Introduction to Family Law in Montana

Table of Contents

1. Warning 2
2. Where Can I Get Help? 3
3. How to Use this Packet 3
4. Introduction to Family Law 4
   - A. Dissolution of Marriage 4
   - B. Parenting 7
   - C. Child and Medical Support 11
   - D. Property 13
   - E. Debts 14
   - F. Temporary Orders 15
   - G. Post-Dissolution Issues 16

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.

Prepared by Montana Legal Services Association. Approved and distributed by the Montana Supreme Court Commission on Self-Represented Litigants.

Rev. 7/02

Warning

This packet and the forms which come with it were created for people who have simple, uncontested dissolution of marriage (commonly known as “divorce”) cases. This means that you do not expect your spouse to fight with you over the dissolution, property, debts, or kids. These forms may not be appropriate if you have a complicated family law case or if your spouse might contest the dissolution. Even “simple” dissolutions can involve a lot of work. Many people have difficulty reading, understanding, and filling out the necessary forms by themselves. If you have difficulty understanding this packet or filling out the forms, you should speak to an attorney and should probably not try to file for a dissolution of marriage by yourself.

How do I know if my case will become contested?

There is no way of knowing for sure whether your spouse will contest all or part of your dissolution. Consider several factors:

1. Do you and your spouse disagree about where the children will live?
2. Do you disagree about how to cover the children’s medical insurance?
3. Do you disagree on the division of property and debts?
4. Can you work out these differences without going to court?
5. Are you asking for severe restrictions on contact between the children and the other parent?
6. Does your spouse have the resources to hire a private attorney?

How do I know if my case is complicated?

If your dissolution involves any of the following issues, it may be too complicated to use these forms:

1. Pensions, retirement benefits, or profit-sharing plans;
2. A pending personal injury case involving you or your spouse;
3. Real estate that you or your spouse own with someone else or real estate located outside of Montana;
4. A family business;
5. A bankruptcy case filed by your spouse;
6. Complicated tax issues; or
7. Contested custody and/or child support issues.

Is there domestic violence involved ?

If you or your children were victims of violence or abuse by your spouse, these forms may not be appropriate for you. Before proceeding, you may want to contact a private attorney or the Montana Legal Services Association (800-666-6124). If you need immediate help and would like to find a victim advocate near you, you may contact the Montana Coalition Against Domestic and Sexual Violence (406-443-7794).

Where Can I Get Help?

State Bar of Montana Lawyer Referral Service- (406) 449-6577

The State Bar of Montana offers a free lawyer referral service which can help connect you with a private attorney to discuss your dissolution. They will attempt to select an attorney near you. The attorney will consult with you for up to ½ hour for not more than $30. If you decide to hire the attorney to represent you, the additional fees and costs will be arranged between you and the attorney. You may reach the Lawyer Referral Service Monday-Friday between 9:00 a.m. and 4:00 p.m.

Montana Legal Services Association- (800) 666-6124

The Montana Legal Services Association provides free legal assistance to low-income persons. If you are eligible for services, Montana Legal Services may be able to give you advice on filing your dissolution.

How to Use this Packet

Read the Entire Packet:

You should read this entire packet before attempting to use any of the forms that come with it. This packet is designed to provide you with the basic information you will need to file your own dissolution and/or parenting case. You may need to go back to these sections from time to time as you are filling out the forms and proceeding with your dissolution.

Introduction to Family Law will give you an overview of family law in Montana. It briefly describes some of the issues involved in dissolution and parenting cases. Throughout this section you will see references to the **Montana Code Annotated** (M.C.A.). The M.C.A contains the laws governing dissolutions and parenting plans and can be found in your local library or on the state law library web page at www.lawlibrary.state.mt.us. Most of the relevant laws are in Title 40, chapter 4. A typical reference will look like this: M.C.A. § 40-4-212. This means Title 40, chapter 4, section 212. Reading the actual laws may be helpful to you.

When you receive this packet, you should also be given a document entitled, **How to File for Dissolution of Marriage in Montana.** If you are not married but are seeking to establish a parenting plan, the document will be called, **How to File for a**

Permanent Parenting Plan in Montana. This document will list all of the forms you will need to fill out and will walk you through the steps you will need to follow in order to obtain your dissolution and/or parenting plan.

