

# How to File for Declaration of Invalidity of Marriage

## Information Not Legal Advice



How to file for Declaration of Invalidity of Marriage is information only. The information is not legal advice. The law is different in each state. Some information may not be correct outside Montana. The information is not guaranteed to be up to date. The information can't replace advice from an attorney.

**NEED HELP?** There are resources available.

**The Court Help Program.** The Court Help Program assists people representing themselves in court. There are Court Help centers located throughout the state to assist you on a walk-in basis and remote appointments available if your local Courthouse does not have a Court Help center. Court Help staff are not lawyers and cannot provide legal advice. Staff are informed about the court process and can answer questions as well as review your forms for completeness. Find Court Help services near you: <https://courts.mt.gov/SelfHelp/> or call 406-444-9300.



**Montana Legal Services Association.** Montana Legal Services Association provides free civil legal assistance to low income Montanans. If you qualify, Montana Legal Services Association may be able to connect you with a variety of services. Visit [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org), or call MLSA at 1-800-666-6899.

**State Bar of Montana.** If you are interested in hiring an attorney to advise you or represent you, the State Bar Lawyer Referral Service has a list of attorneys all over Montana. The Lawyer Referral Service is available at [www.montanabar.org](http://www.montanabar.org).

## What is Invalidity of Marriage?

A Declaration of Invalidity of Marriage is sometimes called an annulment. When you ask a court for a Declaration of Invalidity of Marriage you are asking the court to say that your marriage never happened.

There is a list of reasons why a marriage can be invalid. You can find that list in Section 40-1-402 of the Montana Code Annotated. It includes things like you were too young to get married or you were already married to someone else. If none of the reasons on the list matches your situation, you can't get a Declaration of Invalidity of Marriage.

If you want a Declaration of Invalidity of Marriage and you have children from the marriage or want to divide marital assets and debts, you should talk to a lawyer. A

Declaration of Invalidity of Marriage may not be right for you.

## What is the Process?

**NOTE:** The steps to file for a Declaration of Invalidity of Marriage may be slightly different in your judicial district. Check with the Clerk of District Court at your county courthouse for local requirements.



### **STEP ONE: Fill out the forms.**

You may not need to use every form. Step Two has the list of forms you need to start your case. Look at each form. If you are not sure which ones you need, contact a Court Help center or Montana Legal Services Association. Make sure you fill out each form completely. Be sure to read “Introduction to Family Law in Montana” before you begin filling out the forms. It will help you figure out which choices to make.

### **STEP TWO: File your completed forms.**

Your completed forms are also called “documents” or “court documents.” Court documents for a Declaration of Invalidity of Marriage are filed with the Clerk of District Court in the county where you or your spouse live. After filling out the forms, make 2 sets of copies (3 sets of forms total) of the forms that start your case.

Here is a list of the forms you complete and file with the Clerk of District Court to start your case.

1. (Optional) Statement of Inability to Pay Court Costs and Fees. Use this form if you can't afford to pay the court fees.
2. Petition for Declaration of Invalidity of Marriage **MP 120**
3. Summons and Automatic Economic Restraining Order **MP 420**
4. Request for Sheriff to Serve Documents **MP 421** if you are requesting the Sheriff to serve your spouse. The original of this document will be given back to you for Step Three.



Take all the copies with you to the Clerk of District Court office. The original set of forms will be kept by the Clerk of Court. One copy is for you to keep in a safe place, and the other copy you will serve on your spouse in Step Three.

## **STEP THREE: Serve your spouse.**

Serving court documents means officially giving the documents to someone. The documents you file to start your case have to be “personally served” on your spouse. Personally served means a sheriff or process server needs to hand the documents to your spouse. After the first set of documents is personally served, most documents can be served by ordinary first class mail.



### **Serving your spouse.**

You must serve your spouse with:

1. Summons and Automatic Economic Restraining Order **MP 420**
2. Petition for Declaration of Invalidity of Marriage **MP 120**

### **Service by the Sheriff.**

Service by Sheriff is accomplished by hand delivering or mailing to the Sheriff in the County where your spouse resides:

1. Copy of the Petition for Declaration of Invalidity of Marriage, **MP 120**,
2. Original and Copy of the Summons and Automatic Economic Restraining Order **MP 420**. The original was given back to you when you filed your documents with the Clerk of District Court.
3. Request for Sheriff to Serve Documents **MP 421**

The Sheriff usually charges a fee to serve documents. If your Statement of Inability to Pay Court Fees and Costs was approved by the Court, the Sheriff will waive the service fee.

