

Introduction to Family Law in Montana

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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.

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

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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).

How to File for a Permanent Parenting Plan in Montana

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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.

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

Rev. 7/02

What Forms Will I Need?

Initial Documents:

1. Petition for Establishment of Permanent Parenting Plan
2. Proposed Parenting Plan
3. Summons

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

Service Documents:

You will only need to serve the other parent using one of the following methods. If you are unable to serve by one method, you may try to serve by using the other.

6. Notice and Acknowledgment of Receipt of Summons and Petition for Establishment of Permanent Parenting Plan
7. Praecipe

Final Documents:

1. Request for Entry of Default and Application for Default Judgement
2. Entry of Default
3. Request for Hearing and Order
4. Findings of Fact, Conclusions of Law, and Final Decree Establishing Permanent Parenting Plan
5. Final Parenting Plan
6. Notice of Entry of Decree
7. Vital Statistics Form

Nine Steps to Getting a Permanent Parenting Plan

Warning:

These instructions will walk you through the steps you will need to follow in order to file for a Permanent Parenting Plan. 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 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.

Step One: Collect Information and Make Decisions

- [] Before completing the parenting plan forms, you will need to make important decisions regarding the children. 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.
- [] 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 permanent parenting plan. Fill out each form neatly and completely. 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: File Your Documents with the Court

- [] After you have completed all of the forms, make copies of the following documents:
 - [] Summons (one copy)
 - [] Petition for Establishment of Permanent Parenting Plan (three copies)
 - [] 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 11):
 - [] Notice of Filing Child Support Guidelines Financial Affidavit (with attached Affidavit) (two copies)
 - [] Notice and Acknowledgment to Child Support Enforcement Division (three copies)

Always keep one copy of everything that you file with the Clerk of District Court or serve on the other party. The original documents get filed with the Clerk. Every time you file a document with the Clerk, bring a copy of the document with you and ask the Clerk to stamp it, showing that the document has been filed. 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 your parenting action. 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 a copy of each document to keep for your records.
 1. Summons
 2. Petition for Establishment of Permanent Parenting Plan
 3. Proposed Parenting Plan
 4. Notice of Filing Child Support Guidelines Financial Affidavit (if necessary)
 5. Notice and Acknowledgment to Child Support Enforcement Division (if necessary)
- [] The Clerk will sign and stamp the original Summons and return it to you. Make two copies of the Summons that has been signed and stamped by the Clerk.
- [] 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 Four: 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 parenting action by sending them the following:
 1. Notice and Acknowledgment to Child Support Enforcement Division
 2. Petition for Establishment of Permanent Parenting Plan

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 parenting plan 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 the parenting action 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 Five: Notify the Other Parent

After you file your papers with the Clerk, you will need to serve the papers on the other parent by using one of the methods described below.

- Depending on how you plan to serve the other parent, make copies of either the:
- Notice and Acknowledgment (two copies)
 - Praecipe (one copy)

Choose One:

- Notice and Acknowledgment.** If the other parent is willing to help you establish the parenting plan, you may serve him or her by mailing the following documents:
1. Notice and Acknowledgment of Receipt of Summons and Petition for Establishment of Permanent Parenting Plan (original and one copy)
 2. Summons (copy)
 3. Proposed Parenting Plan (copy)
 4. Notice of Filing Child Support Guidelines Financial Affidavit (copy)
 5. Notice and Acknowledgment to Child Support Enforcement Division (copy)

Also, include a self-addressed stamped envelope.

The other parent should sign and return the Notice and Acknowledgment back to you. The Notice and Acknowledgment is your proof that the other parent was served. If you do not receive the Notice and Acknowledgment back within 20 days, you will need to have the Sheriff serve the other parent. You may be able to ask the court to have the other parent pay for any fees associated with this service.

- Service by Sheriff.** Sheriffs in Montana will serve the papers on the other parent for free if you have an Order of Inability to Pay from the Judge, otherwise you will need to pay the sheriff for this service. Either mail or personally deliver the following documents to the sheriff in the county where the other parent lives:
1. Praecipe (original)
 2. Summons (original and one copy)

3. Petition for Establishment of Permanent Parenting Plan (copy)
4. Petitioner's Proposed Parenting Plan (copy)
5. Notice of Filing Child Support Guidelines Financial Affidavit (copy)
6. Notice to Child Support Enforcement Division (copy)

Also give the sheriff a self-addressed return envelope. When the sheriff has served the documents, s/he will send you a Return of Service and the original Summons. The Return of Service is your proof that the documents were served.

Step Six: File the Original Summons and Return of Service

- [] After you receive proof that the other parent was served (by either a Return of Service or a Notice and Acknowledgment), make one copy of the proof of service. File the original with the Clerk of District Court. At the same time, file the original Summons.

If the other parent files a Response or Answer with the court, you should consult with an attorney before proceeding. The rest of these instructions assume that your parenting action is not being contested by the other parent.

Step Seven: Request a Default

- [] Wait 21 days from the date the other parent was served. Give the Clerk of District Court your cause number and confirm that the other parent has not filed a Response.

- [] Complete and make copies of the following documents:
 7. Findings of Facts, Conclusions of Law, and Final Decree Establishing Permanent Parenting Plan (two copies)
 8. Final Parenting Plan (two copies)
 9. Request for Entry of Default and Application for Default Judgment (one copy)
 10. Entry of Default (one copy)
 11. Request for Hearing and Order (one copy)
 12. Vital Statistics Form (one copy)

- [] File the Request for Entry of Default, the Entry of Default, and the Request for Hearing and Order. As always, get a filed stamped copy of each document for your files. The Clerk will schedule a final hearing.

- [] Also leave with the Clerk your original Findings of Fact, Conclusions of Law, and Final Decree Establishing Permanent Parenting Plan and your original Final

Parenting Plan. The Clerk will give these documents to the Judge to review before your final hearing.

Step Eight: 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 Establishing Permanent Parenting Plan
 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 the other parent is capable of contributing to the support of the children, and if the child support amount is fair and reasonable

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 Nine: Notify the Other Parent

- [] Make two copies of the Notice of Entry of Decree.
- [] Mail copies of the following documents to the other parent:
 1. Notice of Entry of Decree
 2. Findings of Fact, Conclusions of Law, and Final Decree Establishing Permanent Parenting Plan
 3. Final Parenting Plan
- [] File the original Notice of Entry of Decree with the Clerk of District Court. The other parent has 30 days from your filing of the Notice of Entry of Decree to

appeal the Decree. For this reason, it is important that you file the Notice with the Clerk.

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

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

**Petition for Establishment of
Permanent Parenting Plan**

The Petitioner respectfully submits the following:

1. Information about Petitioner
 - a. Name:
 2. Age: _____ Date of Birth:
 3. Address:
City: _____ State: _____ County:
 - d. Length of Residence in County:
 - e. Length of Residence in Montana, if applicable:
 - f. Occupation:

2. Information about Respondent

- a. Name:
- b. Age: _____ Date of Birth:
- c. Address:
City: _____ State: _____ County:
- d. Length of Residence in County:
- e. Length of Residence in Montana, if applicable:
- f. Occupation:

3. Relationship

The parties were never married.

4. Pregnancy

Choose One:

- The Petitioner/ Respondent is not pregnant.
- The Petitioner/ Respondent is pregnant. However, the Petitioner/ Respondent is not the father, and the child is not at issue in this proceeding.

5. The Child(ren)

The Petitioner is the Mother/ Father and the Respondent is the Mother/ Father of the following minor child(ren):

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

If needed, attach additional sheets as Exhibit _____.

