to achieve hand-delivered or mail service FAILED, you may request that the Sheriff's Office or private process server serve the Verified Petition to the other parent. Under this scenario, you deliver one full copy of the Verified Petition for Name Change of a Minor Child to the Sheriff's Office, along with a document containing the other party's**

current physical address, telephone number, place of employment, and any other relevant information. If you had to do publication, you must also include the Notice of Hearing. Typically, the cost of service (the service fee and mileage reimbursement) is pre-paid. After service, the Sheriff or process server has his/her own form that he/she uses to prove service and that form is usually mailed to you. Make sure you make a copy of this form for yourself and file the original with the Clerk of Court's office.

FORM UJS-033: CONSENT

This form is to be completed by the consenting parent.

- Complete the caption as set forth in the Instructions, beginning on page 3.
- In the blank following "County of", enter the name of the county where **Consent** is being signed.
- Enter the consenting parent's full name in the first line in the body of the **Consent**. This paragraph does not have a number.
- Use the numbers below for completing the numbered paragraphs with the same numbers in the verified petition.

Paragraph 1. If the consenting parent is the minor child's mother, check mother. If the consenting parent is the minor child's father, check father.
In the first line, enter the minor child's name (first, middle, and last name) as it appears on their birth certificate.
In the second line, enter the minor child's date of birth.
In the third through fifth lines, enter the city, county, and state where the minor child was born.

Paragraph 2. In the first line, enter the minor child's name (first, middle, and last name), as it appears on their birth certificate.
In the second line, enter the minor child's proposed first, middle, and last name.

Paragraph 3. Enter why you are consenting to the name change.

This form must be signed and dated in the presence of a Notary Public. Make sure to bring identification to show the notary public. A notary public can usually be found at the bank and sometimes at the courthouse.

- Enter the date the consenting parent signs the document, including the day, month, and year.
- On the first line of the signature block, the consenting parent should sign his/her first, middle, and last name in the presence of a Notary Public.
- Enter the personal information of the person who mailed the documents on the remaining lines.

Once the Notary Public completes that section, make a photocopy of the **Consent** for your file. **File the original Consent with the Clerk of Court. Failing to file this document may result in a denial of the proposed name change.**

FORM UJS-037: CHILD’S CONSENT FOR NAME CHANGE OF MINOR CHILD

If you did not have to complete publication per [SDCL 21-37-5.1](#), and the minor child is twelve years of age or older, the minor child will need to complete **Consent of Minor Child**. The form **must** be completed by the minor child. If you had to complete notification and/or the minor child is under twelve years of age, skip to the section entitled “Form UJS-034: Order for Name Change of a Minor Child”.

- Complete the caption as set forth in the Instructions, beginning on page 3.
- On the first line, the minor child should enter their name (first, middle, and last) as it appears on the birth certificate.
- On line 2, the minor child should enter their age.
- On line 3, the minor child should enter their address.
- On line 5, the minor child should indicate what they would like the requested name change (first, middle, and last).
- On the last lines, the minor child should sign and date the form.

Make a photocopy for your file and **file the original Consent of Minor Child with the Clerk of Court. Failing to file this document may result in a denial of the proposed name change.**

FORM UJS-034: ORDER FOR NAME CHANGE OF A MINOR CHILD

Before the hearing date, you must prepare the **Order for Name Change of Minor Child**. If you are changing the name of more than one child, you must prepare an **Order of Name Change of a Minor Child** for each child for whom you are requesting a name change.

- Complete the caption as set forth in the Instructions, beginning on page 3.
- Enter the day, month and year of the hearing.
- Enter your name as having filed the petition and on the next line, the name of the minor child as it appears on the birth certificate.
- Enter the name of the county where you and the child resided at the time of filing the Verified Petition and then enter the name of the county where you and the child resided for a minimum of 6 months before filing the Verified Petition.
- If publication was required, check the first box and enter the name of the newspaper where the notice of hearing was published for 4 consecutive weeks. If you did not have to publish notice because the conditions in [SDCL 21-37-5.1](#) were met, check the second box. If you did not have to publish notice because the conditions in [SDCL 21-37-5.2](#) were met, check the third box.
- Enter the child’s full name (first, middle, and last) as it appears on their birth certificate.
- Enter the child’s date of birth (month/day/year).
- Enter the state, county, and city or town where the child was born.