Introduction to Family Law in Montana

Dissolution of Marriage

Dissolution:

In Montana, the legal name for a divorce is a "dissolution of marriage."

The Parties to the Dissolution:

The wife and husband are called "the parties to the dissolution."

The **Petitioner** is the party who first asks the court for a dissolution. The Petitioner asks the court for a dissolution by filing a **Petition for Dissolution** with the court.

The **Respondent** is the other party.

Who Can File for Dissolution in Montana?

You only can get a dissolution in Montana if Montana has **jurisdiction** over your case. Montana has jurisdiction to rule on your dissolution if you have resided in Montana for at least 90 days prior to getting your dissolution (M.C.A. § 40-4-104).

If there are children of the marriage who are under 18 years old, the children must have resided in Montana for at least six months before you can file for a dissolution in the state. There are a few exceptions, but, generally, Montana courts do not have jurisdiction to make judgments regarding the children unless they have resided in the state for at least six months (M.C.A. § 40-4-211).

How the Court Decides if You Should Get a Dissolution:

The legal reasons you must show to get a dissolution are called the **grounds for dissolution.** In Montana, the ground for dissolution is "**an irretrievable breakdown in the marriage**" (M.C.A. § 40-4-107). When you ask the court for a dissolution, you must state in the Petition that there is an irretrievable breakdown in the marriage. In order to show that there is an irretrievable breakdown, you must tell the court that either (1) you have lived separate and apart for 180 days prior to filing for the dissolution, or

(2) there is serious marital discord which adversely affects the attitude of one of the parties (M.C.A. 40-4-104).

No Fault Dissolution:

In Montana you do not have to show that one person is at fault for the breakdown of the marriage. Your spouse does not have to agree to getting the dissolution, and you do not need to prove that there has been wrong-doing by one of the parties.

Other Issues Settled in a Dissolution Case:

A dissolution legally ends the marriage and changes your status from married to single. It also determines related issues that you should address in the Petition for Dissolution, such as:

1. Living arrangements for the children and what contact they will have with each parent;
2. Child support and medical support for the children;
3. Who will keep what property; and
4. Who will be responsible for which debts.

You will need to know something about each of these issues before you file for your dissolution. Each issue is explained in more detail below.

If your spouse disagrees over how one or more of these issues should be resolved, s/he may file an **Answer** or **Response** to your Petition. If your spouse answers your Petition, the case becomes a **contested** dissolution case.

Default Dissolution:

A default judgment is what the court awards you if your spouse does not answer your Petition for Dissolution. Your spouse, the Respondent, has 20 days to respond to the Petition after s/he is served with a copy of it. After 20 days, the Respondent's default can be entered by the Clerk of Court. You still will have to schedule a hearing and appear in court in order to obtain your Final Decree of Dissolution. If you get a default judgment, you will be granted everything you asked for in the Petition, as long as the court finds that your request is "equitable" (fair). If there are children, the court also must find that your proposed parenting plan is in the best interests of the children. The instructions included in this packet assume that your dissolution will be a default dissolution. If your spouse is likely to contest your Petition, and especially if s/he is likely to hire a lawyer, these forms probably are not appropriate for you, and you should consult an attorney before proceeding.

Joint Dissolution:

If both you and your spouse can agree to all of the terms of your dissolution, including the parenting of the children and the division of property and debts, you may file for a joint dissolution. With a joint dissolution, both you and your spouse are Petitioners, and you both sign the Petition and the Parenting Plan. If you can agree to do a joint dissolution, the process of filing for a dissolution may be more simple.

A Note about Maintenance:

Maintenance (sometimes called "alimony") refers to money one spouse pays to the other, separate from child support. If you have been married to your spouse for several years, you lack the means to provide for your reasonable needs, and you are unable to support yourself through employment, you may want to request maintenance in your Petition (M.C.A. § 40-4-203). A request for maintenance usually is not appropriate in a default dissolution. If your spouse is likely to contest such a request, you should see a private attorney to represent your interests. The forms which come with this packet do not include a provision for maintenance.