6. Jurisdiction over the Child(ren)

This Court has jurisdiction to make a parenting determination regarding the minor child(ren) listed above. Choose One:

- The child(ren) has/have lived in Montana for at least six consecutive months immediately before the start of this proceeding. If a child is less than six months old, the child has lived in Montana since his/her birth.
- Montana was the home state of the child(ren) within six months of the start of this proceeding, and one parent continues to reside in Montana.
- The child(ren) and one parent have had significant connections to Montana, and substantial evidence about them is available here.
- The child(ren) is/are physically present in Montana, and the child(ren) has/have been abandoned or an emergency exists requiring the child(ren)'s protection.

7. Required Information Regarding the Child(ren)

This proceeding will affect the custody of the minor child(ren) of the parties. The following information is required by M.C.A. § 40-7-110:

- a. During the last five years, the child(ren) have lived at the following places with the following persons. *List each place the child(ren) have lived, the dates the child(ren) lived there, and all person(s) with whom the child(ren) lived:*

Address	Dates	with Whom

Address	Dates	with Whom

List the names and present addresses, if known, of the persons listed above, other than Petitioner and Respondent, with whom the child(ren) have lived in the last five years:

Names	Present Address(es)

If needed, attach additional sheet(s) as Exhibit ____.

b. Choose One:

I have not participated as a party or witness or in any other capacity in any

other proceeding concerning the custody of or visitation with the child(ren).

I have participated as a party/ witness / other: _____ in another proceeding concerning the custody of the child(ren).

Court: _____ Case No.:

Date of Child Custody Determination: _____.

If needed, attach additional sheet(s) as Exhibit ____.

c. Choose One:

I know of no other proceeding that could affect the current proceeding.

The following proceeding could affect the current proceeding:

Nature of Proceeding: _____

Court: _____ Case No.: _____

If needed, attach additional sheet(s) as Exhibit ____.

d. Choose One:

I know of no other person (not a party to this action) that has physical custody of the child(ren), or who claims rights of legal custody, physical custody or visitation with the child(ren).

The following person(s) have physical custody of the child(ren) or claim rights of legal custody, physical custody or visitation with the child(ren):

8. Parenting Plan

It is in the best interest(s) of the minor child(ren) that the Court adopt the Petitioner's Proposed Parenting Plan, filed separately from this Petition.

9. Child Support Order

Choose One:

Child support in the amount of \$ _____ per month per child has been established by the Montana Child Support Enforcement Division or another appropriate administrative agency or court. A copy of the Order is attached hereto as Exhibit _____. (*Skip to Number 10.*)

or

The Petitioner/ Respondent needs financial assistance from the Petitioner/ Respondent to support the minor child(ren) and requests that the Court enter the following proposed Child Support Order:

a. The Petitioner/ Respondent shall pay \$ _____ per month per

child. This amount was determined in accordance with the Montana Child Support Guidelines, worksheet attached hereto as Exhibit ____.

b. The first payment is due the ____ day of _____, 20____. Payments should continue until such time as each child reaches the age of 18 years and has completed high school, or attained the age of 19 years, or is emancipated by court order, whichever shall first occur.

c. On or before the first of every month, payments should be made to (Choose One):

The Child Support Enforcement Division. Immediate income withholding is appropriate. The Petitioner's/ Respondent's income is subject to immediate income withholding under M.C.A. Title 40, Chapter 5, Parts 3 and 4.

Petitioner/ Respondent. This child support order should be exempt from immediate income withholding because _____.

or

Clerk of Court. This child support order should be exempt from immediate income withholding because _____.

d. The Petitioner requests that the following warning be included in the Final Child Support Order:

WARNING: If a parent is delinquent in payments, that parent's income may be subject to income withholding procedures under MCA Title 40, Chapter 5, without need for any further action by the Court. Support is delinquent when it is 8 days overdue.

e. Whenever the case is receiving services under Title IV-D of the Social Security Act, support payments must be paid through the Department of Public Health and Human Services Child Support Enforcement Division as provided in M.C.A. § 40-5-909.

f. This order is subject to review and modification by the Department of Public

Health and Human Services upon the request of the Department or a party under M.C.A. §§ 40-5-271 through 40-5-273, when the Department is providing services for enforcement under Title IV-D of the Social Security Act.

- g. The obligations to provide financial child support, provide medical care for a child, and provide or comply with parenting arrangements shall be independent of each other, and the failure or inability to provide one or more shall not reduce any other obligation.
- h. Each party should promptly inform the Court of any changes in the following information:
 - (i) Name, social security number, mailing address, residential address, telephone number, and driver's license number; and
 - (ii) Names, addresses, and telephone numbers of current employers.
- 1. The Petitioner requests that the following warning be included in the Final Child Support Order:

WARNING: In any subsequent child support enforcement action, on sufficient showing of diligent efforts to locate the party, due process requirements for notice and service may be met by delivering written notice by regular mail to the last address of the party or the party's employer reported to the Court.

10. Medical Support Order

Choose One:

- A Medical Support Order has been established by the Montana Child Support Enforcement Division or another appropriate administrative agency or court. A copy of the Order is attached hereto as Exhibit _____. (*Skip to Number 11.*)

or

- Medical support is needed to cover the medical and dental expenses of the minor child(ren) of the parties. The Petitioner requests that the Court adopt the following Medical Support Order:

Existing Coverage

Choose All That Apply:

The child(ren) are presently covered under the following insurance plan:

Carrier Name:

Policy No.:

The Petitioner/ Respondent shall continue to provide medical coverage through the plan as long as it is available at a reasonable cost, and as long as no other plan or individual insurance is available that will better serve the interests of the parties.

The child(ren) is a/are recipient(s) of medical assistance under Title XIX of the federal Social Security Act (Medicaid).

The child(ren) are not covered under an existing insurance plan.

Contingency Medical Support

If the minor child(ren) are either (i) covered by Medicaid, (ii) are not covered under an existing insurance plan, or (iii) if the existing coverage becomes no longer available, the following provisions shall apply:

- a. The Petitioner shall provide medical coverage through individual insurance or a health benefit plan for the child(ren), as long as it is available at reasonable cost, and as long as no other plan or individual insurance is available that will better serve the interests of the parties.
- b. The Respondent shall provide medical coverage through individual insurance or a health benefit plan for the child(ren), as long as it is available at reasonable cost, and as long as no other plan or individual insurance is available that will better serve the interests of the parties.
- c. If health benefit plans are available to both parties at a combined cost that is reasonable or cost-beneficial and with benefits that are complementary or compatible as primary and secondary coverage, both parties shall provide coverage for the child(ren).
- d. Coverage is presumed to be available at reasonable cost if the cost of premiums does not exceed 25 percent of the obligated party's total child support obligation when calculated under the child support guidelines

without credit for the medical support obligation.

- e. If circumstances change and a party believes that corresponding changes in cost are not reasonable or cost-beneficial, the party may move to petition any appropriate tribunal for relief.

