

PROPOSED REVISIONS TO THE DOMESTIC RELATIONS FORMS

PROPOSAL 2024-015

March 13, 2024

The Domestic Relations Rules Committee has recommended amendments to Rule 4A-401 NMRA, the withdrawal of Form 4A-403 NMRA, and the adoption of new Forms 4A-404 and 4A-405 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 12, 2024, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

4A-401. Uncontested petition for paternity; forms needed; filing fee.

A. **Forms that need to be filed.** In a parentage case where both parties agree, [an uncontested paternity proceeding], the parties need to file the following completed forms with the court:

- (1) a Domestic Relations Cover Sheet, Form 4A-101 NMRA is required;
- (2) a Petition to Establish Parentage, Form 4A-402 NMRA is provided; ~~[and]~~
- (3) ~~[a Final Decree of Parentage. Form 4A-403 NMRA is provided.]~~ an Order Establishing Parentage and Child Support, Form 4A-404 NMRA is provided; and
- (4) a Custody Plan, Form 4A-302 NMRA is provided.

B. ~~[Custody Plan and]~~ **Child Support. [Obligation.** ~~If child support is to be ordered, a Custody Plan (Form 4A-302 NMRA), Child Support Obligation (Form 4A-303 NMRA), and child support worksheet are required.]~~ The Order Establishing Parentage and Child Support (Form 4A-404 NMRA) requires the parties to fill out a child support worksheet and attach it to the Order. Parties may choose to have child support withheld from the paying parent's income but that requires filling out a [A] Wage Withholding Order (Form 4A-304 NMRA) having a Child Support Enforcement number (which may be obtained through Child Support Enforcement) and filling out the Income Withholding for Support Form (OMB 0970-0154). ~~[may also be required if requested]~~

by a party. See Form 4A-300 NMRA for an explanation of the Custody Plan, Child Support Obligation, child support worksheet, and Wage Withholding Order.]

C. **Type or print.** The parties must type or print all of the information required to be completed on the forms. Many forms may be downloaded and completed or completed on-line. If a pre-printed form is being used by the parties and there is not enough room on the form to provide all of the information required, use a separate page for the information and staple the page to the pre-printed form before making copies and filing the form with the court.

D. **Sign the pleadings.** A party's signature on a pleading or paper filed with the court constitutes a certificate that the party has read the paper and that to the best of the party's knowledge, information and belief there is good grounds to support it.

E. **Forms required to be signed before a notary.** Only the Petition for Parentage must be signed by the petitioner (person filing the case) in front of a notary. ~~[Both the husband and wife must sign the following pleadings and papers before a notary:~~

~~_____ (1) the Petition for Parentage; and~~
~~_____ (2) if child support is to be ordered, the Custody Plan and Child Support Obligation.]~~

F. **File the forms with the court.** After the parties have completed and signed the forms, the parties must file them with the court clerk.

G. **Required number of copies.** An original and two (2) copies of each form must be filed.

H. **Pay the filing fee.** A filing fee must be paid to the clerk in cash, [or] money order, or credit card at the time the petition and information sheet are filed unless free process is approved. [Approved, effective November 15, 2002; 4A-206 recompiled as 4A-401 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 13-8300-014, effective immediately in all cases pending or filed on or after June 24, 2013; as amended by Supreme Court Order No _____, effective for all cases pending or filed on or after _____.]

[WITHDRAWN]

~~[4A-403. Final decree of parentage.~~

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

Petitioner,

v.

No. _____

Respondent.

FINAL DECREE OF PARENTAGE

THIS MATTER was brought before the court by _____
(father's name) and _____ (mother's name), "the parties". The

~~parties have asked the court to enter a final decree establishing parentage. In addition, the parties have filed a Custody Plan and a Child Support Obligation that set out the custody and child support of their [child] [children].~~

~~This court has considered the parties' agreements, and finds the parties' Custody Plan, Child Support Obligation, and requests to be reasonable.~~