## **STEP FOUR: Wait for a Response.**

After your spouse is served, they have 21 days to respond to the Petition. If your spouse disagrees with any part of your Petition, they may file a Response to your Petition. If your spouse doesn't file a Response with the Court, you can ask for a default. A default means you get what you asked for in the Petition.

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

Once the time for your spouse to respond has expired, you can request a hearing. To ask for a final hearing you file these forms with the Clerk of District Court:



1. Request for Entry of Default by Clerk of Court **MP 726**
2. Request for a Hearing **MP 720**
3. Order For Hearing **MP 723**

4. Declaration of Invalidity of Marriage **MP 724**
5. Notice and Entry of Declaration of Invalidity of Marriage **MP 725**

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

Attending your hearing is very important. The Judge will ask questions about your marriage. This is when the Judge will make decisions on your case.

**STEP SEVEN: File your Notice and Entry of Decree.**

After your hearing, you will need to file your Notice and Entry of Declaration of Invalidity of Marriage **MP 725** with the Clerk of District Court. Your dissolution is not final until this step is complete.

Ask the Clerk of Court's office for a conformed copy of your Declaration of Invalidity of Marriage. If your spouse was not present for the hearing, make two copies and mail copies of the following documents to your spouse:

1. Notice of Entry of Declaration of Invalidity of Marriage **MP 725**
2. Declaration of Invalidity of Marriage **MP 724**



Keep your copy of the Declaration of Invalidity of Marriage in a safe place. You can make extra copies later if you need it.

Use the following two forms if you cannot afford to pay court costs and fees.

- Statement of Inability to Pay Court Costs and Fees
- Order Regarding Statement of Inability to Pay Court Costs

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)

Petitioner/Plaintiff  Respondent/Defendant

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY

IN THE JUSTICE COURT OF \_\_\_\_\_ COUNTY, STATE OF MONTANA

IN THE MUNICIPAL OR CITY COURT OF \_\_\_\_\_, MONTANA

\_\_\_\_\_  
Petitioner / Plaintiff,

and

\_\_\_\_\_  
Respondent / Defendant.

Case No: \_\_\_\_\_  
(leave blank, the clerk will write in)

Statement of Inability to Pay Court Costs and Fees

I have a good cause of action or defense but am unable to pay filing or other court fees. I request the court waive the costs and fees. I provide the following information.

My full legal name is: \_\_\_\_\_. I was born in this month \_\_\_\_\_ and this year \_\_\_\_\_.

I am represented by an entity that provides free legal services to low-income persons.

**Or**

I am represented by a volunteer/pro bono attorney, and am financially eligible for free legal services. (Attach a certificate of eligibility from legal aid organization to this form.)

**Or**

I receive one or more of these benefits: (Check the box for each benefit you receive.)

SNAP  TANF  SSI  Medicaid  WIC  LIEAP

**If you checked any one of the three boxes above, skip to the end of this form, and sign the declaration on page 3. You don't need to fill out the remainder of the form.**

If you did not check a box above, you may still qualify for a fee waiver. Please continue to fill out pages 2 and 3 of this form so the court has the information it needs to decide if you qualify for the fee waiver.

**I. INCOME** (Complete this Section to the best of your ability.)

What do you do for work? \_\_\_\_\_ Who is your employer? \_\_\_\_\_

What is your household's annual income, before taxes? \_\_\_\_\_ How many people are in your household? \_\_\_\_  
 (The tables below will help you answer these questions, if you are not sure what to put in the blanks.)

If you are unemployed, when were you last employed (Month, Year)? \_\_\_\_\_ Your job? \_\_\_\_\_

**Are you married?**  Yes  No  Separated  Getting Divorced **NOTE:** If you are not married, if you and your spouse are separated, or if one of you is filing for dissolution of marriage, you do not need to provide your spouse's income below.

Fill in the chart below with the income received by you, and by your spouse, if applicable. Put a "0" in each blank if you or your spouse don't receive the income listed.

Income Sources	Amount YOU receive per month before taxes	Amount YOUR SPOUSE receives per month before taxes
Employment	\$	\$
Retirement/Pension	\$	\$
Workers' Compensation	\$	\$
Social Security	\$	\$
Unemployment	\$	\$
Government Benefits	\$	\$
Child Support Received	\$	\$
A person or agency pays my rent or other monthly expenses and the amount is: _____	\$	\$
Other Income—e.g., rental income, stocks, investments, etc.—describe: _____	\$	\$
<b>Total here:</b>	\$	\$

**What is your household size?** How many persons, if any, depend on you financially? If none, then write "N/A" below. Attach another page if needed and check here to tell the court you attached another page:

Dependents (Initials Only)	Age	Relationship to You
1.		
2.		
3.		
4.		
5.		

