How to File a Joint Petition for Dissolution of Marriage in Montana

(with children)

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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.

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What Forms Will I Need?

Initial Documents:

1. Joint Petition for Dissolution
2. Proposed Parenting Plan
3. Final Declaration of Disclosure of Assets, Debts, Income, and Expenses

You may also need the following documents (See page 10 of "Introduction to Family Law in Montana"):

4. Notice of Filing Child Support Guidelines Financial Affidavit
5. Notice and Acknowledgment to Child Support Enforcement Division

Final Documents:

6. Request for Hearing and Order
7. Consent to Entry of Decree
8. Findings of Fact, Conclusions of Law, and Final Decree of Dissolution
9. Final Parenting Plan
10. Notice of Entry of Final Decree
11. Vital Statistics Form

Eight Steps to Getting a Dissolution of Marriage

Warning:

These instructions will walk you through the steps you will need to follow in order to file your dissolution. This can be a confusing and complicated process. If you have questions about the instructions or any of the forms, you should talk to an attorney.

The steps for filing for a dissolution 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.

Step One: Collect Information and Make Decisions

[ ] Before completing the dissolution forms, you will need to make decisions regarding the children, the marital property, and the marital debts. 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.

[ ] You should begin by making a list of all marital property and debts and deciding who should get what property and who should have to pay what debts. If you are not sure how much you owe on current debts, or if you are worried that your spouse has incurred debts without your knowledge, you may want to get a credit report.

[ ] If you already have a Child Support Order from the Child Support Enforcement Division, get a copy of the Order to include with your Petition. If you do not already have an Order, you will need to complete the Montana Child Support Guidelines Financial Affidavit.

Step Two: Prepare the Forms

[ ] Included in this packet are all of the forms you will need to file for a dissolution of marriage. Fill out each form neatly and completely. In order to file a joint petition both you and your spouse will have to agree to and sign the Joint Petition for Dissolution and the Proposed Parenting Plan. Be aware that some judicial districts may require you to type the forms. For a list of the forms you will need, read "What Forms Will I Need?" also in this packet. If you have questions about the forms, talk to an attorney.

Step Three: Exchange Final Declarations of Disclosure of Assets, Debts, Income, and Expense

[ ] You and your spouse should each complete and exchange Final Declarations of Disclosure of Assets, Debts, Income, and Expenses. In the Joint Petition for Dissolution you are required to state that you have exchanged these documents.

Step Four: File Your Documents with the Court

[ ] After you have completed all of the forms, make copies of the following documents:

1. Joint Petition for Dissolution (three copies)
2. Proposed Parenting Plan (three copies)

[ ] Also make copies of the following documents, if they are necessary for your case (See "Introduction to Family Law in Montana," page 10):

1. Notice of Filing Child Support Guidelines Financial Affidavit (with attached Affidavit) (two copies)
2. Notice and Acknowledgment to Child Support Enforcement Division (three copies)

Both you and your spouse should always keep a copy of everything that you file with the Clerk of District Court. The original documents get filed with the Clerk. Every time you file a document with the Clerk, bring two copies of the document with you and ask the Clerk to stamp them, showing that the document has been filed. Both you and your spouse should keep an organized file of all your court papers and letters concerning your case.

[ ] Go to the Clerk of District Court in the County Courthouse where you are filing for your dissolution. Generally, you will file in the county where you are living. You will have to pay a filing fee in order to file your papers with the Court. If you cannot afford to pay the filing fee, you may be eligible to have prepayment of the fee waived. If you think you may be eligible for such a waiver, ask the Clerk of District Court for an "Affidavit of Inability to Pay Filing Fees."

[ ] After you have paid the filing fee (or the Judge has decided to waive the filing fee), file the following documents with the Clerk of District Court. Remember to have the Clerk date and stamp two copies of each document for both you and your spouse's records.

1. Joint Petition for Dissolution
2. Proposed Parenting Plan
3. Notice of Filing Child Support Guidelines Financial Affidavit (if necessary)
4. Notice and Acknowledgment to Child Support Enforcement Division (if necessary)

[ ] The Clerk will put a cause number on all of the documents you filed. This cause number is how the court will identify your case. Put this cause number on all of your forms from now on.

