**How to file for a Parenting Plan**

**DISCLAIMER**

**Information Not Legal Advice.** This document has been prepared for general information purposes only. The information provided is not legal advice. Legal advice is dependent upon the specific circumstances of each situation. Also, the law may vary from state to state, so that some information may not be correct for your jurisdiction. Finally, the information contained in this document is not guaranteed to be up to date. The information cannot replace the advice of competent legal counsel licensed in your state.

What is the Process?

**NOTE:** The steps for filing for a parenting plan may be slightly different in your judicial district. Always check with the Clerk of District Court in your district to make sure that you are following the right procedures.

**Need Privacy?**

Unless you ask the Court to protect information, everything filed with the court may be viewed by the public. Separate forms may be filed to protect information in your case files from being available for public view. These forms are available in the Privacy Protection Packet, available at www.courts.mt.gocv “Forms,” at [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org) or by calling or visiting your local Self Help Law Center.

**NEED HELP?** There are resources available to assist you in filling out these forms.

**The Court Help Program.** The Court Help Program provides assistance to people representing themselves in court. There are self help law centers located throughout the state to assist you on a walk in basis and travelling appointments to other courthouses. Self help staff are not lawyers and cannot provide legal advice. Staff are informed about the court process and can answer many questions as well as review your forms for completeness. Find the Court Help services near you: [www.courts.mt.gov/selfhelp](http://www.courts.mt.gov/selfhelp)

**Montana Legal Services Association.** Montana Legal Services Association coordinates volunteer attorney legal resources at a free or reduced cost. If you qualify financially for assistance, Montana Legal Services may connect you with a pro bono attorney, an attorney at a reduced fee, or local attorney resources in your area. Visit [www.montanalawhelp.org](http://www.montanalawhelp.org), [www.mtlsa.org](http://www.mtlsa.org), or call MLSA at 1-800-666-6899.

**State Bar of Montana.** If you are interested in hiring an attorney to advise you or represent you in this matter, the State Bar Lawyer and Information Referral Service is a database of attorneys. You can be connected with attorneys for any place in the state to help your family legal matter. Access the Lawyer Referral and Information Service by visiting [www.montanabar.org](http://www.montanabar.org) or calling 1(406)449-6577.

**STEP ONE: Fill out the forms you need.** Read all of the forms listed in Step two to determine which forms will be most appropriate for your situation. Fill out these forms completely. Be sure to read “Introduction to Family Law in Montana” before you begin filling out the forms. It will highlight the major decisions you will have to make.

**STEP TWO: File Documents.**

Court documents for a parenting plan are filed at the Clerk of District Court office in the county where you or your children are living. After filling out the appropriate forms, make 3 sets of copies (4 sets of forms total) of the forms that start your case. Take all of the copies with you to the Clerk of District Court office.

The original set of forms will be kept by the Clerk of Court. One copy you will keep in a safe place, and the other copies you will serve on the other parent and the Department of Health and Human Services in Step three.

Here is a list of the forms you need to bring to the Clerk of District Court to start the case:

1. Petition for Parenting Plan **MP 114**
2. Summons – Parenting Plan **MP 414**
3. Proposed Parenting Plan **MP 300**
4. (If required) Holidays, Vacations, and Special Occasions **MP 300 B**
5. (If required) Limited Parenting Visitation **MP 300 C.**
6. (If required) Description of Existing Medical Coverage **MP 300 G**
7. (If required) Notice to a Person Not Named - **MP 407**
8. Vital Statistics form. You can find this form in the back of the packet or online at dphhs.mt.gov/CSED. File this form with the Clerk of Court when you file your other paperwork.

There is a charge for filing for a parenting plan in Montana. If you have financial hardship and cannot afford to pay the court, you may fill out a Form titled “Affidavit of Inability to Pay Filing Fee,” available at www.courts.mt.gocv and at www.MontanaLawHelp.org or by calling or visiting your local Self Help Law Center.

**\*NOTE:** If you completed **MP 407**, You must also mail a copy of the **MP 407** to each person listed on the form

**STEP THREE: Serve the other parent and the Department of Health and Human Services (DPHHS).**

1. **Serving the Department of Health and Human Services.**

If you or the other parent receives Title IV-D services, you must serve the Department of Health and Human Services (DPHHS) by mailing or delivering to your nearest Child Support and Enforcement Division (CSED) the following:

1. Notice and Acknowledgement to CSED **MP 404**

**AND** copies of the following documents that you filed with the Court in Step One:

1. Petition for Parenting Plan **MP 114**
2. Proposed Parenting Plan **MP 300**
3. (If required) Holidays, Vacations, and Special Occasions **MP 300 B**
4. (If required) Limited Parenting Visitation **MP 300 C.**
5. (If required) Description of Existing Medical Coverage **MP 300 G**

**Follow these steps:**

Complete the first 3 pages of **MP 404** with your own information.

On page 4, fill out the top portion with the Judicial District, County, names of the parties, and the case number. Also fill in the address for the Clerk of Court on the last page.

When mailing **MP 404** Notice and Acknowledgement to CSED, include a stamped envelope addressed to the Clerk of Court in your county so it can be mailed back to them.