**II. ASSETS** *(Complete this Section to the best of your ability.)*

**What property do you and your spouse own?** Include your spouse's property if you are married and not separated and not filing for dissolution. Fill in the chart below, only listing items that you could sell for \$600 or more. If you don't own an item listed, write "N/A" in the "Value" column for that item. "Value" means the total amount the item(s) identified in a column would sell for, minus the amount you still owe on the item(s), if anything.

Asset	Value
Cash (This includes the money in your savings and checking accounts)	\$
Vehicle 1: provide year, make and model _____	\$
Vehicle 2: provide year, make and model _____	\$
Home where you live now	\$
Real estate or other homes/mobile homes (Not including the home you are living in now)	\$
Recreational vehicle(s) such as snowmobile, ATV, camper/RV, boat, motorcycle, etc.	\$
Guns or other collections	\$
Other Item(s) worth more than \$600—describe: _____	\$

**III. DEBTS AND EXTRAORDINARY EXPENSES** *(Complete this Section to the best of your ability.)*

**What bills do you and your spouse pay each month?** Fill in the chart below.

Monthly Expenses	Value
Housing Expense: Mortgage or Rent	\$
General Household Expenses: Utilities, Phone/Internet/Cable, etc.	\$
Insurance Expenses, Healthcare Costs and/or Medical Debt(s)	\$
Childcare Expenses	\$
Other Extraordinary Expenses: e.g., Collection actions, Student Loans—describe: _____	\$

**IV. ADDITIONAL INFORMATION** *(This Section is optional.)*

If you have additional information that you want the court to consider about your inability to pay court costs, write that information under your signature below or attach an extra page. Check here if you attached another page:

**V. DECLARATION** *(This Section is Required.)*

**I declare under penalty of perjury and under the laws of the State of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Date: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

YOUR Signature: \_\_\_\_\_



Court Use Only

- MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY
- IN THE JUSTICE COURT OF \_\_\_\_\_ COUNTY, STATE OF MONTANA
- IN THE MUNICIPAL OR CITY COURT OF \_\_\_\_\_, MONTANA

<p>_____, Petitioner / Plaintiff,</p> <p>and</p> <p>_____, Respondent / Defendant.</p>	<p><b>Case No:</b> _____ (leave blank, the clerk will write in)</p> <p>Order Regarding Statement of Inability to Pay Court Costs</p>
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**Warning! Read carefully the section checked below.  
It is a court order.**

- Waiver of court costs is **Granted**. Declarant shall proceed without payment of court fees or costs.
- Temporary Waiver of court costs is **Granted**. Declarant may file without payment of court fees or costs, but the Court may determine at a later time that the declarant has the ability to pay all fees or costs and will require declarant to do so.
- Temporary Waiver of fees is **Granted**. Declarant may file without payment of court fees or costs, but must appear before the Court at \_\_\_\_\_ a.m/p.m. on the \_\_\_\_\_ day of \_\_\_\_\_ and show cause why the declarant lacks the ability to pay all fees or costs.

**Warning! If this third box is checked, you must come to court on the date ordered above. If you don't come, the judge will deny your request to waive court costs, and you will have to pay the court costs.**

- Waiver of Fees and costs is **Denied**. Waiver is denied based on the following:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Ordered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Presiding Judge

The following forms are used to file a Petition for Declaration of Invalidity Marriage. There is also a form for responding to a Petition for an Invalid Marriage.

- Petition for Declaration of Invalidity of Marriage (MP 120)
- Summons and Automatic Economic Restraining Order (MP 420)
- Request for Sheriff to Serve Documents (MP 421)
- Request for Entry of Default by Clerk of Court (MP 726)
- Entry of Default by Clerk of Court (MP 727)
- Request for a Hearing (MP 720)
- Order For Hearing (MP 723)
- Declaration of Invalidity of Marriage (MP 724)
- Notice and Entry of Declaration of Invalidity of Marriage (MP 725)
- Response to Petition for Declaration of Invalidity Marriage (MP 220)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)

Petitioner

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In re the Marriage of:

\_\_\_\_\_,  
Petitioner,

and

\_\_\_\_\_,  
Respondent.

