

INSTRUCTIONS

ASKING TO CHANGE VENUE IN A FAMILY CASE



NOTE: These forms can be used to ask the court to move your case to another county in Minnesota. **If you want to move your case to *another state*, please get legal advice.**

Forms you may need for this process:

- *Notice of Motion and Motion to Change Venue* (FAM802)
- *Affidavit in Support of Motion to Change Venue* (FAM803)
- *Notice of Hearing* (CIV604)
- *Affidavit of Service by Mail* (SOP104) **OR** *Affidavit of Personal Service* (SOP102)

What You Need to Do

1. Fill out the court forms, following all of the steps in these instructions.
2. Schedule a hearing date by contacting Court Administration in the county where your case is currently located.
3. Make copies of your papers.
4. Serve a copy of your papers (see instructions) to the other parties in the case.
5. File your forms and pay the motion filing fee (or ask for a fee waiver if you cannot afford to pay the fee).
6. Appear at the hearing.

Each of these steps are explained in more detail below.

Have a question about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the MN Courts Self Help Center at (651) 435-6535

Not sure what to do about a legal issue or need advice?

- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

GENERAL INFORMATION ABOUT THE CHANGE OF VENUE PACKET

The information contained in this document is not intended as legal advice but as a general guide to you to explain the legal process. If you do not understand any of these procedures, talk to an attorney. Court staff cannot give legal advice.

A motion to change venue is a way to ask the court to move your case from the county your case is in now to a different county within Minnesota.

NOTE: If you are not sure if these forms should be used in your situation, you should get legal advice.

Step 1
Fill Out the *Notice of Motion and Motion for Change of Venue*
(FAM802)

Section 1: The Caption

The top part of the form helps identify the case. Generally, the caption in your case will be the same for everything that is filed in the case. Follow the steps below to fill in the caption section.

<p>State of Minnesota</p> <p>County _____</p>	<p style="text-align: right;">District Court 1</p> <p>Judicial District: _____</p> <p>Court File Number: _____</p> <p>Case Type: _____</p>
<p>In Re the Matter of the _____ of:</p>	<p>NOTICE OF MOTION AND MOTION FOR CHANGE OF VENUE</p> <p>(Family Case)</p> <p>Minn. Stat. § 542.11</p>
<p>Petitioner _____</p> <p>vs _____</p> <p>Respondent _____</p> <p>Intervenor _____</p>	

You will find the information you need to fill out the caption on a court document from your existing civil case. If you do not have any documents from your court file, and if you do not know the information, you will need to look in your court file.

- Some limited case records can be viewed online at www.mncourts.gov/publicaccess.
- If you cannot view your case online, you may need to go to the courthouse in the county where your case is located to view your court file.

- A. At the top of the page, write in the following information:
- The **county** where the case is located;
 - The **judicial district** number (each county is located in 1 of 10 judicial districts: <http://www.mncourts.gov/Find-Courts.aspx>);
 - Your **court file number** (this usually starts with a 2-digit number, followed by letters and numbers. For example, *15-CV-19-0001*); and
 - The case type.

B. Fill in the blank to tell the court what kind of family case you have (for example, In Re the Marriage of, or In Re the Custody of the Children of).

C. Write the full name of the Petitioner and the Respondent as they are found on the court document mentioned earlier. If your name is incorrect in any way, you can add “aka” (Also Known As) and then your correct name.



The party labels (petitioner and respondent) do not change during the case. For example, the party who is labeled as the petitioner in the case will always be the petitioner on all of the forms in the case.



D. If your case has an intervenor, write their name here.



An intervenor is a person or agency who has been added as a party to a case. A common example of an intervenor is the county in some child support cases or child protection cases, however there are other types of cases that may have an intervenor. To find out if there is an intervenor in your case, look at a recent court order or document which will show all parties involved. You could also check your court record online or at your local courthouse.

(continued on next page)

Section 2: The Notice

2			
TO:			
			
NOTICE			
I will ask the court for an Order at a hearing scheduled as follows:			
Date:		Time:	
Name of Courthouse:		Judicial Officer: (if known)	
Street Address:		City:	


E. After the word “TO,” print the name and address of each party except yourself.

F. Leave this notice section blank for now. You will fill in this section when you get to Step 3 (below).

Section 3: The Motion

This section is where you tell the judge and the other parties what county in Minnesota you want this case moved to.