Duties of the Parties

- a. The Petitioner shall be responsible for ____% and the Respondent shall be responsible for ____% of all medical expenses of the minor child(ren), including the costs of the premium for coverage, all co-payments and deductibles required for coverage, and any uncovered medical expenses.
 - b. Each party shall promptly execute and deliver to the insurance provider all forms necessary to ensure the child(ren)'s continuous participation in insurance coverage. Each party shall timely submit claims for processing, verification, and payment. Each party shall provide the other party with identification cards or other methods for access to coverage.
 - c. If a party receives a reimbursement but did not pay the underlying bill, that party shall promptly pay over the proceeds to the proper party.
 - d. If the party responsible for providing medical insurance coverage for the child(ren) allows such coverage to lapse without securing a comparable replacement, that party shall be liable for all the child(ren)'s medical expenses and shall indemnify the other party, the Department of Public Health and Human Services, or any third-party custodian for the cost of obtaining medical coverage and medical expenses.
 - e. Any liability for unpaid medical costs and expenses may be entered as a judgment for unpaid support against the obligated party. A party may apply to the Court for expedited enforcement procedures.
6. If an obligated party fails to pay a required premium, the other parent, the Department of Public Health and Human Services, or the custodian may advance the cost of premiums and keep benefits continually in force for the child. The advance should be entered as a judgment for unpaid child support in favor of the advancing party and against the obligated parent.

- g. The obligation to provide medical coverage for the child(ren) ceases only when the child support obligation ceases.
- h. The costs of providing individual insurance or a health benefit plan may not be used as a direct offset to the child support obligation. However, as provided by the child support guidelines, the costs may be considered in making or modifying a child support order.
- i. Each party shall promptly inform the Court of any changes in the following information:
 - (i) If the child(ren) is/are covered by a health or medical insurance plan, the name of the plan, the policy identification number, and the name(s) of the person(s) covered;
 - (ii) If the child(ren) is/are not covered by a health or medical insurance plan, whether health insurance coverage for the child(ren) is available through the party's employer or other group, and if so, whether the employer or other group pays any portion of the coverage premium.
- j. A civil penalty not to exceed \$25 per day may be imposed for an intentional violation of this medical support order or the provisions of M.C.A Title 40, Chapter 5, Part 8 or the regulations promulgated under that Part.
- k. The Petitioner requests that the following warning be placed in the Final Child and Medical Support Orders:

WARNING: The obligations to provide medical care, provide financial child support, and provide or comply with visitation and custody arrangements are independent of each other, and the failure or inability to provide one or more does not reduce any other obligation.

11. Notice to the Department of Public Health and Human Services

Choose One:

- The Department of Public Health and Human Services is not providing services to the parties or minor child(ren) of the parties under the provisions of Title IV-D of the Social Security Act.
- The Department of Public Health and Human Services is providing services to the

parties or minor child(ren) of the parties under the provisions of Title IV-D of the Social Security Act. The Petitioner will notify the Montana Child Support Enforcement Division and the Office of the Attorney General of this proceeding.

[] Not applicable. The Petitioner is not seeking to establish, enforce, or modify the parties' previously established child support order.

12. Other Provisions

WHEREFORE, the Petitioner requests as follows:

1. That this Court adopt the Petitioner's Proposed Parenting Plan, filed separately from this Petition;
2. That a Child Support Order be established, if requested above;
3. That a Medical Support Order be established, if requested above;
4. Other Provisions: _____
_____ ; and
5. For such other and further relief as the Court deems just and proper.

DATED this _____ day of _____, 20__.

Petitioner Pro Se

Print Name

STATE OF MONTANA)
): ss
COUNTY OF _____)

_____, being first duly sworn on oath, says that he/she

is the Petitioner in the above-entitled proceeding; that he/she has read the foregoing Petition and knows the contents thereof; and that the matter, facts and things stated therein are true to the best of his/her knowledge and belief.

Petitioner Pro Se

Print Name

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20 ____.

(Seal)

Name (*printed*): _____
Notary Public for the State of Montana.
Residing at _____
My Commission Expires _____

Name

Address

City State Zip Code

Phone Number

[] PETITIONER/[] RESPONDENT PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

In re the Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

**[] Petitioner's/[] Respondent's
[] Proposed/[] Final
Parenting Plan**

1. Identification of the Parties

a. Petitioner's Name:

Address:

b. Respondent's Name:

Address:

2. Identification of the Child(ren)

This parenting plan applies to the following minor child(ren) of the parties:

Name (first and last): _____ Date of Birth: ___ / ___ / ___

State of residence for last six months:

Name (first and last): _____ Date of Birth: ___ / ___ / ___

State of residence for last six months:

Name (first and last): _____ Date of Birth: ___ / ___ / ___

State of residence for last six months:

Name (first and last): _____ Date of Birth: ___ / ___ / ___

State of residence for last six months:

Name (first and last): _____ Date of Birth: ___ / ___ / ___

State of residence for last six months:

If needed, attach additional sheets as Exhibit _____.

3. Objectives of the Parenting Plan

- a. To protect the best interest(s) of the minor child(ren);
- b. To provide for the physical care of the minor child(ren);
- c. To maintain the child(ren)'s emotional stability and minimize the child(ren)'s exposure to parental conflict;
- d. To provide for the minor child(ren)'s changing needs as they grow and mature;
- e. To set forth the authority and responsibilities of each parent with respect to the minor child(ren);
- f. To help the parents avoid expensive future court battles over the minor child(ren).

4. Residential Schedule for the Child(ren) *The provisions set forth below in Paragraphs 4(a)-(i) are one way to write your residential schedule. This schedule is designed to provide for the child(ren)'s changing needs as they grow and mature. It specifies the periods of time during which the child(ren) will reside*

with each parent, including holidays, vacations, and other special occasions. If you choose not to use the provisions provided, you may write your own schedule in Paragraph 4(j) below.

a. Pre-School Schedule (Choose One):

- There are no child(ren) under school age.
- There are child(ren) under school age, but the school schedule set forth in 4(b) below shall apply to the child(ren) regardless of their age(s).
- Prior to enrollment in school, the child(ren) shall reside primarily with the Mother / Father, except for the following days and times when the other parent shall have parenting time with the child(ren):

or

- Describe the residential schedule for the minor child(ren) prior to their enrollment in school:*

b. School Schedule (Choose One):

- Upon enrollment in school, the child(ren) shall reside with the Mother / Father, except for the following days and times when the other parent shall have parenting time with the child(ren):

or

- Describe the residential schedule for the minor child(ren):*

c. Holiday and Special Occasion Schedule

[] No holiday and special occasion schedule shall apply. The school year or pre-school schedule set forth above shall apply.

or

[] The following schedule shall apply for the holidays and special occasions listed below:

<u>Holiday/Special Occasion</u>	<u>With Mother (Specify Odd/ Even/Every Year)</u>	<u>With Father (Specify Odd/ Even/Every Year)</u>
New Year's Day	_____	_____
Martin Luther King Day*	_____	_____
Presidents' Day*	_____	_____
Easter	_____	_____
Mother's Day	_____	_____
Memorial Day*	_____	_____
Father's Day	_____	_____
July 4 th	_____	_____
Labor Day*	_____	_____
Halloween	_____	_____
Veterans' Day*	_____	_____
Thanksgiving	_____	_____
Christmas Eve	_____	_____
Christmas Day	_____	_____
Mother's Birthday	_____	_____
Father's Birthday	_____	_____
Child(ren)'s Birthday(s)	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Choose All That Apply:

- Unless otherwise noted below, holidays/special occasions shall begin at _____ a.m. and end at _____ p.m.
- Holidays which fall on a Friday or a Monday and which are traditionally considered three day holidays (as noted by an asterisk (*) above)
 shall not/ shall include the Saturday and Sunday immediately preceding or following the holiday.
- Thanksgiving shall begin on (day and time) _____
and shall extend until (day and time) _____.
- Christmas Eve shall begin on (day and time) _____
and shall extend until (day and time) _____.
- Christmas Day shall begin on (day and time) _____
and shall extend until (day and time) _____.
- The child(ren)'s school attendance shall take priority over the holiday and special day schedule. The child(ren) shall not miss school because of the holiday or special occasion schedule.