**Case No:** \_\_\_\_\_

*(leave blank, the clerk will write in)*

**Petition for Declaration of  
Invalidity Marriage**

**1. You are the Petitioner. Your information:**

Name First: \_\_\_\_\_ Middle: \_\_\_\_\_ Last: \_\_\_\_\_

Your e-mail address (optional): \_\_\_\_\_

Your Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Your Physical Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Your Year of Birth: \_\_\_\_ Age: \_\_\_\_ Your occupation: \_\_\_\_\_

How long have you lived in this county? \_\_\_\_\_

How long have you lived in Montana? \_\_\_\_\_

**2. Your spouse is the Respondent. Your spouse's information:**

Name First: \_\_\_\_\_ Middle: \_\_\_\_\_ Last: \_\_\_\_\_

Spouse's e-mail address (optional): \_\_\_\_\_

Spouse's Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Spouse's Physical Address:

\_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Spouse's Year of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Spouse's occupation: \_\_\_\_\_

How long has your spouse lived in this county? \_\_\_\_\_

How long has your spouse lived in Montana? \_\_\_\_\_

**3. Your marriage. Choose one.**

We were married on (date) \_\_\_\_\_. We filed our marriage license in \_\_\_\_\_ County, State of \_\_\_\_\_.

**OR**

We were married at common law as of (date) \_\_\_\_\_. We assumed a marital relationship by mutual consent and agreement. We confirmed our marriage by living together and by public knowledge.

**OR**

We filed a declaration of marriage on (date) \_\_\_\_\_ in \_\_\_\_\_ County, State of \_\_\_\_\_.

**4. Invalidity. Choose one.**

One or both spouses lacked the capacity to consent because of mental incapacity or infirmity and it has been no more than one year since I found out about it.

**OR**

One or both spouses lacked the capacity to consent because of the influence of alcohol, drugs, or other incapacitating substance and it has been no more than one year since I found out about it.

**OR**

One or both spouses lacked the capacity to consent because of force, duress, or fraud and it has been no more than two years since I found out about it.

**OR**

One spouse lacks the physical capacity to consummate the marriage by sexual intercourse, at the time of the marriage the other spouse did not know about the incapacity and it has been no more than four years since I found out about it.

**OR**

One spouse was under 16 or was 16 or 17 and did not have parental consent or judicial approval, and is still under 18.

**OR**

- One spouse was already married to another person and that marriage was not dissolved at the time of our marriage.

**OR**

- Respondent and I are: parent and child, grandparent and grandchild, great-grandparent and great-grandchild, siblings, aunt or uncle and niece or nephew, or first cousins.

**I ask the court to take the following action:**

1. Enter a decree declaring our marriage invalid as of the date of our marriage,
2. And for any other relief this court decides is just and proper.

**I declare under penalty of perjury and under the laws of the State of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

City \_\_\_\_\_ State \_\_\_\_\_

Sign Here: \_\_\_\_\_

Print Name: \_\_\_\_\_

Petitioner

In re the Marriage of:  _____, Petitioner ( <i>you</i> ),  and  _____, Respondent ( <i>your spouse</i> ).	Case No:  _____ <i>(leave blank, the clerk will complete)</i>  <b>Summons and Automatic Economic Restraining Order by Clerk of Court</b>
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**NOTICE: You are named in this family-law lawsuit. The court may make a decision without your involvement unless you submit a written response to the court and to the Petitioner within 21 days. Read the information below.**

A Petition has been filed with the Clerk of District Court asking the court to declare your marriage invalid. You are receiving a copy of the Petition for Declaration of Invalidity of Marriage with this Summons.

You must submit a written response to the Clerk of District Court and send a copy to the Petitioner within 21 calendar days. Day 1 of the 21-day period is the day after you received this Summons. If the 21<sup>st</sup> day falls on a weekend or court holiday, you may submit your response on the next business day. You must either pay a fee to submit your response or ask the court in writing to waive the fee. You can find forms for responding to a petition and waiving court fees at: [www.courts.mt.gov](http://www.courts.mt.gov).

If you do not submit a response, the court may give Petitioner everything they asked for in the Petition.