- Enter the child’s mother’s full maiden name (first, middle, and last name) as it appears on the child’s birth certificate.
- Enter the name of the child’s father (first, middle, and last name) as it appears on the child’s birth certificate. If the child’s father is not listed, enter “N/A”.
- Enter the name of the child (first, middle, and last) as it appears on the birth certificate.
- If you seek an amendment of the child’s birth certificate to reflect a court-approved legal name change, check the box. If not, skip.
- Again, enter the name of the child (first, middle, and last) as it appears on the birth certificate. On the next line, enter the proposed name (first, middle, and last) for the minor child.
- If you or the child is a victim of human trafficking and the child’s name is being changed to protect yourself or the child from the perpetrator, you may check both boxes. If the court so orders, this will restrict public access to the case file for this name change proceeding and for the file surrounding any new birth certificate you might choose to obtain with the child’s new name on it.
- If you seek an amendment of your birth certificate to reflect a court-approved legal name change, check the box. Then provide the full name on the birth certificate in the first blank, and fill in the changed full name you seek in the second.

If the court grants the name change, the Judge will sign and date the Order. You will need to obtain three certified copies of the Order from the Clerk of Court’s office after it has been signed.

FORM UJS-035: NOTICE OF ENTRY OF ORDER FOR NAME CHANGE OF MINOR CHILD

A Notice of Entry of Order for Name Change of a Minor Child is a document that notifies the other parent that the Judge has signed the **Order for Name Change of a Minor Child**. This document must be sent to the other parent.

- Complete the caption as set forth in the Instructions, starting on page 3.
- Fill in the date that the Judge signed the **Order for Name Change of a Minor Child** (day, month and year).
- Fill in the name of the Judge who signed the **Order for Name Change of a Minor Child**.
- Fill in the city where the courthouse is located where all the documents are filed.
- Enter the date you are signing the **Notice of Entry** (day, month and year).
- On the first line, sign your first, middle and last names.
- Enter your personal information on the remaining lines.

Make two copies of the **Notice of Entry**, one for you and one to mail to the other parent. **The original must be filed with the Clerk of Court.**

Mail a copy of the Notice of Entry and a certified copy of the Order for Name Change of a Minor Child (obtained from the Clerk of Court) to the other parent.

FORM UJS-036: Affidavit of Service

- Complete the caption as set forth in the Instructions, starting on page 3.
- Fill in the first, middle, and last name of the person who mailed the **Notice of Entry** and certified copy of the **Order for Name Change of a Minor Child** to the other parent.
- Fill in the day, month, and year that the documents were mailed.
- List the documents mailed (for example, “a copy of the **Notice of Entry of Order for Name Change of a Minor Child** and a certified copy of the **Order for Name Change of a Minor Child.**”)
- Fill in the first, middle, and last name of the parent to whom the documents were mailed.
- Fill in the mailing address of the other parent where you mailed the documents.
- Fill in the name of the city, state and zip code of the other parent where you mailed the documents.
- Fill in the name of the city and state from where you mailed the documents.
- Date the document, with the date, month, and year. This is the date you sign the document.
- The person who mailed the documents must sign the **Affidavit of Service**, on the first line, **in the presence of a Notary Public or Clerk of Court**. Make sure to bring identification to show the Notary Public or Clerk of Court. A notary public can usually be found at the bank and sometimes at the courthouse.
- Enter the personal information of the person who mailed the documents on the remaining lines.

The Notary Public or Clerk of Court needs to complete the affirmation section. The Notary Public or Clerk of Court needs to affix his/her seal.

Make a photocopy of the **Affidavit of Service** for your file. **File the original Notice of Entry of Order for Name Change of a Minor Child and the Affidavit of Service with the Clerk of Court. Failing to file these documents may extend the time an appeal may be filed.**

OBTAINING A NEW BIRTH CERTIFICATE

If you require the birth certificate of the minor child to be changed, you will need to submit to the Vital Records Office with both a certified copy of the “Order for Name Change of a Minor Child” and the applicable filing fee for amending a birth certificate to the following address:

Office of Vital Records
South Dakota Department of Health
211 W Capitol Avenue
Pierre, SD 57501

In South Dakota, the Vital Records filing fee to amend a birth certificate is currently \$8.00. This fee does not include the amount necessary to obtain an informational copy or a certified copy. You can obtain those at any Register of Deeds Office in South Dakota once the amendment is complete.