Other Kinds of Legal Separation:

In addition to a dissolution of marriage, there are two other ways to change your marital status (neither of which are provided for in the set of forms which come with this packet. If you are interested in pursuing the options discussed in this section, you should speak to an attorney):

Declaration of Invalidity of Marriage: A declaration of invalidity of marriage is commonly known as an "annulment." It states that the marriage never really existed because it was based on some false understanding or information. There are only certain, specific circumstances under which an annulment can be granted in Montana (M.C.A. § 40-1-402).

Separation: If either party asks, and the other party does not object, the court will grant a decree of separation instead of a decree of dissolution. The requirements for a legal separation are generally the same as for a dissolution. However, a decree of separation does not end the marriage. You cannot legally remarry until the legal separation is first changed into a dissolution. After six months, either party may ask the court to change the decree of separation into a decree of dissolution.

Parenting

A Note About the Word "Custody":

Montana law no longer uses the words "custody" and "visitation." Instead, it uses "parenting" to promote the idea that both parents should be involved in the children's lives.

How Will Parenting Duties Be Decided?

In every dissolution and/or parenting case, the parents are expected to develop a **Parenting Plan** that explains where the children will live, how much time the children will spend with each parent, and how decisions will be made about the children. The parents may or may not agree about all of the terms of the plan. If the parents cannot agree, the judge will hear both sides and decide what is in the best interests of the children. The court will approve a Final Parenting Plan which is intended to protect the best interests of the children, clarify parental authority and responsibility, and help prevent future court action (M.C.A. § 40-4-234).

If you and the other party were married, you will ask for a parenting plan when you file your petition for dissolution of marriage. As a part of the dissolution, the court will address parenting arrangements for the children.

If you were not married to the other parent, you can file a "Petition to Establish a Permanent Parenting Plan." In this kind of case, the court will not address property or debts. It will only address parenting arrangements, child support, and medical support for the children.

What Are the Best Interests of the Child?

Montana law states that the court will decide parenting arrangements based on what it believes are the **"best interests of the child"** (M.C.A. § 40-4-212). These are some of the factors that the court considers when trying to determine what the best interests of the child are:

1. The wishes of the child's parents;
2. The wishes of the child;
3. The interaction of the child with the parents, siblings, and other persons who may significantly impact the child;
4. One parent's physical abuse or the threat of physical abuse against either the child or the other parent;
5. Chemical dependency or abuse by either parent;
6. Continuity and stability of care;
7. Developmental needs of the child; and

8. Whether a parent has knowingly failed to pay birth costs or child support that the parent is able to pay.

Preference for Both Parents to Participate in the Children's Lives:

In Montana, the law presumes that "frequent and continuing contact" with both parents is best for the children unless it is proven to the court that this is not true (M.C.A. § 40-4-212). If you want to restrict or limit contact with the other parent, you will need to tell the court why it is in the children's best interests to do so.

Paternity:

Montana presumes that a child born during the marriage is the biological child of the husband. If you are not sure whether the husband is the father of the child, you may want to separately establish paternity. If the parents of the child are not married, and one of the parties questions the paternity, you will need to establish paternity before getting a parenting plan. Paternity can be established by a court or administrative judgment, decree, or order (M.C.A. § 40-6-105).

If You Are Pregnant:

If you are pregnant and your spouse is the father, you will have to wait until you are no longer pregnant in order to use the forms that come with this packet. If you are interested in filing for a dissolution of marriage before your child is born, you should speak to an attorney.

If you are pregnant and your spouse is not the father, you must state this in your Petition. You may be required to establish paternity of the child before the court will grant your dissolution.

Things to Consider when Setting Up Your Parenting Plan:

Frequent and Continuing Contact: The court assumes that children should have "frequent and continuing contact" with both parents. It is not necessary for children to spend exactly equal amounts of time with each parent. However, when the children reside with one parent most of the time, the court expects that the other parent will be allowed to have reasonable contact with the children.