**IMPORTANT: An Automatic Economic Restraining Order is in effect. The Order applies to both the Petitioner and Respondent until this lawsuit is over. The Order means you can't sell, give away, borrow against, or hide property or money. There are exceptions in the Order. The Petitioner and Respondent can agree in writing to do something with property or money. You can ask the Court to let you do something with property or money. The Order tells you how to ask the Court to let you do something with property or money. If you don't follow the Order the Court can give you a penalty. Please read the Order carefully. If you have questions you should talk to an attorney.**

## **AUTOMATIC ECONOMIC RESTRAINING ORDER**

It is hereby Ordered:

(1) The parties are restrained from transferring, encumbering, concealing, or in any way disposing of, without the written consent of the other party or an order of the court, any marital property, except:

- (a) for expenses necessary to reasonably maintain the marital standard of living or for the necessities of life, such as food, clothing, shelter, necessary health care expenses, transportation to and from work, and child care, taking into consideration additional living expenses arising out of a party obtaining a second household and current available income;
- (b) in the customary and usual course of operating an existing business; or
- (c) for the purpose of paying a reasonable amount for professional fees and costs relating to a proceeding under Title 40, chapter 1, part 4, Title 40, chapter 4, or Title 40, chapter 15.

(2) Each party shall file a notice with the court of any proposed extraordinary expenditure, proposed revocation of a nonprobate transfer, or proposed elimination of a right of survivorship to property at least 14 days before the action is taken.

(a) The notice must include:

- (i) the proposed action and when the action is intended to occur;
- (ii) how the proposed action may impact the marital estate; and
- (iii) why the proposed action is necessary at that time.

(b) The notice is not sufficient unless the notice contains the following statement: "The moving party's proposed action will be permitted without further proceedings or order of the court unless within 14 days of the date of filing of the notice you file with the court and serve on all persons entitled to notice a response objecting to the proposed action, which states the reasons for your objection."

(c) If the other party files an objection to the proposed action before the expiration of the 14-day period, the party proposing to take the action is

prohibited from taking the proposed action until the court rules on the proposed action.

(d) The burden of justifying the proposed action is on the party proposing the action. The court may award reasonable attorney fees if a party makes an unreasonable request for or an unreasonable objection to the proposed action.

(e) A "nonprobate transfer" means an instrument, other than a will, that makes a transfer of property on death, including a revocable trust, a pay-on-death account in a financial institution, a transfer on death registration of personal property, or a revocable transfer on death deed.

(3) The parties are restrained from:

(a) canceling jointly held credit cards or terminating signatory authority of the other party on a credit card;

(b) incurring unreasonable debt, including but not limited to further borrowing against any credit line secured by the family residence, further encumbering of any assets, or unreasonably using credit cards or cash advances against credit cards, except as provided for in subsections (1)(a) through (1)(c) or subsection (2);

(c) except as allowed by subsections (1)(a) through (1)(c) or subsection (2), making any withdrawal for any purpose or borrowing from any deferred compensation, retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account;

(d) except as allowed by subsections (1)(a) through (1)(c) or subsection (2), withdrawing or borrowing in any manner all or any part of the cash surrender value of any life insurance policies on either party or any of their children;

(e) changing or in any manner altering the beneficiary designation on any life insurance policies on either party or their children or changing or in any manner altering the beneficiary on any other account or asset;

(f) canceling, altering, or allowing to lapse any existing property, life, automobile, or health insurance policies insuring the parties' or children's property or persons;



- (g) negotiating any instrument, check, draft, income tax refund, insurance payment, or dividends payable jointly to the parties or individually to the other party without the personal signature or prior written consent of the other party;
- (h) opening, diverting, or withholding mail, e-mail, or other electronic communications addressed to the other party, except a party may open mail, e-mail, or other electronic communications addressed to both parties or submit a notice of change of the party's individual mail, e-mail, or other electronic address; and
- (i) without objectively reasonable justification, intentionally or knowingly damaging or destroying the property of the parties or of either party during the pendency of this action, specifically including but not limited to any electronically stored materials, electronic communications, or financial records, without order of the court or written consent of the other party.

(4) Unless otherwise ordered by the court, a party is not restrained from:

- (a) creating, modifying, or revoking a will;
- (b) revoking or changing a power of attorney; or
- (c) creating an unfunded revocable or irrevocable trust.

(5) This order does not adversely affect the rights, title, or interest of a purchaser, encumbrancer, or lessee for value if the purchaser, encumbrancer, or lessee does not have actual knowledge of this order.

(6) The court may expand, limit, modify, or revoke this order, and nothing prevents either party from requesting such relief. Furthermore, the parties, with joint agreement, may waive in writing some or all of the provisions of this order.