If the child was born in a state other than South Dakota, you need to check with the Vital Records Office of that state to determine the applicable fees associated with amending the birth certificate and obtaining a certified copy of the new birth record.

If you have any questions regarding the name change forms, you may contact the Legal Form Help Line at 1-855-784-0004. If you have any questions of a legal nature, you are strongly urged to contact an attorney of your choosing.

HELPFUL HINTS FOR THE HEARING

1. As the Petitioner, you must attend the hearing and testify under oath about the issues raised in the Verified Petition for Name Change of a Minor Child. Make sure you are prepared.
2. Bring a copy of the minor child's birth certificate with you to Court. The Judge may want to review it to ensure that your pleadings are consistent with the birth certificate.
3. It is ideal if the consenting parent appears at the hearing as well. The consenting parent should be prepared to testify that they do consent to the proposed name change and why.
4. Dress appropriately for court.
5. You should take a file stamped copy of the Affidavit of Publication to the hearing in case the Judge wants you to have it marked as an Exhibit at the hearing. If you did not have to provide notice of hearing by publication, please disregard this step.
6. Before the hearing date, you should also check with court personnel to see if the minor child will be allowed in the courtroom during the hearing and whether the Judge will want the minor child present during the hearing. Do not just assume that the Judge will allow the minor child to be present.
7. You should bring two copies of the Order for Name Change of a Minor Child to the hearing. The Judge may keep the original signed Order for the court file and will give you a copy for your records.
8. Refer to *A Guide for Representing Yourself in South Dakota Courts* or the UJS website for additional helpful hints before your hearing. The Guide can be found at any Clerk of Court office or on the UJS website in many spots.
9. If the court grants your request for the minor child's name change and has signed the Order for Name Change of a Minor Child, you should get 3 certified copies of the Order

from the Clerk of Courts office. One copy goes to Vital Records, one copy goes to the other parent, and one is for your records. There are still a few things to do after the hearing, ie. completing the Notice of Entry, sending documents to the other parent and completing the Affidavit of Service. Please refer to the instructions above.

CASE FILING STATEMENT – Information Only; Not Retained in Case Records

Provide the Case File No. for the record you are filing into or the Case Type if initiating a new action: _____

*A list of case types and party roles can be found here: <https://ujc.sd.gov/Attorneys/FormsDocumentation.aspx>

Social Security Numbers (not Driver’s License Numbers) must be provided for divorce, child support, & paternity cases, 42 USC 666(a)(13)(B). All filers are **required** to provide the SSN **or** DL# for each of **their** participants regardless of the case type. Business entities must provide the EIN number in lieu of SSN or DL#.

INFORMATION FOR PLAINTIFF/PETITIONER/APPLICANT:

<hr/>	<hr/>	<hr/>	<hr/>
Last/Business Name	First Name	Middle	Suffix
<hr/>	<hr/>	<hr/>	<hr/>
Physical Address <input type="checkbox"/> Check if Same as Mailing	City	State	Zip
<hr/>	<hr/>	<hr/>	<hr/>
Mailing Address	City	State	Zip
<hr/>	<hr/>	<hr/>	<hr/>
Home	Work	Cell	
<hr/>	<hr/>	<hr/>	<hr/>
Social Security No.	Date of Birth	Driver’s License No.	State Employer ID (Business)
<hr/>	<hr/>	<hr/>	<hr/>
Attorney:			
<hr/>	<hr/>	<hr/>	
Last Name	First Name	State Bar ID No.	
<hr/>	<hr/>	<hr/>	
Mailing Address	City	State	Zip
<hr/>	<hr/>	<hr/>	<hr/>
Phone			

INFORMATION FOR DEFENDANT/RESPONDENT/MINOR/DECEDENT/PERSON IN NEED OF PROTECTION:

<hr/>	<hr/>	<hr/>	<hr/>
Last/Business Name	First Name	Middle	Suffix
<hr/>	<hr/>	<hr/>	<hr/>
Physical Address <input type="checkbox"/> Check if Same as Mailing	City	State	Zip
<hr/>	<hr/>	<hr/>	<hr/>
Mailing Address	City	State	Zip
<hr/>	<hr/>	<hr/>	<hr/>
Home	Work	Cell	
<hr/>	<hr/>	<hr/>	<hr/>
Social Security No.	Date of Birth	Date of Death	Driver’s License No. State Employer ID (Business)
<hr/>	<hr/>	<hr/>	<hr/>
Attorney:			
<hr/>	<hr/>	<hr/>	
Last Name	First Name	State Bar ID No.	
<hr/>	<hr/>	<hr/>	
Mailing Address	City	State	Zip
<hr/>	<hr/>	<hr/>	<hr/>
Phone			

STATE OF SOUTH DAKOTA)
)
COUNTY OF _____)

IN CIRCUIT COURT
_____) JUDICIAL CIRCUIT

<p>IN THE MATTER OF THE PETITION RE: _____ (Birth Certificate Name), A Minor Child FOR A CHANGE OF NAME TO: _____ (Proposed Name)</p>	<p>FILE NO: _____</p> <p>VERIFIED PETITION FOR NAME CHANGE OF A MINOR CHILD (UNCONTESTED)</p>
--	--

COMES NOW Petitioner and does hereby state, under oath, as follows:

1. My current full name is: _____.
2. The minor child's name, as it appears on their birth certificate, is: _____.
3. The minor child's date of birth is (mm/dd/yyyy) _____.
4. The child's gender at birth (*circle one*): male/female.
5. The minor child was born in _____, _____ County, State of _____.
6. My relationship to the minor child named above is _____.
7. I currently reside at _____ which is located in _____, _____ County within the State of South Dakota.
8. I have been a resident of _____ County since _____.
9. The minor child named above currently resides at _____ which is located in _____, _____ County within the State of South Dakota and has resided there since _____.
10. The following are the full name(s) and last known mailing address(es) of the minor child's:

(leave blank if already answered, unknown, or not applicable)

Mother - name: _____, address: _____;
Father - name: _____, address: _____;
Guardian - name: _____, address: _____;

11. (a) During the past five years the child has lived with the following individuals, during the dates indicated and in the designated areas:

Caretaker's Name	Dates	County/State
_____	_____	_____
_____	_____	_____
_____	_____	_____

(b) There has/has not (*circle one*) been prior court proceedings regarding the custody of the child. If so, that action took place in _____ County, State of _____, in the year _____.

(If there has, please attach a copy of the most current order to this petition.)

There is/is not (*circle one*) a current pending court proceeding regarding the custody or visitation of the child. If so, that action is in _____ County, _____ State and was commenced _____.

(c) Other than the parents of the minor child, no one has ever had legal custody of this child except _____ (*if none, so state*).

12. The full maiden name of the child's mother, as it appears on the child's birth certificate, is _____.

13. The full name of the child's father, as it appears on the child's birth certificate, is (*if the father's name is not listed on the birth certificate, enter "N/A"*) _____.

14. The mother's date of birth is (*mm/dd/yyyy*) _____ and she was born in _____, _____ County, State of _____.

15. The father's date of birth is (*mm/dd/yyyy*) _____ and he was born in _____, _____ County, State of _____.

16. I am requesting that the child's name be changed from _____ to _____ on the child's birth certificate because: _____

_____ (*if applicable, please check the box*):

thereby making the child a victim of human trafficking with a particularized need for a change of name to protect them from a person who victimized them, pursuant to SDCL 21-37-5.2.

17. This Petition is made in good faith. I do not intend to defraud anyone, and it is not done for the purpose of hiding my child's identity from any person, creditor or governmental agency of any kind or as to avoid discovery by such person, creditor or governmental agency.

18. (check the box and answer if applicable) If the minor child's legal name change is granted, I also seek amendment of the child's birth certificate for the following reason(s): _____

_____.

WHEREFORE, I pray that the court set this matter for hearing if required, and that the court enter an order changing the name of the minor child from _____ to _____.

DATED this _____ day of _____, 20_____.

Petitioner's Signature

Petitioner's Printed Name

Petitioner's Mailing Address

City, State, & ZIP Code

Petitioner's Phone Number

STATE OF SOUTH DAKOTA)
)
)ss:
COUNTY OF _____)
)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

In the Matter of the Petition regarding)
)
_____)
(Birth Certificate Name), A Minor Child.)
)
For a Change of Name to)
_____)
(Proposed Name))
)

CIV: _____

**NOTICE OF HEARING
FOR NAME CHANGE
OF A MINOR CHILD
(UNCONTESTED)**

NOTICE IS HEREBY GIVEN that a Verified Petition for Name Change of a Minor Child has been filed by _____ the object and prayer of which is to change their minor child's name from _____ to _____.