Decision Making: If you anticipate conflicts over issues related to your children's upbringing, you can specify in the parenting plan which parent will make decisions regarding such things as the children's education, spiritual development, and medical care. The court assumes that each parent has the authority to make emergency medical

decisions as well as day-to-day decisions while the children are residing with that parent (M.C.A. § 40-4-234).

Restricting Contact: If you believe that restricting contact between the children and the other parent is necessary, you can request certain conditions in your parenting plan. Examples are:

1. Supervised contact by an agreed-upon third party (e.g., a grandparent, a mutual friend, a social agency, etc.). In order to get supervised visitation from the court, you will need to explain why the supervised visitation is necessary to protect the children;
2. Advance notice of intent to visit with the children (e.g., 24 or 48 hours, one week, one month);
3. Canceling the visit if the other parent is more than 30 minutes late;
4. Requiring the children to remain in Montana unless otherwise agreed upon by both parents.

Exchanging the Children for Visits: If you and your spouse often get into disagreements, you might want to include specific information about how the children will be exchanged for visits. If your relationship with your spouse has been abusive, you might want to set up a meeting place for the exchange that is public and safe, such as the parking lot of a busy restaurant or shopping center.

Setting Up a Residential Schedule: Parenting plans can be general or very specific in stating where the children will be at different times. For example, the plan can state who the children will live with before the children start school, while they are in school, during summer and winter vacations, and for different holidays and other special occasions. The more specific you make your parenting plan, the less you and the other parent will be able to disagree over vague or unclear language. It also will be easier to enforce with the police or other officials if the other parent violates the plan. If you are worried about enforcing the plan, the police should be able to tell by looking at the plan where the children should be. For example, you should use language like, “the first and third weekends of the month from 5:00 p.m. Friday to 5:00 p.m. Sunday” rather than just “every other weekend.” Do not use general language such as “reasonable visitation” if you are worried that the other parent will not follow the plan or that you will have disagreements over what “reasonable” means.

If a Parent Violates the Parenting Plan:

If one parent violates the plan by failing to pay child support or by failing to return the children at the agreed-upon time, the other parent is still obligated to follow the plan. Child support and visits with the children are separate issues. If a parent does not visit the children, s/he must still pay court-ordered child support. If s/he does not pay court-ordered child support, that parent is still allowed to visit the children. Contact with both parents and child support are considered *rights of the children*.

However, violation of the residential plan by one of the parents is punishable by contempt of court and can be a criminal offense. The offending parent can be subject to arrest and a fine of up to $500 or imprisonment in the county jail (M.C.A. § 45-5-631). When the other parent has kept a child over the set visitation time, you can go to court and get an order holding the other parent in contempt for violating the parenting plan. You should then be able to get the police to help you get your child back. Keep a diary of problems with contact with the other parent. You can use the diary to give details in your statement or testimony to the court.

Updating the Court with Information:

Parenting plans must include a provision requiring both parties to update the court with changes to the following information (M.C.A. § 40-4-204):

1. Your Social Security number;
2. Your residential and mailing addresses;
3. Your telephone number;
4. Your driver's license number;
5. Your employer's name, address, and telephone number;
6. If the children are covered by a health or medical insurance plan, the name of the plan, the policy identification number, and the names of the persons covered; and
7. If the children are not covered, information about availability of coverage through the party's employer.

Dispute Resolution:

If you later decide to change the parenting plan, the Judge may order you to go through some form of dispute resolution before returning to court (M.C.A. § 40-4-219). You can specify in your parenting plan what form of dispute resolution is appropriate. You can ask that a mutual friend, a family pastor, or another agreed-upon third party mediate between you and the other parent. A few community agencies offer free or reduced cost mediation services.

Mediation is not appropriate in cases involving domestic abuse (M.C.A. § 40-4-219(9)). If there has been physical abuse or the threat of physical abuse by one parent against the other parent or the children, court action may be the only appropriate way to change the plan.

Child and Medical Support

Child Support:

When the court establishes a final parenting plan, it also will order one or both parents to pay child support (M.C.A. § 40-4-204). If you already have a Child Support and Medical Support Order through the Montana Child Support Enforcement Division (CSED) or another appropriate agency, the court may simply refer to that Order and acknowledge it as valid.