d. Winter Vacation (Choose One):

- No winter vacation schedule shall apply. The school year or pre-school schedule set forth above shall apply.

or

- (i) The parent exercising parenting time with the child(ren) on Christmas Eve (as outlined above) shall have the following additional parenting time with the child(ren) over winter vacation:

_____.
- (ii) The parent exercising parenting time with the child(ren) on Christmas Day (as outlined above) shall have the following additional parenting time with the child(ren) over winter vacation:

_____.

or

Describe the residential schedule for the child(ren)'s winter vacation:

e. Summer Vacation (Choose One):

No summer vacation schedule shall apply. The school year or pre-school schedule set forth above shall apply.

or

The child(ren) shall reside with the Mother / Father during summer vacations, except for the following days and times when the child(ren) shall be with the other parent:

or

Describe the residential schedule for the child(ren)'s summer vacation:

f. Spring Break (Choose One):

No Spring Break schedule shall apply. The school year or pre-school schedule set forth above shall apply.

or

The child(ren) shall reside with the Mother / Father during Spring Break, except for the following days and times when the child(ren) shall be with the other parent:

or

Describe the residential schedule for the child(ren)'s Spring Break:

g. Other Vacations with Parents

Describe the schedules for any other vacations with the parents:

h. Priorities under the Residential Schedule

If the residential schedule outlined above results in a conflict where the child(ren) are scheduled to be with both parents at the same time, the conflict shall be resolved by priority being given as follows:

Rank the order of priority, with 1 being the highest priority

____ Preschool and School Schedule

____ Holidays/Special Occasions

____ Winter/Summer/Spring Break Vacations

____ Other Vacations with Parents

or

Other:

i. Supervised and Limited Visitation (Choose One):

The residential schedule listed above is not subject to any additional restrictions or limitations on parenting time.

or

(i) The Mother's/ Father's parenting time shall be supervised or limited because he/she has exhibited the following behavior which is not in the best interest(s) of the minor child(ren):

_____.

(ii) It is in the best interest(s) of the minor child(ren) that the Mother's/ Father's parenting time be subject to the following conditions:

How Often/ For How Long:

_____.

Where: _____.

Supervised by Whom: _____.

(iii) The supervised and limited visitation conditions shall take priority over any other terms of the residential schedule above.

(iv) If the Mother / Father has completed the following and has followed through with any and all recommendations by the evaluator, treatment counselor, and/or other professional recommendations, the Mother/ Father agrees to consider a modification to allow less restricted visitation after _____ months of supervised and limited visitation. (Check All That Apply):

Alcohol/drug evaluation

Substance abuse treatment

Psychological evaluation

Anger management counseling

Parenting classes

Other: _____.

Other: _____.

j. Other:

5. Designation of Custodian

For the purpose of all other state and federal statutes which require a designation or determination of custody, the [] Mother /[] Father shall be designated the custodian. However, this designation shall not affect either parent’s rights and responsibilities under this parenting plan.

6. Transportation Arrangements (Choose All That Apply):

[] Transportation arrangements for the child(ren) between parents shall be as follows:

_____.

[] Unless both parents agree upon a different meeting place, the exchange of the child(ren) shall be at: _____.

[] Transportation costs shall be distributed as follows:

_____.

[] If the [] Mother /[] Father is more than ____ minutes late to pick the child(ren) up for a visit, that visit shall be canceled.

7. Telephone Contact (Choose One):

[] While the child(ren) reside with one parent, the other parent shall be permitted to speak with the child(ren) at reasonable times.

[] While the child(ren) reside with one parent, the other parent shall be permitted to speak with the child(ren) at the following times only:

_____.

8. Co-Parenting Guidelines (Choose All That Apply):

[] Each parent shall promote a healthy, beneficial relationship between the child(ren) and the other parent and shall not demean or speak out negatively in any manner that would damage the relationship between either parent and the child(ren).

- Each parent shall notify the other parent at least _____ days in advance when a particular parenting time shall not be exercised. The missed time shall not be substituted unless mutually agreed to by both parents. The parents are expected to fairly modify visitation when family necessities, illnesses, or other commitments reasonably so require. The requesting parent shall act in good faith and give as much notice as circumstances permit.
- Each parent shall supply the appropriate child(ren)'s clothing with them for their scheduled time with the other parent. These clothes are to be considered the child(ren)'s clothes and shall be returned with the child(ren).
- Each parent shall provide separate clothes for the child(ren) at their own residence, unless mutually agreed to by both parents. In the cold months of the year, both parents are required to have adequate boots, gloves, hats, and jackets for the child(ren), unless mutually agreed to by both parents.
- If a parent plans a special activity that requires clothing and/or equipment that would normally not be with the child(ren), it is that parent's responsibility to check and see if the child(ren) have such clothing and/or equipment with the other parent, to ask that the clothing and/or equipment travels with the child(ren), and to ensure that the clothing and/or equipment returns the same with the child(ren).
- Each parent shall be responsible for ensuring that the child(ren) attend regularly scheduled activities, including but not limited to sports and extra-curricular activities, while the child(ren) are with that parent.
- Neither parent shall permit the child(ren) to be subjected to (Choose All That Apply):
 - Persons abusing alcohol or using illegal drugs within 24 hours of contact with the child(ren). This includes the abuse of alcohol or the use of illegal drugs by the parent.
 - Smoking environment.
 - Use of profane language.
 - Removal of the child(ren) from Montana, except as authorized by the Court or mutually agreed to by both parents.

Other: _____.

Other: _____.

Any violation of these terms will result in the immediate termination of that parent's contact with the child(ren).

Relationships between the child(ren) and relatives and family friends on both sides of the family shall be protected and encouraged. The parents shall have their child(ren) maintain ties with both the maternal and paternal relatives. In Montana, grandparents have a legal right to request a court to order reasonable visitation with their grandchild(ren), if it is in the best interest(s) of the child(ren). Usually the child(ren) will visit with the paternal relatives during times the child(ren) are with their father and with the maternal relatives during times they are with their mother.

9. Decision Making

a. Day-to-Day Decisions

Each parent shall be authorized to make decisions regarding the day-to-day care and control of the child(ren) while the child(ren) are residing with that parent, unless or except as provided below (Choose All That Apply):

Sole decision making shall be granted to the Mother/ Father for the following reasons: _____

_____.

Major decisions concerning the child(ren)'s education shall be made by

the Mother/ the Father/ both parents jointly.

Major decisions concerning the non-emergency health care of the child(ren) shall be made by the Mother/ the Father/ both parents jointly.

Major decisions concerning the spiritual development of the child(ren) shall be made by the Mother/ the Father/ both parents jointly.

The consent of both parents shall be required before any minor child(ren) shall be permitted to (Choose All That Apply):

- Get a tattoo
- Pierce any body part
- Marry
- Enlist in the armed services
- Other:
- Other:
- Other: _____.
- Other: _____.

b. Emergency Decisions

Regardless of the allocation of decision making in this parenting plan, each parent shall be authorized to make emergency decisions affecting the health or safety of the child(ren).