G. Write the name of the county that you want your case moved to.

3	
MOTION	
1. Changing the venue of this matter to _____  _____ County and directing that all files and records be transferred accordingly.	
2. Granting such other relief as the Court deems just.	

Section 4: Information for the Other Party

This section gives information to the other party about deadlines, how to serve a response, filing fees, and more.

Section 5: Verification

Please read the **Verification** section carefully (paragraphs a-e). There can be serious consequences if you do not have a good reason for using the *Notice of Motion and Motion for Change of Venue*.

Section 6: The Signature Block

H. Date and sign the form. Then fill out your personal contact information below your signature.

6

e) This document does not contain any restricted identifiers as defined in Rule 11.01(a) of the Minnesota General Rules of Practice (https://www.revisor.mn.gov/court_rules/gp/id/11/). I have submitted restricted identifiers, if any, confidentially as required by Rule 11.

Date: _____

H

Signature _____

Printed Name _____

Street Address _____

City/State/Zip Code _____

Telephone Number _____



NOTE: You should not include any “restricted identifiers” directly on your *Motion* or *Affidavit*.

“Restricted identifiers” are defined in Rule 11 of the Minnesota General Rules of Practice (see https://www.revisor.mn.gov/court_rules/gp/id/11/). If you need to give the court any of the items listed in Rule 11, please read the instructions and use the forms found online at <http://mncourts.gov/GetForms.aspx?c=11>).

Step 2

Fill Out the *Affidavit in Support of Motion for Change of Venue* (FAM803)

The motion form is what you use to tell the court that you want your case moved to a different county. The affidavit form is used to tell the court *why* you want your case moved to a different county.

Section 1: The Caption

Fill out the caption the same way you did above on the *Motion for Change of Venue*.

1

State of Minnesota	District Court
County	Judicial District:
	Court File Number:
	Case Type:
In Re the Matter of the _____ of:	
Petitioner	NOTICE OF MOTION AND MOTION FOR CHANGE OF VENUE (Family Case)
vs	Minn. Stat. § 542.11
Respondent	
Intervenor	

Section 2: The Statement of Facts

In this section you will list some of the facts about the case that support why you are asking the judge to order your case be moved to another county. In the *Affidavit in Support of Motion*, you are supposed to write down facts that support the request to move your case to another county. Later on, you will sign the *Affidavit in Support of Motion* under penalty of perjury. This is like being under oath. It means you should not write anything that you know is not true.

2

My name is Include your full name.. My written statement of facts in support of my *Motion for Change of Venue*:

1. The case was originally filed in _____ County, Minnesota, on _____ (date).
2. The most recent court order in this case was entered in _____ County, Minnesota, on _____ (date).
3. The Plaintiff has lived in _____ County, Minnesota since _____ (date).
4. The Defendant has lived in _____ County, Minnesota, since _____ (date).

A

A. Include the county and date information to complete each statement in paragraphs 1-4.

B This case **does not** involve minor children.
OR
 This case involves minor children:

Name of Minor Child	County Child Lives In	Date Child Started Living in County	County where Information about Best Interests of the Children Is Found

C

B. Does this case involve minor children? Check the appropriate box.

C. If this case involves children, list the following:

- i. Each child’s name;
- ii. County each child lives in;
- iii. Date child started living in that county; and
- iv. County where information about the “best interests” of the children is found.

Minn. Stat. § 518.17 (<https://www.revisor.mn.gov/statutes/cite/518.17>) lists the best interest factors.

6. The reasons I believe venue (the county where this case is handled) should be transferred to another county in Minnesota are:



D. Explain to the judge why your case should be moved to a new county.

Section 3: The Signature Block / Penalty of Perjury

3

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated

Signature

County and state where signed

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Email: _____

Date and sign the form. Then fill out your personal contact information below your signature.