If you do not already have a Child Support Order in place, the court will determine a child support amount based on Montana's child support guidelines. Computer software programs can do the complicated calculations automatically, and you may have to provide the court with the result of these calculations in a document called the Child Support Guidelines worksheet. You should ask the Clerk of District Court in the County where you are filing your Petition if they have a procedure for doing the child support calculations. You may also call the Montana Legal Services Association (1-800-666-6124) to find out if there is assistance available for running child support calculations in your area.

How is the Child Support Amount Determined?

The amount that the parents are asked to pay is based on what the court considers reasonable or necessary for raising the child. The amount is not affected by marital misconduct. It is based on the following factors:

1. The financial resources available to the child;
2. The financial resources available to each parent (income, pensions, etc.);
3. The standard of living the child would have had if the parents were still together;
4. The child's emotional, educational, and medical needs;
5. The age of the child;
6. The cost of day-care; and
7. How much time the child spends with each parent.

Financial Affidavit:

One important factor in figuring the child support amount is how much each parent is earning. Both parents should complete a Child Support Guidelines Financial Affidavit. You must sign this document in front of a notary, swearing that the information in it is true. You are also required to attach copies of your pay stubs or other documentation of your income. CSED or the court will use this information to do the child support calculations. If you do not already have a child support order, you will be required to file a copy of this affidavit with the court and serve a copy on the other parent as a part of your dissolution or parenting case.

How Does Unemployment Affect Child Support?

Even if a parent is unemployed, or if his/her earnings are not known, the parent is still responsible for paying child support. In general, the court assumes that everybody could be working 40 hours each week and earning at least minimum wage. This amount is therefore "imputed" to each parent. The court may impute higher than minimum wage if the parent's earning potential justifies it.

How Are the Child Support Payments Made?

Child support payments are generally made by automatic income withholding unless the court finds a good reason why income withholding is not appropriate (M.C.A. § 40-5-411). Income also can be withheld if the child support payment is delinquent (M.C.A. § 40-5-412). Support is considered delinquent if it is 8 days overdue. If you and the children are receiving public assistance under Temporary Assistance to Needy Families (TANF), the child support payments must be made through CSED.

Notifying the Child Support Enforcement Division:

If you are already receiving services from CSED, or if you receive public assistance under TANF, you must notify CSED that you have filed for a dissolution of marriage and/or parenting plan (M.C.A. § 40-5-202).

Medical Insurance:

Finally, every child support order also must include a provision about who will pay for the medical insurance and medical expenses of the minor children (M.C.A. § 40-5-805, 806, 807).

The general rule is that a parent who has medical insurance available through his or her employment must cover the children, if the insurance is available at a reasonable cost. If both parents have health plans, they may both provide coverage for the children. Sometimes the court will order both parents to pay premiums, deductibles, or other health care expenses based on percentages determined by the child support guidelines. For instance, one parent may have to pay one-third of the expenses, while the other parent pays two-thirds. The obligation to provide medical insurance ends when the child support obligation ends (M.C.A. § 40-5-808).

Property

As a part of a dissolution of marriage, the court must decide whether the property that belongs to the married couple should go to the husband or the wife. You must designate in your Petition who should get what property. The court will **equitably distribute** the property and assets of the marriage (M.C.A. § 40-4-202). In deciding what is equitable, the court will consider a number of factors, including:

1. The duration of the marriage;
2. The age, health, occupation, income, vocational skills, estate, liabilities, and needs of both parties;
3. The parenting arrangements, if children are involved;
4. Whether maintenance has been granted;
5. The opportunity for both parties to acquire income and assets in the future; and
6. The contribution of a spouse as a homemaker to the family.

Declaration of Assets, Debts, Income, and Expenses:

Under Montana law, both parties to the dissolution are required to give the other party a list of their assets, debts, income, and expenses within 60 days of serving the Petition (M.C.A. § 40-4-252). This document is called the Preliminary Declaration of Disclosure of Assets, Debts, Income, and Expenses. If BOTH parties agree, the exchange of preliminary declarations of disclosure may be waived.