~~THIS COURT FINDS AND CONCLUDES:~~

- ~~1. _____ The court has jurisdiction over the parties, the [child] [children] and the subject matter of this action.~~
- ~~2. _____ (name of father) has acknowledged in the petition filed in this case that he is the father of _____ (name of each child).~~
- ~~3. _____ The parties have sworn, under oath, that the Custody Plan and Child Support Obligation are complete, true, and correct.~~
- ~~4. _____ The filed Custody Plan and Child Support Obligation determine custody and child support of the parties' minor [child] [children]. The parties have sworn, under oath, that the Custody Plan and Child Support Obligation are in the best interest of the [child] [children].~~
- ~~5. _____ (Judge to check applicable.)
_____ [] The child support guidelines are appropriate in this case.
_____ [] The child support guidelines are unjust or inappropriate in this case because they result in substantial hardship. It is appropriate to deviate from the child support guidelines in this case.~~

~~IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:~~

- ~~1. _____ is the father of _____
_____ (name of each minor child).~~
- ~~2. _____ The parties are ordered to fully comply with all terms and provisions of the Custody Plan and Child Support Obligation, the terms of which are incorporated by reference.~~
- ~~3. _____ [] Father [] Mother is ordered to pay child support in the amount of _____ to the other parent.~~
- ~~4. _____ (check applicable alternative)
_____ [] The parties have joint custody of the [child] [children]
_____ [] Father [] Mother is the sole custodian of the [child] [children].~~

5. ~~The court will have continuing jurisdiction over issues relating to the [child] [children] while the [child is a minor] [children are minors].~~

6. ~~(Check and complete if applicable)~~

~~[] The Department of Health, Health Services Division, Vital Statistics Bureau is ordered to change the birth record of _____ (name of each child) to reflect _____ (name of father) is the [child's] [children's] father.~~

7. ~~This case is now closed. However, the court will have continuing jurisdiction over issues relating to the [child] [children] while they are minors and as provided by law.~~

IT IS SO ORDERED. _____

Date _____ District court judge

~~When I sign here, I am telling the judge that I have read this document and agree with everything in it. I state upon my oath or affirmation that this document and the statements in it are true and correct to the best of my information and belief.~~

Petitioner's signature

Respondent's signature

Address:

Address:

Telephone:

Telephone:

[Approved, effective November 15, 2002; 4A-332 recompiled as 4A-403 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 13-8300-014, effective immediately in all cases pending or filed on or after June 24, 2013; as withdrawn by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

4A-404. Order Establishing Parentage, Custody, and Child Support.

STATE OF NEW MEXICO

COUNTY OF _____

JUDICIAL DISTRICT COURT

_____,
Parent 1
Petitioner,

v.

No. _____

_____,
Parent 2
Respondent,

**ORDER ESTABLISHING PARENTAGE,
CUSTODY, AND CHILD SUPPORT**

THIS MATTER comes before the Court regarding the Petition to Establish Parentage, Custody, Time-Sharing, and Child Support. The Court has considered the evidence and hereby **FINDS AND ORDERS:**

1. The Court has jurisdiction over the subject matter and the parties.

2. **BACKGROUND.**

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

B. This order refers to Petitioner as Parent 1 and refers to Respondent as Parent 2.

C. The children of Parent 1 and Parent 2 are (Please add additional pages, if needed):

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

D. Parent 1 is a legal parent of the child(ren) based on:
(Chose one)

- ☐ having given birth to the child(ren);
☐ named on the birth certificate;
☐ a court order adjudicating paternity;

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

or

☐ both parents agree that they are the parents of the above-named children and that this form is an acknowledgment that they are the parents of the above-named children.

E. Parent 2 is a legal parent of the child(ren) based on:

(Chose one)

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

or

☐ both parents agree that they are the parents of the above-named children and that this form is an acknowledgment that they are the parents of the above-named children.

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

3. **CHILD CUSTODY.** Complete the Custody Plan and Order which is Form 4A-302 and file that form with this form.

4. **ON-GOING CHILD SUPPORT. A Worksheet A or B Must Be Attached even if the parties are agreeing to a different amount.**

A. **Amount of child support:**

1. The amount is _____ per month, which is the amount of child support on the attached worksheet.
2. The amount is _____ per month, which is NOT the amount of child support on the attached worksheet because _____ (must be a reason that would create a hardship if the person was required to pay the guideline amount in this space or list the other reasons that child support should be different from the child support worksheet amount)

B. Child Support Payments Begin: _____ (date) and are to be paid by the ____ (day) of the month every month thereafter until modified by court order.