When you sign your *Affidavit in Support of Motion*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

Step 3

Contact Court Administration About a Hearing Date

In some districts, you need to schedule the hearing *before* you serve and file your motion. In other districts, you get a hearing date *after* you file. It is important that you check with your local [Court Administration](#) to see how to schedule a hearing for your motion. If you do not schedule a hearing, the court will not do anything with your motion. To look up courthouse locations and contact information you can visit the court's website at <http://www.mncourts.gov/Find-Courts.aspx>

If you are able to schedule a hearing date right away:

- Then go back to the “Notice” section (Section 2F: The Notice) on the first page of your *Notice of Motion and Motion* (FAM802). Fill in the information in the boxes (hearing date, time, location, and name of judicial officer).

If your district schedules the hearing after you file:

- Then you can write in “To Be Determined” in the “Notice” section of your *Notice of Motion and Motion* (FAM801). Note: it is okay to fill in the name and address of the courthouse.
- Later on, once you do have a hearing date, you will need to fill out the *Notice of Hearing* form (CIV604) and serve that form on the other parties (See Step 7 below).

Note: CIV604 is available online at <http://mncourts.gov/GetForms.aspx?c=7&f=515>.

Step 4

Make Copies

You will need to make one copy of the *Notice of Motion* and the *Affidavit in Support of Motion* (plus any attachments) for each party, including yourself. Be sure to bring your copy with you to court when you go to the hearing.

Step 5

Serve Copies on the Other Party

Overview of Service

The other party must receive notice of the hearing and complete copies of all documents you plan on filing with the court. This is called "service of process." The papers can be served personally (handed to the other party), or by mail. There is a deadline that you need to complete service by depending on which way you serve the papers. The ways to serve, and their deadlines are explained below.

Papers **CANNOT** be served on legal holidays as defined in Minn. Stat. 645.44 (<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

Who Can Serve

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.



Personal Service

At least 21 days before the hearing date, the server hands to the other party **one copy** of the completed *Notice of Motion and Motion*, and **one copy** of your *Affidavit in Support of Motion*, including one copy of any and all attachments. Example: If the hearing date is January 30, the papers must be served on or before January 9. If January 9 is a Saturday, Sunday, or legal holiday, keep counting backwards to the next day that is not a Saturday, Sunday, or legal holiday to determine the service deadline.

Service by Mail

The server places **one copy** of the completed *Notice of Motion and Motion* form, **one copy** of your *Affidavit in Support of Motion*, and one copy of any and all attachments in an envelope.

The server must mail the envelope containing the forms to the other party by first class U.S. mail **at least 24 days before the hearing date**. Example: If the hearing is January 30, the papers must be postmarked no later than January 6. If January 6 is a Saturday, Sunday, or legal holiday, keep counting backwards to the next day that is not a Saturday, Sunday, or legal holiday to determine the service deadline.

Warning: If your forms are not personally served on the other party at least 21 days before the hearing OR mailed to the other party at least 24 days before the hearing date, your *Motion* may NOT be heard by the court.

If there is more than one petitioner or more than one respondent, please note that ALL of the other parties must be served.

Step 6

Affidavit of Service (Proving Other Parties Were Served)

After the paperwork is served on all of the other parties (***not before***) either personally or by mail, the server must fill out the *Affidavit of Service* form for each party who was served. This form serves as your proof for the court that papers were served on the other party.

IF THE PAPERS WERE SERVED PERSONALLY, FOLLOW THESE INSTRUCTIONS:

Use the Affidavit of Personal Service (SOP102)

YOU:	1. Fill in the caption the same way as you did for the <i>Notice of Motion and Motion</i> (see Step 1 above). Note: If your case has an intervenor, you can add a line to the affidavit of service so the caption matches.
THE SERVER:	1. Writes their name and date of birth.
	2. Writes the date the server handed the papers to the other party.
	3. Lists all of the papers that were handed to the other party (<i>Notice of Motion and Motion, Affidavit in Support of Motion, etc.</i>)
	4. Writes the other party (ies) name(s).
	5. Writes the location (where) the server handed the papers to the other party.
	6. Writes their name, address, and telephone number.
	7. Sign and date the form, and list the county and state they were in when they signed the <i>Affidavit of Personal Service</i> .