On the _____ day of _____, 20_____, at the hour of ____:____ am/pm said Verified Petition will be heard by this Court before the Honorable _____ Presiding, at the Court Room in the _____ County Courthouse, City of _____, _____ County, South Dakota, or as soon thereafter as is convenient for the court. Any interested party may come and appear at that time and place and show reasons, if any, why said name should not be changed as requested.

Dated this ____ day of _____, 20__ at _____, South Dakota.

Circuit Court Judge or Clerk of Court

ATTEST:

Clerk of Court
By:_____
Deputy

STATE OF SOUTH DAKOTA)
) :SS
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

In the Matter of the Petition regarding

(Birth Certificate Name), A Minor Child.
For a Change of Name to

(Proposed Name).

CIV. _____
**NOTICE & ADMISSION
OF SERVICE OF VERIFIED PETITION
FOR NAME CHANGE OF A MINOR CHILD
(UNCONTESTED) & NOTICE OF HEARING**
(BY MAIL)

TO _____, THE NON-PETITIONING PARENT:

The enclosed single copies of a Verified Petition for Name Change of a Minor Child (Uncontested) and a Notice of Hearing for Name Change of a Minor Child (Uncontested) are sent to you pursuant to SDCL § 15-6-4(i), as well as two (2) copies of this Notice & Admission of Service of Verified Petition for Name Change of a Minor Child (Uncontested) & Notice of Hearing, and a return envelope, postage prepaid, addressed to the Plaintiff.

You must complete the Admission of Service portion of this form and return the original to the sender within 20 days. In completing the form, you must fill in the town and state where you received the papers and sign and date the document. Failure to sign and return the original Admission of Service within 20 days after the date of mailing without good cause will result in the Court ordering the person so served to pay the costs of personal service. SDCL 15-6-4(i).

After you complete and return this form, you may then answer (respond to) the verified petition within 30 more days. If you choose not to answer in time, an Order for Name Change of a Minor Child pursuant to the verified petition may be entered by the court.

I hereby certify that this Notice & Admission of Service was mailed, postage prepaid, on this _____ day of _____, 20_____ to the above-named Non-Petitioning Parent, _____, at the following

mailing address:

from _____ (city where documents were mailed from),
_____ County, _____
(state where documents were mailed from).

Dated this _____ day of _____, 20_____.

Petitioner's Signature

Printed or typed name

Mailing Address

City, State and Zip Code

Telephone Number

ADMISSION OF SERVICE OF VERIFIED PETITION FOR NAME CHANGE OF A MINOR CHILD (UNCONTESTED) AND NOTICE OF HEARING FOR NAME CHANGE OF A MINOR CHILD (UNCONTESTED)

I, _____, admit receiving a copy of the Verified Petition for Name Change of a Minor Child (Uncontested) and a copy of the Notice of Hearing for Name Change of a Minor Child (Uncontested) in the above-captioned matter at _____ (city), _____ (county), _____ (state). This Admission merely acknowledges receipt of the papers; it does not admit or deny any of the statements contained in those papers.

Dated this _____ day of _____, 20____.

Signature of Non-Petitioning Parent

Typed or Printed Name

Mailing Address

City, State and Zip Code

Telephone Number

Sworn/affirmed before me this _____ day of _____, 20____.

(Notary Public/Clerk of Court)

If notary, my commission expires
(SEAL)

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

In the Matter of the Petition regarding

(Birth Certificate Name), A Minor Child.
For a Change of Name to

(Proposed Name).

CIV. _____

AFFIDAVIT OF MAILING

I, _____, being sworn, state that on
(Full legal name of Petitioning Parent)

_____, 20____, I sent the following documents:

2 copies of the Notice & Admission of Service of Verified Petition for Name Change of a Minor (Uncontested) & Notice of Hearing, 1 copy of the Verified Petition for Name Change of a Minor (Uncontested), and 1 copy of the Notice of Hearing for a Name Change of a Minor Child (Uncontested)

by placing true and correct copies in an envelope addressed to:

_____ at _____
(Full legal name of Non-Petitioning Parent) *(Non-Petitioning Parent's mailing address)*

in the City of _____, State of _____,

Zip Code _____ and depositing the envelope, with sufficient postage, in the

United States Mail at _____.
(city and state mailed from)

Dated this _____ day of _____, 20_____.