(7) The parties shall serve preliminary financial disclosures within 60 days of service of the petition for dissolution, declaration of invalidity of marriage, or legal separation pursuant to 40-4-252.

(8) This order is binding on the Petitioner on filing of the petition, and this order is binding on the Respondent on service of the petition.

(9) In issuing any temporary orders or in a final decree, the court may consider any action taken by the petitioner within a reasonable time prior to filing of the petition that would otherwise have constituted a violation of this order had this order been issued at the time.

(10) Except as otherwise ordered by the court, this order is dissolved on dismissal of the action or granting of the declaration of invalidity, dissolution of marriage, legal separation, or other final order.

(11) Failure to follow this automatic economic restraining order is subject to enforcement by the court, on a motion to the court. The court may issue any appropriate enforcement order including, if appropriate, sanctions and all remedies for contempt of court.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)

\_\_\_\_\_  
Clerk of Court

By:

\_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)  
Petitioner

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT \_\_\_\_\_ COUNTY**

In re the Marriage of:

\_\_\_\_\_,  
Petitioner,

and

\_\_\_\_\_,  
Respondent.

**Case No:** \_\_\_\_\_

**Request for Sheriff to Serve  
Documents**

To the Sheriff of \_\_\_\_\_ County:

Please serve upon the Respondent the following documents:

- 1) Summons and Automatic Economic Restraining Order (original and one copy included),
- 2) Petition for Declaration of Invalidity of Marriage.

Also enclosed is: **(Choose one)**

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. Physical Description of Respondent: \_\_\_\_ ft \_\_\_\_ inches tall. Hair Color \_\_\_\_\_  
Eye Color \_\_\_\_\_  
Other Description: \_\_\_\_\_

2. The Respondent [ ] does not/[ ] does carry a weapon.

3. At present, the Respondent can be found:

- At his/her residence: \_\_\_\_\_.  
Times normally at this address:  \_\_:\_\_ a/p to \_\_:\_\_ a/p and  \_\_:\_\_ a/p to \_\_:\_\_ a/p.  
 Other: \_\_\_\_\_.
- At his/her place of employment: \_\_\_\_\_.  
Times normally at this address:  \_\_:\_\_ a/p to \_\_:\_\_ a/p and  \_\_:\_\_ a/p to \_\_:\_\_ a/p.  
 Other: \_\_\_\_\_.
- Other location: \_\_\_\_\_.  
Times normally at this address:  \_\_:\_\_ a/p to \_\_:\_\_ a/p and  \_\_:\_\_ a/p to \_\_:\_\_ a/p.  
 Other: \_\_\_\_\_.

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\_\_.

Signature: \_\_\_\_\_  
Petitioner

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

I certify that: **(Choose One)**

I personally served the following documents:

Summons and Automatic Economic Restraining Order  
Petition for Declaration of Invalidity of Marriage.

on the Respondent by delivering a copy to him/her personally on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ in the County of \_\_\_\_\_, State of \_\_\_\_\_.

**OR**

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

\_\_\_\_\_  
E-mail Address (optional)  
Petitioner

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT \_\_\_\_\_ COUNTY**

In re the Marriage of:

\_\_\_\_\_,  
Petitioner,

and

\_\_\_\_\_,  
Respondent.

Case No: \_\_\_\_\_

**Request for Entry of Default  
by Clerk of Court**

I, the Petitioner, ask the Clerk of Court to enter Respondent's Default.

**1. Service on Respondent:**

Respondent was served on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**2. Failure to Appear or Respond**

Respondent has not appeared or otherwise responded to the Petition. More than 21 days have passed since Respondent was served.

**I declare under penalty of perjury and under the laws of the state of Montana that the information in this document is true and correct. I understand that it is a crime to give false**

**information in this document.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signature: \_\_\_\_\_  
Petitioner

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT \_\_\_\_\_ COUNTY

In re the Marriage of:

\_\_\_\_\_,  
 Petitioner  Co-Petitioner,  
and  
\_\_\_\_\_,  
Respondent.

Case No: \_\_\_\_\_

**Entry of Default by Clerk of Court**

Comes now \_\_\_\_\_, Deputy Clerk / Clerk of Court and states as follows:

- 1) Respondent was served on the \_\_\_ day of \_\_\_\_\_, 20\_\_.
- 2) I have reviewed the Courts file in this cause of action and Respondent has not appeared or otherwise responded to the Petition.
- 3) More than 21 days have passed since Respondent was served.