1. **Serving the Other Parent.**

You must serve the other parent the following documents by one of the four options described below:

1. Petition for Parenting Plan **MP 114**
2. Summons – Parenting Plan **MP 414**
3. Proposed Parenting Plan **MP 300**
4. (If required) Holidays, Vacations, and Special Occasions **MP 300 B**
5. (If required) Limited Parenting Visitation **MP 300 C.**
6. (If required) Description of Existing Medical Coverage **MP 300 G**

You may serve the other parent by one of four methods: (1) Service by Sheriff, (2) Service through Notice and Acknowledgement of the other parent, (3) a private process server, or (4) Service by Publication. The method of service most appropriate depends on the details of your case and your relationship.

 **OPTION #1: Service by the Sheriff.**

Service by Sheriff may be most appropriate for you if:

* You are concerned about your safety,
* You are not communicating well with the other parent, or
* You would like your case to move forward quickly.

Service by Sheriff is accomplished by delivering or mailing to the Sheriff in the County where the other parent resides

* 1. Copies of all documents listed 1-6 above,

 **AND**

* 1. Original and Copy of the Request for Sheriff to Serve Documents **MP-401.3.** \*The original was given back to you after approved by the Clerk of District Court in Step Two.

The Sherriff’s Department usually charges a fee for service of process. If you have an Affidavit of Inability to Pay your Filing Fee approved by the Court, the Sheriff may waive the service fee.

**OPTION #2: Service through Notice and Acknowledgement of the Other Parent.**

Service through Notice and Acknowledgment of the other parent may be most appropriate for you if:

* You have regular communication with the other parent
* You believe your you and the other parent will cooperate
* You are willing to allow the other parent extra time to respond to your petition.

In order to serve the other parent by acknowledgment, you can hand deliver or send vial mail:

1. Copies of all documents listed 1-6 above,

 **AND**

1. Notice and Acknowledgment of Service **MP 403.14 & 403.24**.

**OPTION #3: Private Process Server.** Service by a personal process server may be appropriate if:

* You are having trouble locating or serving the other parent by other means.
* You have the ability to hire a process server at less cost than a Sheriff (because you do not have an Affidavit of Inability to Pay or you are serving someone out of State).

The personal process server of your choice may have specific requirements. Personal process servers will also likely charge a fee. At a minimum, your personal process service must serve the other parent:

1. Copies of all documents listed 1-6 above,

**AND**

1. Praecipe. This form is available on the State Law Library website.

**OPTION #4: Service by Publication**. Service by publication is an option of last resort and should only be pursued if:

* All other methods to serve the other parent have failed
* You and everyone you know have no information about where the other parent is.

Service by Publication requires a long process of filing many documents with the court. Service by Publication may also involve an additional expense imposed by the newspaper you are ordered to publish notice in:

1. Request for Order Granting Service of Summons by Publication **MP 402.1**
2. Order for Service of Summons by Publication **MP 402.2**
3. Summons for Publication **MP 402.3**

Only after the Court has approved your request and signed an Order allowing Service by Publication can you proceed with service by publication.

**STEP FOUR: Wait and work towards a resolution.**

After the other parent is served, they have 21 days to respond to the petition. During this time you may discover many important things about your case.

If the other parent disagrees with any part of your proposed property distribution or parenting plan they may file an Answer to your petition. Along with an Answer, the other parent may file their own proposed parenting plan. At that time, you can decide whether there is any room for agreement on some or all of your proposals.

**MEDIATION:** If you do not agree but you think you could come to some agreement, you may choose go to mediation. Some courts require litigants to go to mediation before setting a hearing to finalize the case. Mediation is a process where a neutral facilitator (called a “mediator”) helps both people come up with a shared solution. Mediation is confidential and agreements made in mediation will only be filed in Court when both you and the other parent agree. Mediation can be a cost effective way to find a compromise and speed up the dissolution process.

If, at any time, you change your mind, you may “amend” your proposal by filing a motion and a new version of your proposal. The other parent will have additional time to respond to new proposals. If you come to an agreement, you can file with the Court a Notice of Agreement **MP 612** and the proposed agreement in writing.

**STEP FIVE: Request a final hearing.**

Once the time for the other parent to respond has expired, you can request a hearing to finalize your parenting plan. You will complete and file these forms at the Clerk of District Court:

1. Request for a Hearing and Default by Clerk **MP 721**

\*If the other parent did not respond to your petition, you may request a default judgment on this form. Which means you are asking the Court to consider only what you have filed in making a decision.

1. Order Granting Hearing for Parenting Plan **MP 722**
	1. **Provide a self-addressed stamped envelope for the Court.**
2. (Optional) New proposals or agreements. In order to make sure the Court considers new proposals or agreements between you and the other parent, you will file all completed forms at this time.

**STEP SIX: Attend your final hearing.**

Attending your hearing is very important. The judge will ask you questions about your children. This is the time for the judge to make a decision on your parenting plan. After the judge has made a decision, the Judge will sign the Parenting Plan **MP 300**. The Court will adopt the version of the Proposed Parenting Plan **MP 300** that the Court considers fair and in the best interest of your children. The Court will indicate which parenting plan is “Court Ordered” by signing the document.

Keep your copy of your Parenting Plan in a safe place. You can make extra copies of your Parenting Plan for day care providers, schools, and law enforcement.