Step Five: Notify CSED (if necessary)

[ ] If you receive public assistance under Temporary Assistance to Needy Families (TANF) or if you are already receiving services from the Child Support Enforcement Division, you must notify CSED and the Attorney General of the dissolution by sending them the following:

1. Notice and Acknowledgment to Child Support Enforcement Division
2. Joint Petition for Dissolution
3. Proposed Parenting Plan
4. Self-addressed stamped envelope

[ ] Both CSED and the Attorney General need to send an "Acknowledgment of Service" back to you before your dissolution can be entered by the court. When you receive the Acknowledgment back from both offices, make one copy of each, and file the originals with the Clerk of District Court. CSED may decline to be a party to your dissolution by signing the "Declination" on the Acknowledgment of Service they send back to you. If they do not decline, CSED will need to be served with all subsequent documents you file with the court.

Step Six: Request a Hearing

[ ] Complete and make two copies of the following documents:

1. Findings of Facts, Conclusions of Law, and Final Decree of Dissolution
2. Final Parenting Plan
3. Consent to Entry of Decree (if necessary)
4. Request for Hearing and Order
5. Vital Statistics Form

[ ] File the Request for Hearing and Order with the Clerk of Court. If only one of the Petitioners (you or your spouse) is going to testify at the final hearing, you should also file a Consent to Entry of Decree. If both of you are planning on being at the final hearing you will not need to file this document. As always, check with the Clerk of District Court to make sure that you are following all of the necessary rules in your district. Get a filed stamped copy of each document for your files. The Clerk will schedule a final hearing for your dissolution.

[ ] Also leave with the Clerk your original Findings of Fact, Conclusions of Law, and Final Decree of Dissolution and your original Final Parenting Plan. The Clerk will give these documents to the Judge to review before your final hearing. In some

districts, the Clerk may ask you to keep these documents and bring them with you to the final hearing.

Step Seven: Go to Court for Your Hearing

[ ] Be at the courthouse at least 15 minutes before your scheduled hearing time. Dress as you would for an important meeting or job interview. Ask the Clerk of District Court which courtroom your Judge is in. Go to the appropriate courtroom and wait for the Judge to call your name and cause number. Be calm and polite and address the Judge as "Your Honor."

[ ] Bring your two copies of the following documents with you to the hearing:
1. Findings of Fact, Conclusions of Law, and Final Decree of Dissolution
2. Final Parenting Plan

[ ] The Judge will ask you to be sworn in and to take the witness stand. The Judge will ask you a few questions regarding your Petition and Proposed Decree. The questions should center around the following topics:

1. Whether you have been a resident of Montana for the past 90 days
2. The parenting arrangements described in your papers
3. Whether your spouse is capable of contributing to the support of the children, and if the child support amount is fair and reasonable
4. Whether your marriage is irretrievably broken
5. If the wife wants her former name to be restored
6. If your proposal for dividing the assets and debts is fair and equitable

The Judge should then sign your Decree and Parenting Plan and excuse you.

[ ] *Immediately after the hearing*, bring the signed Decree and Parenting Plan to the Clerk of District Court. Ask the Clerk to put the appropriate stamps on your two copies of the documents to show that they have been filed and signed by the Judge. At the same time, file your Vital Statistics Form.

Step Eight: Notify Your Spouse

[ ] Make two copies of the Notice of Entry of Decree.

[ ] Mail copies of the following documents to your spouse:
1. Notice of Entry of Decree
2. Findings of Fact, Conclusions of Law, and Final Decree of Dissolution
3. Final Parenting Plan

[ ] File the original Notice of Entry of Decree with the Clerk of District Court. The

time allowed for you or your spouse to appeal the decree does not begin to run until the Notice of Entry of Decree is filed. For this reason, it is important that you file the Notice with the Clerk even if your spouse already knows that the Decree has been entered.

[ ] Keep your copies of the Decree and Parenting Plan in a safe place.