

How to file a Notice of Intent to Move

DISCLAIMER

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

What is the Process?

NOTE: The steps for filing a Notice of Intent to Move 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: Fill out the forms you need. Read all of the forms listed in Step Two to determine which forms will be most appropriate for your situation. Fill out these forms completely. Be sure to read "[Introduction to Family Law in Montana](#)" before you begin filling out the forms. It will highlight the major decisions you will have to make.

Need Privacy?

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

NEED HELP? Resources are available to assist you in filling out these forms.

The Court Help Program. The Court Help Program provides assistance to people representing themselves in court. There are Self Help Law Centers located throughout the state to assist you on a walk-in basis and travelling appointments to other courthouses. Self Help staff are not lawyers and cannot provide legal advice. Self Help staff members are well informed about the court process and can answer many questions as well as review your forms for completeness. Find the Court Help services nearest you: <http://courts.mt.gov/selfhelp>

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

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

STEP TWO: File Documents.

Court documents for a Notice of Intent to Move are filed at the Clerk of District Court office in the county where your parenting plan was ordered. After filling out the appropriate forms, make two sets of copies (three sets of forms total) of the form. Take all of the copies with you to the Clerk of District Court office.

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

Here is a list of the forms you need to bring to the Clerk of District Court to file a Notice of Intent to Move:

1. Notice of Intent to Move - **MP 904**
2. Proposed Amended Parenting Plan - **MP 300**
3. Request for Sheriff to Serve Documents - **MP 401** (The original of this document will be given back to you for Step Three.)

There is a charge for filing a Notice of Intent to Move in Montana. If you did not file an "Affidavit of Inability to Pay Filing Fee" when you filed your original Petition or Response, you may have to pay a fee to file your Notice of Intent to Move. If you have financial hardship and cannot afford to pay the court, you may fill out a form titled "Affidavit of Inability to Pay Filing Fee," available at <http://courts.mt.gov/library> and at www.MontanaLawHelp.org or by calling or visiting your local Self Help Law Center.

STEP THREE: Serve your Spouse.

A. Serving your Spouse.

You must serve your Spouse with the following documents by one of the four options described below:

1. Notice of Intent to Move - **MP 904**

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

2. Proposed Amended Parenting Plan - **MP 300**

You may serve your Spouse by one of two methods: (1) Service by Sheriff, or (2). By Certified Mail. You must also serve your Spouses attorney of record if there is one. The method of service most appropriate depends on the details of your case and your relationship.

NOTE: The law requires you to serve the other parent at least 30 days before you intend to move. You can find this law at MCA § 40-4-217

OPTION #1: Service by the Sheriff.

Service by Sheriff is accomplished by delivering or mailing to the Sheriff in the county where your Spouse resides:

1. Copies of all documents listed above,

AND

2. Original and Copy of the Request for Sheriff to Serve Documents - **MP 401**. The original was given back to you after approved by the Clerk of District Court in Step Two.

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

OPTION #2: By Certified Mail

Service by Certified Mail is accomplished by sending the other parent via Certified, Return Receipt mail:

1. Copies of all documents listed above.

STEP FOUR: Wait and work towards a resolution.

After you're the other parent is served, they have 21 days to respond or object to the Proposed Parenting Plan. If the other parent disagrees with any part of your Proposed Parenting Plan they may file their own Proposed Parenting Plan. At that time, you can decide whether there is any room for agreement on some or all of your proposals.

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

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

After the Court receives your Notice of Intent to Move and any objections or Responses the court may choose to hold a hearing. When the court reaches a decision it will issue an Order. You should provide the court with a copy of form **MP 300** that you have filled out for the judge to sign. This form should be filled out just like the proposed parenting plan you filed with the court. It is a good idea to provide the court with a self addressed stamped envelope so that they can mail you a copy of the parenting plan after the judge signs it.

Name

Mailing Address

City, State Zip Code

Phone Number

E-mail Address (optional)

Petitioner Respondent Co Petitioners

Appearing without a lawyer

MONTANA _____ JUDICIAL DISTRICT COURT, _____ COUNTY

In re the Parenting of:

_____,

OR

In re the Marriage of:

_____,

Petitioner,

and

_____,

Co Petitioner Respondent.

Case No: _____

Notice of Intent to Move

This notice is about parenting our child(ren). The court may make a decision without your involvement unless you submit a written response to the court and to the other parent within 21 days. Read the information below.

1. The Petitioner Co-Petitioner Respondent intends to change their place of residence.

MP-904 Notice of Intent to Move

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2. The move will take place on or about _____ (date).
3. The Petitioner Co-Petitioner Respondent's new place of residence will be:
Physical Address: _____
Mailing Address: _____
Phone Number: _____
E-Mail Address: _____

4. Significant Affect

Choose One:

- The change in residence will not significantly affect the child's contact with the other parent. I do not need to complete a Proposed Amended Parenting Plan. I only need to send this Notice of Intent to move to the other parent.

OR

- The change in residence will significantly affect the child's contact with the other parent. I am completing and attaching a Proposed Amended Parenting Plan and attaching it as Exhibit A. I ask the court to adopt the Proposed Amended Parenting Plan.

5. Service of Notice

Choose One:

- I will serve the Notice of Intent to Move with my Proposed Amended Parenting Plan attached as Exhibit A by having a sheriff or a process server personally deliver it. I know that the sheriff or process server will provide me with proof of service that I must file with the court.

OR

- I have served or will serve the Notice of Intent to Move with my Proposed Amended Parenting Plan attached as Exhibit A by mailing a copy to the other parent by certified return receipt mail. I have completed the Certificate of Service at the end of this document.

I am required by law to give you this notice: The relocation of the child may be

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permitted and the proposed revised residential schedule may be ordered by the court without further proceedings unless within 21 days you file a response and alternate residential schedule with the court and serve your response on the person proposing the move and all other persons entitled by the court order to residential time or visitation with the child. You can find this law at Section 40-4-217 MCA.

Dated this is _____ day of _____, 20_____.

Signature

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 20_____, I served a true and correct copy of the foregoing Notice of Intent to Move and any exhibits upon the co-parent by certified mail, postage prepaid addressed as follows:

Name: _____

Address: _____

City State Zip Code

Signature