After the server signs the *Affidavit of Personal Service* (SOP102), make one copy for your records. The original is filed with the court as part of Step 7 below.

IF THE PAPERS WERE SERVED BY MAIL, FOLLOW THESE INSTRUCTIONS:

Use the Affidavit of Service by Mail (SOP104).

YOU:	1. Fill in the caption the same way as you did for the <i>Notice of Motion and Motion</i> (see Step 1 above). Note: If your case has an intervenor, you can add a line to the affidavit of service so the caption matches.
THE SERVER:	1. Writes their name and date of birth.
	2. Writes the date the server mailed the papers to the other party.
	3. Lists all of the papers that were handed to the other party (<i>Notice of Motion and Motion, Affidavit in Support of Motion, etc.</i>)
	4. Writes the other party (ies) name(s).
	5. Writes the other party's address.
	6. Writes the city and state the server was in when they mailed the papers.
	7. Writes their name, address, and telephone number.

	8. Sign and date the form, and list the county and state they were in when they signed the <i>Affidavit of Service by Mail</i> .
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After the server signs the *Affidavit of Service by Mail*, make one copy for your records. The original is filed with the court as part of Step 7.

Step 7

File the Forms with Court Administration

You will need to file the following forms with Court Administration:

- Original *Notice of Motion and Motion for Change of Venue*;
- Original *Notice of Hearing* (if needed from step 3 above);
- Original *Affidavit in Support of Motion* (including any attachments); and
- Original *Affidavit of Personal Service* **or** *Affidavit of Service by Mail* (one *Affidavit of Service* for each party other than yourself).

There will be a motion fee due when you file your paperwork. You can make checks payable to “District Court.” To find out what your motion fee may be you can contact court administration or look the fee up on the court’s website at <http://www.mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx>

If you cannot afford to pay the motion fee, you can ask for a fee waiver by completing the forms in the *Request for Fee Waiver* packet of forms (found online at <https://mncourts.gov/GetForms.aspx?c=19&p=69>). If a judicial officer does not sign the fee waiver order, then you must pay the motion fee before Court Administration can process your forms.

Step 8

Notice of Hearing Form (CIV604)

If you filed your *Notice of Motion and Motion* and *Affidavit in Support of Motion* **without a hearing date**, then you need to use the *Notice of Hearing* form (CIV604) to let the other party know when the hearing date is scheduled.

CIV604 is available online at <http://mncourts.gov/GetForms.aspx?c=7&f=515>.

If you use the *Notice of Hearing* form, follow these instructions to fill it out:

1. Fill out the caption like you did for the *Notice of Motion and Motion*.
2. After the word “TO,” write the name and address of each party except yourself.
3. Fill in the details of the hearing (date, time, location, name of judicial officer).

4. Fill in the date that you **filed** the original *Notice of Motion and Motion*. If you do not remember the date, you may be able to look it up online at www.mncourts.gov/publicaccess.
5. Date and sign the form, then print the requested information.
6. Make one copy of this *Notice of Hearing* form for each party (including for yourself).
7. Serve a copy of the *Notice of Hearing* form on each of the other parties, like you did with the *Notice of Motion and Motion*. See Steps 5 and 6 above.
8. File the original *Notice of Hearing* form and one *Affidavit of Service* form (for each party other than yourself) with Court Administration. There is no additional filing fee for the *Notice of Hearing* and *Affidavit of Service* forms.

<p>Step 9</p> <p>Go to Your Hearing</p>

To prepare for your hearing, it is a good idea to look at the court rules that apply to family and civil cases. You can find [links to these rules](#) online. You could also visit a [law library](#) to read the court rules.

You must go to court on the date set for the hearing. It is important to be on time. If you are even a few minutes late, the judicial officer may dismiss your motion.

Bring your copies of the paperwork with you to the hearing. If the other party has served you with a responsive motion, be prepared to talk about your response to their responsive motion at the hearing. If you are unsure how to prepare for the hearing, or what evidence you should bring, you should [get legal advice](#) before your court date.