10. Access to Information

- a. As required by M.C.A. § 40-4-225, both parents shall have access to all information relating to their child(ren) including, but not limited to, school records, counseling records, medical and dental records.
- b. As required by M.C.A. § 40-4-204(6)(a), both parents shall update each other and the Court with written notice of changes to the following information:
 - (i) Residential and mailing addresses;
 - (ii) Telephone number;
 - (iii) Social Security number;
 - (iv) Driver’s license number;
 - (v) Name, address, and phone number of employers;
 - (vi) Health insurance coverage for the child(ren);
 - (vii) Health insurance available through either parent’s employer which could cover the minor child(ren).
- It is appropriate that the personal information of the Mother/ Father shall remain confidential and shall not be provided to the other parent because:

11. Residential Changes

As required by M.C.A. § 40-4-217, if a parent's change in residence will significantly affect the other parent's contact with the child(ren), written notice shall be served personally or sent by certified mail to the other parent not less than 30 days before the proposed change in residence and must include a proposed revised residential schedule. Proof of service must be filed with the court that adopted the parenting plan. Failure of the parent who receives notice to respond to the written notice or to seek amendment of the residential schedule within the 30-day period constitutes acceptance of the proposed revised residential schedule.

12. Review of Parenting Plan (Optional)

The parents will review this parenting plan at the following times:

13. Dispute Resolution

The following shall apply when disputes arise between the parents in carrying out or amending this parenting plan (Choose One):

No alternative dispute resolution process, except court action, shall apply unless ordered at the discretion of the Court.

No alternative dispute resolution process is appropriate. The following limiting factors exist, as provided in M.C.A. § 40-4-219(9) (Choose All That Apply):

This is a case of physical abuse or threat of physical abuse by one parent against the other parent or the child(ren).

A parent has been convicted of deliberate homicide, mitigated deliberate homicide, sexual assault, sexual intercourse without consent, deviate sexual conduct with an animal, incest, aggravated promotion of prostitution of a

child, endangering the welfare of children, partner or family member assault, or sexual abuse of children.

or

a. Disputes between the parents shall be submitted to mediation, counseling, or arbitration _____ by:

b. The cost of this process shall be allocated between the parents as follows (Choose One):

Based on each parent's proportional share of income as determined from the child support worksheet.

As determined in the dispute resolution process.

Mother: _____ % , Father: _____ %.

c. A parent will begin the dispute resolution process by notifying the other parent by written request sent by certified mail.

d. In the dispute resolution process:

(i) Preference shall be given to carrying out this parenting plan.

(ii) Unless an emergency exists, the parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support.

(iii) A written record shall be prepared of any agreement or arbitration award reached in counseling or mediation, and a copy shall be provided to each parent.

(iv) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney's fees and financial sanctions to the other parent.

(v) The parents have the right of review from the dispute resolution process to the district court.

14. Other Provisions: _____

My Commission Expires _____

Order by the Court (*Leave the following section blank. It will be completed by the Court if this document is adopted as the Final Parenting Plan.*)

DATED this _____ day of _____, 20____.

DISTRICT COURT JUDGE

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

In re the Parenting of: _____

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Summons

THE STATE OF MONTANA SENDS GREETINGS TO THE ABOVE-NAMED

RESPONDENT:

YOU, THE RESPONDENT, ARE HEREBY SUMMONED to answer the Petition in this action which is filed in the office of the Clerk of the above-named Court, a copy of which is served upon you with this Summons, and to file your answer and serve a copy of your answer upon the Petitioner within twenty days after the service of this Summons, exclusive of the day of service. If

you fail to appear or answer, judgment will be taken against you by default for the relief demanded in the Petition.

DATED this ___ day of _____, 20__.

(Seal)

Clerk of the District Court

By: _____
Deputy Clerk

20 days after the date it was mailed to you, as shown below. You may retain the other enclosed copy of this form for your records.

By signing the Acknowledgment, you are agreeing to be served by mail instead of by the sheriff. It does not mean that you agree to the contents of the Petition, and it does not take away any of your rights to contest the Petition.

If you decide to complete and return this form, you must sign and date the Acknowledgment below, and return it in the enclosed stamped return envelope.

If you do not complete and return this form to the sender within 20 days after the date it was mailed to you, as shown below, you may be required to pay any expenses incurred in serving the enclosed documents in any other manner permitted by law.

If you do complete and return this form, you must answer the Petition within 20 days after the date of signature which you place on the Acknowledgment below. If you fail to answer the complaint within the foregoing 20 day period, judgment by default will be taken against you for the relief demanded in the Petition.

CERTIFICATE OF MAILING

I declare under penalty of perjury that two copies of this Notice and Acknowledgment of Receipt of Summons and Petition, a stamped return envelope, and the following documents:

- Summons and Temporary Economic Restraining Order
- Petition for Establishment of Permanent Parenting Plan
- Petitioner's Proposed Parenting Plan
- Notice and Acknowledgment to Child Support Enforcement Division
- Notice of Filing Montana Child Support Guidelines Financial Affidavit
- _____

were sent to the Respondent by first class mail, postage prepaid on the _____ day of _____, 20____.

Date of Signature

Petitioner Pro Se Signature

Print Name

ACKNOWLEDGMENT OF RECEIPT

I declare, under penalty of perjury, that I am the Respondent and that I accept service in this action of the following:

- Summons and Temporary Economic Restraining Order
- Petition for Establishment of Permanent Parenting Plan
- Petitioner’s Proposed Parenting Plan
- Notice and Acknowledgment to Child Support Enforcement Division
- Notice of Filing Montana Child Support Guidelines Financial Affidavit
- _____

and that I received a copy of these documents in the above-captioned matter at (*address*):

_____ on the
____ day of _____, 20 ____.

Date of Signature

Respondent’s Signature

Print Name

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

In re the Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Praecipe

To the Sheriff of _____ County:

Please serve upon the Respondent the following documents:

- Summons (original and one copy)
- Petition for Establishment of Permanent Parenting Plan
- Petitioner's Proposed Parenting Plan
- Notice and Acknowledgment to Child Support Enforcement Division
- Notice of Filing Montana Child Support Guidelines Financial Affidavit
- _____
- _____

Also enclosed is:

- The Petitioner's Affidavit and Order of Inability to Pay Filing Fees which waives the fee for service in this matter; OR
- \$_____ to cover the fee for service in this matter.

1. A physical description of the Respondent is:
_____.
2. The Respondent does not/ does carry a weapon.
3. At present, the Respondent can be found:
 - At his/her residence: _____.
Times normally available at this address: _____.
 - At his/her place of employment: _____.
Times normally available at this address: _____.
 - Other: _____.
Times normally available at this address: _____.

Please serve the papers on the Respondent as soon as possible. Please return the original Summons to me at the address above, along with proof of service or a statement that you were unable to locate the Respondent.

DATED this ____ day of _____, 20 ____.

Petitioner Pro Se

Print Name

Record of Service *(for Sheriff's use only)*

I hereby certify that (Choose One):

- I personally served the Summons and the accompanying documents listed herein on the Respondent by delivering a copy of said Summons and documents to him/her personally on the ____ day of _____, 20 ____, in the County of _____, State of _____.
- After due effort, I was unable to locate or serve the Respondent in the County of _____, State of _____.

DATED this ____ day of _____, 20 ____.

Sheriff

By:

Deputy Sheriff

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

In re the Parenting of: _____

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

**Notice and Acknowledgment to Child
Support Enforcement Division**

COMES NOW, the Petitioner, _____, and gives notice to the State of Montana, Department of Public Health and Human Services, Child Support Enforcement Division, in accordance with M.C.A. § 40-5-202(5), that she/he has filed a Petition for Establishment of Permanent Parenting Plan in the above-entitled action, and that one of the issues in this legal action is child support. A copy of the Petition is attached hereto. In accordance with M.R.Civ.P. 4D(2)(h), the Petitioner also gives notice to the Attorney General of the State of Montana.