Therefore, Respondent's Default is hereby entered this \_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Deputy Clerk / Clerk of Court



\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)  
Petitioner

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT \_\_\_\_\_ COUNTY

In re the Marriage of:

\_\_\_\_\_,

Petitioner  Co-Petitioner,

and

\_\_\_\_\_,

Respondent.

Case No: \_\_\_\_\_

## Request for Hearing

I, the Petitioner, ask the court to schedule a hearing to obtain a Declaration of Invalidity of Marriage.

### 1. Status of the Case. *Choose One:*

- Respondent did not appear or otherwise respond to the Petition. More than 21 days have passed since Respondent was served. I have Asked the Clerk to enter Respondent's default.
- Respondent is participating in the case and we agree on all issues.
- Respondent is participating in the case and we do not agree on all issues.

**2. Request for Hearing**

**Choose One:**

Default Hearing - Respondent did not appear or otherwise respond to the Petition.

**OR**

Uncontested Hearing - Respondent is participating in the case and we agree on all issues.

**OR**

Contested Hearing - Respondent is participating in the case and we do not agree on all issues.

**I declare under penalty of perjury and under the laws of the state of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signature: \_\_\_\_\_  
Petitioner

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT \_\_\_\_\_ COUNTY

<p>In re the Marriage of:</p> <p>_____, Petitioner,</p> <p>and</p> <p>_____, Respondent.</p>	<p>Case No: _____</p> <p style="text-align: center;"><b>Order for Hearing on Declaration of Invalidity of Marriage</b></p>
--	--

The Court Orders that the final hearing in this matter is scheduled for the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, at \_\_\_\_\_ o'clock \_\_. In Court Room \_\_\_\_\_, of the \_\_\_\_\_ County Courthouse, \_\_\_\_\_, Montana. The Court estimates this hearing will last approximately \_\_\_\_\_.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
DISTRICT COURT JUDGE

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)

Petitioner

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In re the Marriage of:

\_\_\_\_\_,

Petitioner,

and

\_\_\_\_\_,

Respondent.

**Case No:** \_\_\_\_\_

*(leave blank, the clerk will write in)*

**Findings of Fact,  
Conclusions of Law and  
Declaration of Invalidity  
Marriage**

The Court enters the following:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**1. Procedural History.**

**On the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, the Petition for Declaration of Invalidity of Marriage was filed by Petitioner.**

On the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, Respondent was served with the Petition and Summons.

**AND**

Respondent filed an answer or otherwise participated in this case.

**OR**

Respondent did not file an answer or otherwise participate in this case. Default was entered on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

This Court has jurisdiction over the marriage of the parties and venue is proper in this County.

**2. Marriage. Choose one.**

- The parties were married on (date) \_\_\_\_\_ and filed a marriage license in \_\_\_\_\_ County, State of \_\_\_\_\_.

**OR**

- The parties were married at common law as of (date) \_\_\_\_\_. They assumed a marital relationship by mutual consent and agreement. They confirmed their marriage by living together and by public knowledge.

**OR**

- The parties filed a declaration of marriage on (date) \_\_\_\_\_ in \_\_\_\_\_ County, State of \_\_\_\_\_.

**3. Invalidity. The marriage of the parties is invalid because: (Choose one)**

- One or both spouses lacked the capacity to consent because of mental incapacity or infirmity.

**OR**

- One or both spouses lacked the capacity to consent because of the influence of alcohol, drugs, or other incapacitating substance.

**OR**

- One or both spouses lacked the capacity to consent because force, duress, or fraud.

**OR**

- One spouse lacks the physical capacity to consummate the marriage by sexual intercourse. At the time of the marriage the other spouse did not know about the incapacity.

**OR**

- One spouse was under 16, or was 16 or 17 at the time of the marriage and did not have parental consent or judicial approval, and was still under 18 at the time the Petition was filed.

**OR**

- One spouse was already married to another person and that marriage was not dissolved at the time of marriage.

**OR**

- Petitioner and Respondent are: parent and child, grandparent and grandchild, great-grandparent and great-grandchild, siblings, aunt or uncle and niece or nephew, or first cousins.

4. Additional Findings.

The Court makes additional findings of fact as follows: \_\_\_\_\_

\_\_\_\_\_  
 Additional Findings of Fact and Conclusions of Law attached hereto.