The law also requires the exchange of final declarations of disclosure by both parties before the case goes to trial or before the parties reach an agreement. However, if your spouse does not answer the Petition, and a default judgement is granted, you may waive the final disclosure requirements (M.C.A. § 40-4-257). Except in the case of a default judgment, the parties can NOT agree to waive the exchange of final disclosures.

Failure of either party to file a complete financial disclosure statement can authorize the court to accept the statement of the other party as accurate. Any deliberately false statement may subject a party to contempt of court, fines, or appropriate penalties.

Major Property:

Property such as houses or land are referred to as **real property**. If you have large assets to distribute in the dissolution, you should consider seeking the advice of an attorney.

In addition, married people might have a right to part of each other's pensions or retirement accounts. If you or your spouse have a pension or retirement account, you should consider seeking the advice of an attorney.

If you have cars or real property that you are dividing in your dissolution, you might want

to ask in your Petition that one party remove his or her name from the title and deeds of the other person's property within 20 days of when the final decree is entered.

Personal Property:

Typically, dissolution papers list who should get which major pieces of property, and also state that each party is entitled to the personal property (such as clothing and personal items) "currently in his or her possession." If your spouse still has some of your personal property that you would like returned, be sure to state so explicitly in your Petition.

Temporary Economic Restraining Order:

While your dissolution is pending, both you and your spouse are prohibited from selling, hiding, or disposing of any property without the consent of the other person, "except in the usual course of business or for the necessities of life" or to pay attorney's fees (M.C.A. § 40-4-121). Both of you also are restrained from changing the beneficiaries of your insurance coverage while the dissolution is pending. This temporary restraining order on property is included in the Summons, the document that officially notifies your spouse that you are filing for a dissolution.

Debts

When you are drafting your Petition for Dissolution, you also should designate who should be responsible for which debts (also known as "liabilities") of the marriage. The Petition also should state that each party should be responsible for his or her own debts from before the parties were married and after the parties separated. If you think the court should make an exception to this, state the exception and the reason for it.

Be Specific:

It is important to be as specific as possible when describing your debts. For example, describe a credit card debt as "Capitol One Visa for $200." Again, you are required to disclose all of your debts to your spouse in your Declaration of Disclosure (M.C.A. § 40-4-252). You might want to get a credit report prior to drafting your documents.

Creditors:

You are not responsible for the debts your spouse had before you were married or after you are divorced. However, creditors can collect from you on your joint debts of the marriage. These debts often include utility bills, credit cards, and contracts you both

signed.

Notify joint creditors of your separation as soon as possible. Only you and your ex-spouse are parties to your dissolution. This means that creditors are not required to honor the court's division of debts. For example, if your spouse had medical bills during your marriage, creditors may still require you to pay them, even if the court orders your spouse to pay them. You may show the creditor your decree of dissolution and explain to them how to contact your ex-spouse, but, again, the creditor does not have to honor the division of debts outlined in your decree.

However, you can go back to the court which issued your decree and ask the court to hold your ex-spouse in contempt for failing to pay the bills as required in the decree. You will usually need a lawyer to do this.

Temporary Orders

(Provisions for Temporary Orders are not provided for in the set of forms which come with this packet. If you are interested in pursuing any of the temporary orders discussed in this section, you should speak to an attorney.)

Temporary Order of Protection:

If you feel that you or your children are in danger, you can file for a Temporary Order of Protection. A Temporary Order of Protection makes it illegal for the other party to have any contact with you and/or the minor children. The other parent may not come near you, call you, or threaten you. You can add specific language to protect you at school or work or any place that you often go.

District Court: If you are in the middle of filing for a dissolution or a parenting plan, any temporary orders that you file must be filed in District Court, where your dissolution or parenting plan also will be heard. If you already have an Order of Protection in place from municipal or justice court, you should transfer the Order to District Court. In order to do this, you must file a Notice of Removal with the court who issued the Order.

For More Information: If you want more information about filing for a temporary order of protection, you should call a victim advocate in your area. To find a victim advocate near you, call the Montana Coalition Against Domestic and Sexual Violence at 1-888-443-7794.