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

5. RETROACTIVE CHILD SUPPORT. Retroactive child support is child support owed by one parent to the other parent for the period of time before this order.

A. ☐ No retroactive child support is owed.

B. ☐ Retroactive child support is owed. _____ (name of parent) is awarded retroactive child support against _____ (name of other parent) in the amount of \$_____, which will accrue interest at the statutory rate of 4%. The retroactive child support is from _____ (enter month and year that the retroactive child support covers) to the present. Beginning _____ (first day of the month), _____ must pay \$_____ per month toward reduction of the retroactive child support, which is a judgment.

6. EXCHANGE FINANCIAL INFORMATION.

A. The parties will exchange financial information once a year upon written request of either party.

.

Financial information that must be exchanged upon request is:

- a. federal and state tax returns, including all schedules, for the year before the request;
- b. W-2 statements for the year before the request;
- c. Internal Revenue Service Form 1099s for the year before the request;
- d. work-related daycare statements for the year before the request;
- e. dependent medical insurance premiums for the year before the request;
- f. wage and payroll statements for four months before the request.

7. WAGE WITHHOLDING.

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

NAME: _____

ADDRESS: _____

Or: through direct payments via _____ (direct deposit, smart phone app, etc.).

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

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

HSD, Child Support Enforcement Division
P.O. Box 200796
Dallas, TX 75320-0796

Or online (e-check, credit or debit cards – parents only) using E-Bill Express

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

8. MEDICAL SUPPORT.

A. (pick one of the selections below)

☐ _____ (write name of parent who has/will provide insurance coverage for the child(ren)) will ensure that the child(ren) are covered under a group health insurance policy and that parent will pay for the insurance.

OR

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

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

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

Parent _____ is responsible for ____% of these expenses.

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

9. LIFE INSURANCE (optional)

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

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

IT IS SO ORDERED,

DISTRICT COURT JUDGE

APPROVED:

Petitioner/Parent 1

Respondent/Parent 2

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

4A-405. Default Order Establishing Parentage, Custody, Time-sharing, and Child Support.

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT COURT

_____,
Parent 1
Petitioner,

v.

No. _____

_____,
Parent 2
Respondent,

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

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

THE COURT FINDS and ORDERS:

1. BACKGROUND.

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

County.

Minor Child(ren) Subject to this Proceeding:

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

2. PARENTAGE

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

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

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

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

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

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

3. If either parent is not currently named on the child(ren)'s birth certificate, on the request of either parent, the Bureau of Vital Records and Health Statistics of the New Mexico Department of Health must prepare a new certificate(s) of birth reflecting the

parents of the child(ren) as adjudicated herein, and must substitute the new certificate(s) for the original certificate(s).

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

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

OR:

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

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

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

☐ **No visits;**

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

☐ **(write your own plan)** _____

—

OR:

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

5. CHILD SUPPORT

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

OR:

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

OR:

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

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

This on-going child support obligation will continue until the court changes it in an Order of the Court or until the emancipation of the child(ren). If one of the children named in the Order turns 18 (or 19 if they are still in high school) either party may file a motion for an Order modifying

child support for the remaining child(ren) or may request the court to end ongoing child support if all children are 18 (or 19 if the child is still in high school). Modifying or ending ongoing child support does not change unpaid child support that may still be due and owing.

6. WAGE WITHHOLDING

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

NAME: _____

ADDRESS: _____

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

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

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

HSD, Child Support Enforcement Division

P.O. Box 200796

Dallas, TX 75320-0796

Or online (e-check, credit or debit cards – parents only) using [E-Bill Express](#)

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

7. MEDICAL SUPPORT.

A. (pick one of the selections below)

☐ _____ (write name of parent who has/will provide insurance coverage for the child(ren)) will ensure that the child(ren) are covered under a group health insurance policy and that parent will pay for the insurance.

OR

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

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

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

Parent _____ is responsible for _____ % of these expenses.

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

8. LIFE INSURANCE (optional)

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

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

IT IS SO ORDERED:

DISTRICT COURT JUDGE

SUBMITTED AND APPROVED:

Petitioner

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]