DATED this _____ day of _____, 20__.

Petitioner Pro Se

Print Name

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice and Petition for Dissolution were served upon the following by mailing true and correct copies on the ____ day of _____, 20____, postage prepaid and addressed as follows:

Department of Public Health and Human Services
Child Support Enforcement Division

Attorney General
215 N. Sanders, Third Floor
P.O. Box 201401
Helena, Montana 59620-1401

DATED this ____ day of _____, 20__.

Petitioner Pro Se

ACKNOWLEDGMENT OF SERVICE OF NOTICE

I, the undersigned, hereby acknowledge that I received a copy of the Petitioner’s Notice to Child Support Enforcement Division and a copy of the Petition in the above-entitled action.

DATED this ____ day of _____, 20__.

By: _____

DECLINATION BY DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

The Department of Public Health and Human Services declines to enter this proceeding as a party.

DATED this ____ day of _____, 20__.

By: _____

DPHHS, Child Support Enforcement Division

Name

Address

City State Zip Code

Phone Number

PETITIONER/ RESPONDENT PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

In re the Parenting of: _____

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

**Notice of Filing Child Support
Guidelines Financial Affidavit**

Notice is hereby given that the Petitioner/ Respondent has filed his/her Montana Child Support Guidelines Financial Affidavit in the above-entitled matter. A copy of the Petitioner's/ Respondent's Montana Child Support Guidelines Financial Affidavit is attached hereto.

Dated this _____ day of _____, 20____.

 Petitioner/ Respondent Pro se

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Request for Hearing

COMES NOW the Petitioner and respectfully requests that this Court schedule a hearing for the purpose of obtaining a Final Decree for Establishment of Permanent Parenting Plan in the above entitled cause. The Petitioner estimates that the hearing will only be 15 minutes and the Petitioner will be the only person to testify.

DATED this ____ day of _____, 20____.

Petitioner Pro Se

Print Name

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Order Granting Hearing

IT IS HEREBY ORDERED that the final hearing in this matter is scheduled for the ____ day
of _____, 20____, at _____ o'clock ____m.

DATED this ____ day of _____, 20 ____.

DISTRICT COURT JUDGE

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Parenting of: _____

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

**Request for Entry of Default and
Application for Default Judgment**

The Respondent has been duly served with Summons in the above entitled action and has not made an appearance herein by answer or otherwise within the time allowed by law. Accordingly, the Petitioner requests that Respondent's default be entered by the Clerk of Court and that the Court issue a default judgment.

Dated this _____ day of _____, 20____.

Petitioner Pro Se

Print Name

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

<p>In re the Parenting of: _____ _____ _____ minor child(ren); _____, Petitioner, and _____, Respondent.</p>	<p>Cause No.: _____</p> <p>Entry of Default</p>
---	--

The Default of the Respondent is hereby entered on this ____ day of _____,
20____, for his/her failure to appear or answer the Petition within the time allowed by law, or at all.

(Seal) By: _____
Clerk of Court

Deputy Clerk of Court

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Notice of Entry of Decree

TO THE ABOVE-NAMED RESPONDENT:

Notice is hereby given that on the _____ day of _____, 20____, the Court entered a decree establishing a permanent parenting plan in the above-entitled action. A true and correct conformed copy of the Final Decree is attached to this Notice and served upon you.

DATED this _____ day of _____, 20____.

Petitioner Pro Se

Print Name

Proof of Service

STATE OF MONTANA)
) : ss
COUNTY OF _____)

_____, being first duly sworn, deposes and says as follows:
A true and correct copy of the foregoing Notice of Entry of Decree was served the ____ day of _____, 20____, by mailing said copy, postage paid, to:

Respondent

Address

DATED this ____ day of _____, 20 ____.

Petitioner's Signature

SIGNED AND SWORN to before me on the ____ day of _____, 20 ____.

(Seal) Signature:
Name (*printed*): _____
Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

<p>In re the Parenting of:</p> <p>minor child(ren);</p> <p>_____, Petitioner,</p> <p>and</p> <p>_____, Respondent.</p>	<p>Cause No.: _____</p> <p style="text-align: center;">Findings of Fact, Conclusions of Law and Final Decree Establishing Permanent Parenting Plan</p>
--	--

The Petition for Establishment of Permanent Parenting Plan, filed herein on the _____ day of _____, 20____, came for hearing this _____ day of _____, 20____. The Petitioner appeared pro se. The Respondent did not appear or otherwise respond to the Petition. The Respondent's default was entered on the _____ day of _____, 20____. After considering all evidence and pleadings, the Court finds:

FINDINGS OF FACT

1. The Respondent was served with the Petition and Summons on the _____ day of _____, 20____, and has not responded or otherwise appeared.

2. The parties were never married.
3. The Petitioner has been domiciled within the state of Montana for at least ninety (90) days prior to the filing of this action.

4. The Petitioner is the Mother/ Father and the Respondent is the Mother/
 Father of the following minor child(ren):

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

Name (first and last) _____ Date of Birth: ___ / ___ / ___

Address _____

If needed, attach additional sheets as Exhibit _____.

5. Choose One:

The child(ren) has/have lived in Montana for at least six consecutive months immediately before the start of this proceeding. If a child is less than six months old, the child has lived in Montana since his/her birth.

Montana was the home state of the child(ren) within six months of the start of this proceeding, and one parent continues to reside in Montana.

The child(ren) and one parent have had significant connections to Montana, and substantial evidence about them is available here.

The child(ren) is/are physically present in Montana, and the child(ren) has/have been abandoned or an emergency exists requiring the child(ren)'s protection.

6. The Petitioner has filed a Proposed Parenting Plan that has been served upon the Respondent and presented to this Court for examination and approval.

7. Choose One:

Child support in the amount of \$ _____ per month per child has been established by the Montana Child Support Enforcement Division or another appropriate administrative agency or court. A copy of this Order is attached hereto as Exhibit ____.

or

The Petitioner/ Respondent needs financial assistance from the Petitioner/ Respondent to support the minor child(ren). Child support calculated according to the Montana Child Support Guidelines is \$ _____ per month per child. A copy of the Montana Child Support Guidelines worksheet is attached hereto as Exhibit ____.

8. Choose One:

A Medical Support Order has been established by the Montana Child Support Enforcement Division or another appropriate administrative agency or court. A copy of this Order is attached hereto as Exhibit ____.

or

Medical support is needed to cover the medical and dental expenses of the minor child(ren) of the parties. Choose All That Apply:

The child(ren) are presently covered under the following insurance plan:

Carrier Name:

Policy No.:

The child(ren) is a/are recipient(s) of medical assistance under Title XIX of the federal Social Security Act (Medicaid).

The child(ren) is/are not covered under an existing insurance plan.

9. Choose One:

The Department of Public Health and Human Services is not providing services to the parties or minor child(ren) of the parties under the provisions of Title IV-D of the Social Security Act.

The Department of Public Health and Human Services is providing services to the parties or minor child(ren) of the parties under the provisions of Title IV-D of the Social Security Act. The Montana Child Support Enforcement Division and the

Office of the Attorney General were served with copies of the Petition in this action.

Both offices acknowledged service, copies of which are filed with the Court.

This action does not establish, enforce, or modify the parties' previously established child support order.