Other Temporary Orders:

Interim Parenting Plan: You can ask the court for an Interim Parenting Plan to outline the living arrangements for the children while you are waiting for the court to issue the Final Parenting Plan. You may want an Interim Parenting Plan if you feel that your children are in imminent danger of being "snatched" by the other parent. You will probably need an attorney to handle this matter.

Temporary Maintenance: If you have been married to your spouse for several years and need temporary financial assistance, you may want to pursue a Temporary Maintenance Order. A request for maintenance usually is not appropriate in a default dissolution. If your spouse is likely to contest such a request, you may need a private attorney to represent your interests.

Temporary Child Support: If child support has not been established already and you need money from the other parent to take care of the children while your dissolution is pending, you can file a Motion for Temporary Child Support. Again, this might not be appropriate for an uncontested dissolution or parenting plan, and a private attorney may be necessary.

Temporary Family Support Orders: You also can request a Temporary Family Support Order which, if granted, is effective while your dissolution is pending. This order is not meant to eliminate orders for temporary maintenance or child support. A Family Support Order puts a "holding pattern" on the marital estate while property and debt issues are being decided. The Order gives the court the power to pay marital bills based on the income and assets of both parties. The court may order one or both parties to sell assets in order to pay bills, if necessary (M.C.A. § 40-4-121).

Post-Dissolution Issues

Remember to Follow the Decree:

When the court grants your dissolution, it will issue a "Final Decree of Dissolution" dissolving the marriage and resolving the issues raised in the dissolution. Keep a copy of the Decree and the Final Parenting Plan in a safe place. Make sure to follow the orders in the Decree, including:

1. Paying your portion of the marital debts as soon as possible; and
2. Making sure vehicle and other titles are signed over to the appropriate party.

If You Receive Support Payments Directly from the Other Parent:

1. Keep a written record of all payments; and
2. Make copies of all checks, and keep them in a safe place.

If You Changed Your Name as Part of the Dissolution:

1. Keep your conformed copy of the Decree as proof of the name change;
2. Notify the Social Security Administration (SSA) and complete the necessary forms to receive a new identification card;
3. Update your driver's license with the Department of Motor Vehicles;
4. Change your name on other important legal papers (e.g., powers of attorney, living wills, trusts, and contracts);
5. Notify other people and institutions with whom you have contact (e.g., friends and family, employers, schools, post office, banks, creditors, telephone and utility companies, insurance agencies, the Public Assistance office, etc.).

Some Tax Issues to Keep in Mind:

1. The IRS assumes that the parent who has the children most of the time is entitled to the exemptions, but parents are allowed to trade them back and forth, using IRS Form 8332.
2. Your marital status for tax filing is set as of the last day of the year. If you are still married on December 31 (and you file as of a calendar year, as most people do), you must file as married (either jointly or separately). If you are divorced as of December 31, you must file single (either as head of household or not).
3. Contact a tax professional if you have further questions or think you may be eligible for other tax credits.

If You or the Other Party Wants to Change a Parenting Plan Later:

Dispute Resolution: Look at your Final Parenting Plan to see if there is a section on Dispute Resolution. If you agreed to try mediation before going back to court, you should initiate mediation by following the process described in the plan. If the plan does not specify who should do the mediation, try to find a mediator who can do the mediation for you.

Modifying Your Plan through the Court: If you cannot work out your disagreements through mediation, or if your plan does not provide for mediation, you will probably need a private attorney to amend your plan through the court.

If You Decide to Move:

A parent is required to give the other parent 30 days written notice before making any

move that will “significantly affect” the other parent’s contact with the children (M.C.A. § 40-4-217). You must give notice by certified mail or personal service, and you must file proof of service with the court. You must include a proposed revised residential schedule with the notice.

Thirty (30) days notice gives the other parent time to ask the court to change the residential schedule. If you move to another state with your children without giving written notice to the other parent or getting the other parent’s consent, you may be charged with “aggravated visitation interference.” You could be fined up to $1000 and imprisoned up to 18 months. You may also be held in contempt of court (M.C.A. § 45-5-632).