**DECLARATION OF INVALIDITY OF MARRIAGE**

1. The Court has jurisdiction over the marriage of the parties and this cause of action.
2. The Court declares the marriage of the parties invalid as of the date of the marriage.
3. The Court directs the Clerk of Court to give notice of this Declaration of Invalidity to the Clerk of District Court in the county where the marriage was registered as required by § 40-1-402 MCA.
4. Other Provisions:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DATED this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
 DISTRICT COURT JUDGE /  STANDING MASTER

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)  
Petitioner

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT \_\_\_\_\_ COUNTY**

In re the Marriage of:

\_\_\_\_\_,

Petitioner  Co-Petitioner,

and

\_\_\_\_\_,

Respondent.

Case No: \_\_\_\_\_

**Notice of Entry of  
Declaration of Invalidity of  
Marriage**

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
the Court entered a Declaration of Invalidity of Marriage in the above-entitled action. A  
true and correct conformed copy of the Declaration of Invalidity of Marriage is attached to  
this Notice and served upon you.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Print Name

## Proof of Service

I, \_\_\_\_\_, state that a true and correct copy of the foregoing Notice of Entry of Declaration of Invalidity of Marriage was served the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by mailing said copy, postage paid, to:

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*City State Zip Code*

**I declare under penalty of perjury and under the laws of the state of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_  
Petitioner



\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)  
Respondent

**MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY**

In re the Marriage of:

\_\_\_\_\_,  
Petitioner,

and

\_\_\_\_\_,  
Respondent.

**Case No:** \_\_\_\_\_

**Response to Petition for  
Declaration of Invalidity  
Marriage**

**1. Petitioner Information. Choose one.**

I admit that the Petitioner's information is correct.

**OR**

I deny that the Petitioner's Information is correct and state that the correct information is:

Name First: \_\_\_\_\_ Middle: \_\_\_\_\_ Last: \_\_\_\_\_

Petitioner's e-mail address (optional): \_\_\_\_\_

Petitioner's Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Petitioner's Physical Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Petitioner's Year of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Petitioner's occupation: \_\_\_\_\_

How long has Petitioner lived in this county? \_\_\_\_\_

How long has a Petitioner lived in Montana? \_\_\_\_\_

**2. Respondent's information. Choose one.**

I admit that my information is correct.

OR

I deny my information is correct and state that the correct information is:

Name First: \_\_\_\_\_ Middle: \_\_\_\_\_ Last: \_\_\_\_\_

My e-mail address (optional): \_\_\_\_\_

My Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

My Physical Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

My Year of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ My occupation: \_\_\_\_\_

How long I have lived in this county: \_\_\_\_\_

How long I have lived in Montana: \_\_\_\_\_

**3. Your marriage. Choose one.**

I admit that the information about our marriage is correct.

OR

I deny that the information about our marriage is correct and state that the correct information is: (**Choose one**)

We were married on (date) \_\_\_\_\_. We filed our marriage license in \_\_\_\_\_ County, State of \_\_\_\_\_.

OR

We were married at common law as of (date) \_\_\_\_\_. We assumed a marital relationship by mutual consent and agreement. We confirmed our marriage by living together and by public knowledge.

OR

We filed a declaration of marriage on (date) \_\_\_\_\_ in \_\_\_\_\_ County, State of \_\_\_\_\_.

**4. Invalidity. Choose one.**

I admit that our marriage is invalid.

OR

I deny that our marriage is invalid for the following reason: (**Choose one**)  
 Neither spouse lacked the capacity to consent because of mental incapacity or infirmity.

**OR**

Neither spouse lacked the capacity to consent because of the influence of alcohol, drugs, or other incapacitating substance.

**OR**

Neither spouse lacked the capacity to consent because force, duress, or fraud.

**OR**

Neither spouse lacked the physical capacity to consummate the marriage by sexual intercourse at the time of the marriage.

**OR**

Neither spouse was under 16 or was 16 or 17 and did not have parental consent or judicial approval, and is still under 18.

**OR**

Neither spouse was already married to another person at the time of our marriage.

**OR**

Respondent and I are not: parent and child, grandparent and grandchild, great-grandparent and great-grandchild, siblings, aunt or uncle and niece or nephew, or first cousins.

**I ask the court to take the following action:**

1. Enter a decree declaring our marriage valid,
2. And for any other relief this court decides is just and proper.

**I declare under penalty of perjury and under the laws of the state of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

City \_\_\_\_\_ State \_\_\_\_\_

Sign Here: \_\_\_\_\_

Print Name: \_\_\_\_\_

Respondent