10. Other Provisions: _____

11. All of the other allegations of the Petitioner's complaint not inconsistent herewith are true, and the relief requested should be granted.

FROM the above Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. The Court has jurisdiction over this cause.
2. The Petitioner's Proposed Parenting Plan, filed separately, is in the best interest(s) of the minor child(ren) and should be incorporated as the Final Parenting Plan into this Decree.

3. Choose One:

The previously established Child Support Order attached hereto as Exhibit ___ is a valid order for the child support of the minor child(ren) of the parties.

or

The Petitioner/ Respondent is entitled to \$_____ per month per child as child support to be paid according to the provisions of the final Child Support Order, as stated below.

4. Choose One:

The previously established Medical Support Order attached hereto as Exhibit ___ is a valid order for the medical support of the minor child(ren) of the parties.

or

The best interest(s) of the minor child(ren) require medical coverage according to the provisions of the final Medical Support Order, as stated below.

5. Other Provisions: _____

FROM the above Findings of Fact and Conclusions of Law, the Court orders the following:

DECREE ESTABLISHING PERMANENT PARENTING PLAN

1. The Petitioner's Proposed Parenting Plan is adopted by this Court as the Final Parenting Plan and made an integral part of this Decree. The parties are hereby ordered to perform the provisions of the Final Parenting Plan.

2. Choose One:

The Court acknowledges that a valid Child Support and Medical Support Order has already been established by the Montana Child Support Enforcement Division or another appropriate administrative agency or court. A copy of this Order is attached hereto. (*Skip to Number 3.*)

or

The Court adopts the following Child Support Order and Medical Support Order for the support of the minor child(ren) of the parties:

Child Support Order

a. The Petitioner/ Respondent shall pay the Petitioner/ Respondent \$_____ per month per child.

b. The first payment is due the _____ day of _____, 20_____.

Payments shall continue until such time as each child reaches the age of 18 years and has completed high school, or attained the age of 19 years, or is emancipated by court order, whichever shall first occur.

c. On or before the first of every month, payments should be made to (Choose One):

The Child Support Enforcement Division. Immediate income withholding is appropriate. The Petitioner's/ Respondent's income is subject to

immediate income withholding under M.C.A. Title 40, Chapter 5, Parts 3 and 4.

The Petitioner/ Respondent. This Child Support Order shall be exempt from immediate income withholding because:

_____.

The Clerk of this Court. This Child Support Order shall be exempt from immediate income withholding because:

_____.

WARNING: If a parent is delinquent in payments, that parent's income may be subject to income withholding procedures under MCA Title 40, Chapter 5, without need for any further action by the Court. Support is delinquent when it is 8 days overdue.

- d. Whenever the case is receiving services under Title IV-D of the Social Security Act, support payments must be paid through the Department of Public Health and Human Services Child Support Enforcement Division as provided in M.C.A. § 40-5-909.
- e. This order is subject to review and modification by the Department of Public Health and Human Services upon the request of the Department or a party under M.C.A. §§ 40-5-271 through 40-5-273, when the Department is providing services for enforcement under Title IV-D of the Social Security Act.
- f. The obligations to provide financial child support, provide medical care for a child, and provide or comply with parenting arrangements shall be independent of each other, and the failure or inability to provide one or more shall not reduce any other obligation.
- g. Each party shall promptly inform the Court of any changes in the following information:
 - (i) Name, social security number, mailing address, residential address, telephone number, and driver's license number; and
 - (ii) Names, addresses, and telephone numbers of current employers.

WARNING: In any subsequent child support enforcement action, on sufficient showing of diligent efforts to locate the party, due process requirements for notice and service may be met by delivering written notice by regular mail to the last address of the party or the party's employer reported to the Court.

Medical Support Order

Existing Coverage

Choose All That Apply:

The child(ren) are presently covered under the following insurance plan:

Carrier Name:

Policy No.:

The Wife/ Husband shall continue to provide medical coverage through the plan as long as it is available at a reasonable cost, and as long as no other plan or individual insurance is available that will better serve the interests of the parties.

The child(ren) is a/are recipient(s) of medical assistance under Title XIX of the federal Social Security Act (Medicaid).

The child(ren) is/are not covered under an existing insurance plan.

Contingency Medical Support

If the minor child(ren) are either (i) covered by Medicaid, (ii) are not covered under an existing insurance plan, or (iii) if the existing coverage becomes no longer available, the following provisions shall apply:

- a. The Petitioner shall provide medical coverage through individual insurance or a health benefit plan for the child(ren), as long as it is available at reasonable cost, and as long as no other plan or individual insurance is available that will better serve the interests of the parties.
- b. The Respondent shall provide medical coverage through individual insurance or a health benefit plan for the child(ren), as long as it is available at reasonable cost, and as long as no other plan or individual insurance is available that will better serve the interests of the parties.
- c. If health benefit plans are available to both parties at a combined cost that is reasonable or cost-beneficial and with benefits that are complementary or compatible

as primary and secondary coverage, both parties shall provide coverage for the child(ren).

- d. Coverage is presumed to be available at reasonable cost if the cost of premiums does not exceed 25 percent of the obligated party's total child support obligation when calculated under the child support guidelines without credit for the medical support obligation.
- e. If circumstances change and a party believes that corresponding changes in cost are not reasonable or cost-beneficial, the party may move to petition any appropriate tribunal for relief.

Duties of the Parties

- a. The Petitioner shall be responsible for ____% and the Respondent shall be responsible for ____% of all medical expenses of the minor child(ren), including the costs of the premium for coverage, all co-payments and deductibles required for coverage, and any uncovered medical expenses.
- b. Each party shall promptly execute and deliver to the insurance provider all forms necessary to ensure the child(ren)'s continuous participation in insurance coverage. Each party shall timely submit claims for processing, verification, and payment. Each party shall provide the other party with identification cards or other methods for access to coverage.
- c. If a party receives a reimbursement but did not pay the underlying bill, that party shall promptly pay over the proceeds to the proper party.
- d. If the party responsible for providing medical insurance coverage for the child(ren) allows such coverage to lapse without securing a comparable replacement, that party shall be liable for all the child(ren)'s medical expenses and shall indemnify the other party, the Department of Public Health and Human Services, or any third-party custodian for the cost of obtaining medical coverage and medical expenses.
- e. Any liability for unpaid medical costs and expenses may be entered as a judgment for unpaid support against the obligated party. A party may apply to the Court for expedited enforcement procedures.

- f. If an obligated party fails to pay a required premium, the other parent, the Department of Public Health and Human Services, or the custodian may advance the cost of premiums and keep benefits continually in force for the child. The advance should be entered as a judgment for unpaid child support in favor of the advancing party and against the obligated parent.
- g. The obligation to provide medical coverage for the child(ren) ceases only when the child support obligation ceases.
- h. The costs of providing individual insurance or a health benefit plan may not be used as a direct offset to the child support obligation. However, as provided by the child support guidelines, the costs may be considered in making or modifying a child support order.
- i. Each party shall promptly inform the Court of any changes in the following information:
 - (i) If the child(ren) is/are covered by a health or medical insurance plan, the name of the plan, the policy identification number, and the name(s) of the person(s) covered;
 - (ii) If the child(ren) is not/are not covered by a health or medical insurance plan, whether health insurance coverage for the child(ren) is available through the party's employer or other group, and, if so, whether the employer or other group pays any portion of the coverage premium.
- j. A civil penalty not to exceed \$25 per day may be imposed for an intentional violation of this medical support order or the provisions of M.C.A Title 40, Chapter 5, Part 8 or the regulations promulgated under that Part.