Signature of Petitioning Parent
(Sign only in front of a notary or Clerk of Court)

Sworn/affirmed before me this
_____ day of _____, 20_____.

Name: (Printed)_____

(Notary Public/Clerk of Court)

Address:_____

City/State/Zip:_____

If notary, my commission expires
(SEAL)

Telephone: (____)_____

STATE OF SOUTH DAKOTA)
)ss:
COUNTY OF _____)
)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

In the Matter of the Petition regarding)
)
_____))
(Birth Certificate Name), A Minor Child.)
)
For a Change of Name to)
_____))
(Proposed Name))
)

CIV: _____

**CONSENT
(UNCONTESTED NAME CHANGE)**

STATE OF SOUTH DAKOTA)
)
COUNTY OF _____)

I, _____, being first duly sworn, state as follows:
(Consenting Parent)

1. I am the [] mother [] father of _____, which
is the minor child's name, as it appears on the child's birth certificate, who was born
on _____ in _____,
County, State of _____.

2. I hereby freely and voluntarily and not as a result of any threat or promise, consent to
the name change of my minor child _____
_____ to
_____.

3. The reason why I consent to the above name change of my minor child is: _____

_____.

STATE OF SOUTH DAKOTA)
)
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

<p>IN THE MATTER OF THE PETITION RE: _____ (Birth Certificate Name), A Minor Child FOR A CHANGE OF NAME TO: _____ (Proposed Name)</p>	<p>FILE NO: _____</p> <p style="text-align: center;">CHILD'S CONSENT FOR NAME CHANGE OF MINOR CHILD (UNCONTESTED)</p>
---	--

1. My name is _____.

2. My age is _____.

3. I live at _____.

4. The name change is for me.

5. I want my name changed to: _____
First Name Middle Name Last Name

Child's Signature

Date of Child's Signature

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>IN THE MATTER OF THE PETITION REGARDING:</p> <p>_____</p> <p>(Birth Certificate Name), A Minor Child</p> <p>FOR A CHANGE OF NAME TO:</p> <p>_____</p> <p>(Proposed Name)</p>	<p>FILE NO: _____</p> <p>ORDER FOR NAME CHANGE OF A MINOR CHILD (UNCONTESTED)</p>
---	--

This above-entitled matter having come before this Court, on this _____ day of _____, 20____; the Petitioner, _____, appearing personally on behalf of the Minor Child and no one appearing in opposition to said Verified Petition for Name Change of a Minor Child, now upon the testimony, evidence, and the entire record, it is, by the Court:

FOUND AND DETERMINED that the Court has full and complete jurisdiction of the subject matter hereof pursuant to SDCL chapter 21-37, and it is further

FOUND AND DETERMINED at the time of filing the Verified Petition for Name Change of a Minor Child herein, the Petitioner and the Minor Child are residents of _____ County, South Dakota and have been bona fide residents of _____ County, South Dakota for more than six months prior to the filing of the Petition; and it is further

FOUND AND DETERMINED that notice of the proposed name change (*check one*):

was given by publication of the same once each week for four successive weeks, as required by SDCL 21-37-4, as shown by the Affidavit of Publication of _____ (name of legal county newspaper) on file herein; OR

was not published and a hearing in open court on the Verified Petition for Name Change did not occur, and that both are lawful as all conditions in SDCL 21-37-5.1 are met here; OR

was not published and a hearing in open court on the Verified Petition for Name Change did not occur, and that both are lawful as all conditions in SDCL 21-37-5.2 are met here and that the Minor Child is a victim of human trafficking under SDCL 21-37-5.2(a); and it is further

FOUND AND DETERMINED that:

1. The Minor Child's full name on the Minor Child's birth certificate is _____
_____;
2. The Minor Child's date of birth is _____;
3. The Minor Child was born in _____,
(City, County, State, Country);
4. The Minor Child's mother's full maiden name on the Minor Child's birth certificate is _____; and
5. The Minor Child's father's full name on the Minor Child's birth certificate is (*if he is not listed, enter "N/A"*) _____; and it is further

FOUND AND DETERMINED that the current name of the Minor Child that appears on Minor Child's birth certificate is _____; and it is further

FOUND AND DETERMINED that the allegations set forth in the Verified Petition for Name Change of Minor Child are true and there is reasonable and proper cause for changing the name of the Minor Child; and (*if checked below*) it is further

FOUND AND DETERMINED that the rationale set forth in the Verified Petition for amending the Minor Child's birth certificate is reasonable and proper, and verified by documentary evidence where necessary pursuant to ARSD chapter 44:09:05.

NOW, THEREFORE, IT IS

ORDERED, ADJUDGED AND DECREED that the current name of the Minor Child, as it appears on the Minor Child's birth certificate, _____,

shall be changed to _____ and this Order shall be entered by the clerk; and (*if checked below*) it is further

ORDERED, ADJUDGED AND DECREED that, under SDCL 21-37-5.2, good cause exists for all records regarding this proceeding to be and they are hereby sealed; and it is further

ORDERED, ADJUDGED AND DECREED that, as authorized by SDCL 21-37-5.2, if a new certificate of birth is obtained under SDCL 34-25-16.8, the original certificate, and any other evidence upon which the new certificate is made, are hereby sealed; and it is further

ORDERED, ADJUDGED AND DECREED that the Petitioner may provide the Department of Health Office of Vital Records or equivalent agency in the state where the Minor Child was born with a certified copy of this “Order for Name Change of a Minor Child” and pay any applicable fee for amending the birth certificate; that the Department of Health Office of Vital Records, or equivalent agency in the state where the Child was born and where permitted by the foreign state’s law, locate the Child’s birth certificate using the identifying information above and verify that information within the state’s vital records registration system; and that the Department of Health Office of Vital Records, or equivalent agency in the state where the Child was born and where permitted by the foreign state’s law, within a reasonable time after receiving both the certified copy of this “Order for Name Change of a Minor Child” and the applicable fee from Petitioner, amend the Child’s birth certificate by changing the name of _____, currently on the Child’s birth certificate, to the name of _____.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Circuit Court Judge

ATTEST:

Clerk of Court

By: _____

Deputy

STATE OF SOUTH DAKOTA)
)SS:
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

In the Matter of the Petition regarding)
)
_____)
(Birth Certificate Name), A Minor Child.)
)
For a Change of Name to)
)
_____)
(Proposed Name))
)

CIV. _____

**NOTICE OF ENTRY
OF ORDER FOR NAME
CHANGE OF A MINOR CHILD
(UNCONTESTED)**

PLEASE TAKE NOTICE that the Order for Name Change of a Minor Child was entered in the above-entitled matter on the _____ day of _____, 20_____, by the Honorable _____ and duly filed by the County Clerk of Courts at _____, South Dakota. A certified copy of said Order for Name Change of a Minor Child is attached hereto and served upon you.

Dated this _____ day of _____, 20____.

Petitioner (Signature)

Print your name

Street address

City, State, ZIP code

Telephone number

STATE OF SOUTH DAKOTA)
)SS:
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

In the Matter of the Petition of)
)
)
)
(Birth Certificate Name), A Minor Child.)

CIV. _____

For a Change of Name to)
)
)
(Proposed Name))

AFFIDAVIT OF SERVICE

I, _____, being sworn, state that on the
(Name of person who mailed documents)

_____ day of _____, 20____, I served the following papers:

(List all papers mailed to the other party; i.e. certified copy of Order for Name Change
of A Minor Child and copy of Notice of Entry of Order for Name Change of A Minor Child)

by placing true copies of the documents in an envelope addressed to:

_____ at _____
(Name of other parent) (Other parent's mailing address)

in the City of _____, State of _____,

Zip Code _____ and depositing the envelope, with sufficient postage, in the

United States Mail at _____.
(City and State mailed from)

Dated this _____ day of _____, 20_____.

Signature of Person Who Mailed Documents
(Sign only in front of a notary or Clerk of Court)

Sworn/affirmed before me this
_____ day of _____, 20_____.

Name: (Printed) _____

(Notary Public/Clerk of Court)

Address: _____

City/State/Zip: _____

If notary, my commission expires
(SEAL)

Telephone: (____) _____