WARNING: The obligations to provide medical care, provide financial child support, and provide or comply with visitation and custody arrangements are independent of each other, and the failure or inability to provide one or more does not reduce any other obligation.

3. Other Provisions: _____

DATED this ____ day of _____, 20 ____.

DISTRICT COURT JUDGE

INSTRUCTIONS

Order Information: Check the box that most accurately describes the type of order being entered. If it is a dissolution of marriage, enter the place of marriage and indicate if child support is ordered. Temporary support orders and paternity orders that contain child support are categorized as “child support order, without dissolution.” “Child support order” includes medical support orders. If the order does not contain a child support order, social security numbers of the parties are not required and only Parts 1, 2 and 9 need to be completed.

Parts 1 and 2: Provide information about the parties to the order. If there is a child support order, be sure to check the box that shows whether the party owes support (payer) or will receive support (payee). If a party is ordered to both pay and receive support, check the box labeled “both.” If there is no support order, check the box labeled “N/A” for not applicable. If a party is ordered to pay \$0 support, that party should be considered a payer.

Part 3: Provide information about the children named in the order and indicate which parent or other party the children live with. If the parenting plan provides for shared residential parenting, circle “B” for both. If a child is not living with either parent, circle “O” and list the child’s name and address.

Part 4: Complete this part if support is ordered to be paid to an agency or an individual other than a parent.

Part 5: Indicate whether any of the parties are protected from each other by a protective or restraining order. If yes, list the names of the protected parties. This includes any protected children.

Part 6: Provide information about the employment or other source of income of the party who is ordered to pay child support. If both parties are ordered to pay support, skip Part 6 and complete Part 10 instead.

Part 7: Provide information about the support order. Check the type(s) of support ordered and enter the amount and how often it is due. (Example: \$100 per week.) All orders should have a “begin” date; many will not have an “end” date. If both parties are ordered to pay support, skip Part 7 and complete Part 11 instead.

If the order enters a judgment for past due support, show the **total** amount of the judgment. If the judgment includes amounts for penalties, fees or interest, list those amounts on the appropriate lines.

List any special conditions of the support order. (Example: support is due until the child graduates from college.)

Copy the information requested about the guidelines to this form from the guidelines worksheet.

Part 8: Provide information about health insurance coverage for the children. If insurance is not provided, indicate whether it is available through the employer of either parent. Relationship of the party providing insurance is the party’s relationship to the children. (Example: mother, father, mother’s spouse, father’s spouse.) List the terms and conditions of the insurance coverage. (Example: 80/20 plan, \$500 deductible, major medical only.)

Part 9: Provide information about the person completing this form.

Part 10: Employment information for multiple payers. Complete only if both parties are ordered to pay support. See Part 6 instructions.

Part 11: Order information for multiple payers. Complete only if both parties are ordered to pay support. See Part 7 instructions.

4 **Other Payee:**
 Name of person/agency owed support if not parent: _____
Last Name or Agency Name First Middle
 Mailing Address: _____ Telephone: (____) _____
Street City State Zip
 Residential Address (if different from above): _____

5 **Protective Order:** Is a party to this action protected from another party to the action by an order of protection? Yes No
 If yes, enter name(s) of protected party(ies): _____

6 **Employer/Income Source Information:** Provide information about the payer's employment or periodic source of income.
 (Attach additional pages if needed.)
 Check here if this order requires both parties to pay support and skip Parts 6 & 7 and complete Parts 8, 9, 10 & 11.

Name of Employer or Source of Income Telephone

Street City State Zip

7 **Support Order:** Date Order Signed: _____
 Check type of support and enter appropriate information If applicable, arrears due at time of order: \$ _____

Support Type	Total Due	Frequency	Begin Date	End Date	Judgment	Penalty*	Fees*	Interest*
<small>(*list amounts if included in judgment)</small>								
<input type="checkbox"/> Child Support:	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____
<input type="checkbox"/> Medical Support:	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____
<input type="checkbox"/> Spousal Support: (Alimony)	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____

 Is payer exempt from income withholding under MCA 40-5-315? No Yes Tribal Order
 List any special terms/conditions of the support order(s): _____

 Was the mother represented by an attorney? Yes No Was the father represented by an attorney? Yes No
Information from child support guidelines worksheet:
Mother: "Income after Deductions": \$ _____ "Credit for Payment of Expenses": \$ _____
Father: "Income after Deductions": \$ _____ "Credit for Payment of Expenses": \$ _____

8 **Health Insurance:** (Attach additional pages if needed.)
 Is health insurance provided for the children? Yes No (If no, answer last question in this section)
 Name and relationship of party providing insurance: _____ Policy No. _____
 Name of insurance carrier or health benefit plan: _____
 Address of insurance carrier or health benefit plan: _____
 Names of children covered: _____
 Terms/conditions of coverage: _____
 If children are not covered, is coverage available through:
 Father's employer? Yes No Mother's employer? Yes No

9 **This form was completed by:** Name / Title: _____
 Telephone: _____ Signature: _____ Date: _____
Complete next page if both parties are ordered to pay child support.
 Information contained in this form is private and confidential.
 It may only be shared with courts, agencies and individuals authorized by MCA 40-5-923.

Multiple Payers: Complete Parts 10 and 11 only if the order requires both parties to pay support.

10 **Mother's Employer/Income Source Information:** Provide information about the mother's employment or periodic source of income. (Attach additional pages if needed.)

Name of Employer or Source of Income _____ Telephone _____
 Street _____ City _____ State _____ Zip _____

Father's Employer/Income Source Information: Provide information about the father's employment or periodic source of income. (Attach additional pages if needed.)

Name of Employer or Source of Income _____ Telephone _____
 Street _____ City _____ State _____ Zip _____

11 **Support Order:** Date Order Signed: _____

Mother's Support Obligation If applicable, arrears due at time of order: \$ _____

Check type of support and enter appropriate information

Support Type	Total Due	Frequency	Begin Date	End Date	Judgment	Penalty* (*list amounts if included in judgment)	Fees*	Interest*
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Child Support: \$ _____ per _____ _____ \$ _____ \$ _____ \$ _____ \$ _____

Medical Support: \$ _____ per _____ _____ \$ _____ \$ _____ \$ _____ \$ _____

Spousal Support: \$ _____ per _____ _____ \$ _____ \$ _____ \$ _____ \$ _____
 (Alimony)

Is the mother exempt from income withholding under MCA 40-5-315? No Yes Tribal Order

Father's Support Obligation If applicable, arrears due at time of order: \$ _____

Check type of support and enter appropriate information

Support Type	Total Due	Frequency	Begin Date	End Date	Judgment	Penalty* (*list amounts if included in judgment)	Fees*	Interest*
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Child Support: \$ _____ per _____ _____ \$ _____ \$ _____ \$ _____ \$ _____

Medical Support: \$ _____ per _____ _____ \$ _____ \$ _____ \$ _____ \$ _____

Spousal Support: \$ _____ per _____ _____ \$ _____ \$ _____ \$ _____ \$ _____
 (Alimony)

Is the father exempt from income withholding under MCA 40-5-315? No Yes Tribal Order

List any special terms/conditions of the support order(s): _____

Was the mother represented by an attorney? Yes No Was the father represented by an attorney? Yes No

Information from child support guidelines worksheet:

Mother: "Income after Deductions": \$ _____ "Credit for Payment of Expenses": \$ _____

Father: "Income after Deductions": \$ _____ "Credit for Payment of Expenses": \$ _____