

Rules about Petitions for Writ of Supervisory Control

Introduction:

Supervisory control is an extraordinary remedy and is sometimes justified when urgency or emergency factors exist making the normal appeal process inadequate, when the case involves purely legal questions, and when one or more of the following circumstances exist:

- The other court is proceeding under a mistake of law and is causing a gross injustice;
- Constitutional issues of state-wide importance are involved;
- The other court has granted or denied a motion for substitution of a judge in a criminal case.

A Petition for Writ of Supervisory Control may be made to the supreme court at any time. The petition and all supporting documents shall be filed with the clerk of the supreme court.

The petition must include:

- The facts which make it appropriate that the supreme court accept jurisdiction;
- The particular legal questions and issues anticipated or expected to be raised in the proceeding;
- In summary fashion, the arguments and authorities for accepting jurisdiction and pertaining to the merits of the particular questions and issues anticipated or expected to be raised. No separate memorandum of law or brief shall be filed with the application; and

- To the extent they exist, as exhibits, without repetition of title of court and cause, a copy of each judgment, order, notice, pleading, document proceeding, or court minute referred to in the petition or which is necessary to make out a prima facie case or to substantiate the petition or conclusion or legal effect.

Petitions must be on paper not exceeding 8 1/2 by 11 inches. Neither the text of the petition nor any response shall exceed 4,000 words. The word limits do not include table of contents, table of citations, certificate of service, certificate of compliance, or any appendix containing statutes, rules, regulations, and other pertinent matters.

Exhibits shall be preceded by a table of contents.

IMPORTANT: In any proceeding regarding abused or neglected children, Parentage, Youth Court, Adoption, Elders, Persons with Developmental Disabilities, Mentally Ill persons, Persons with Alcoholism and Drug Dependence, Incapacitated Persons and their Guardians: **only the initials of the child, parent(s) or individual party(ies), as the case may be, may be used.**

SERVICE: The petition and any exhibits relating to a ruling of the district court **must be served upon the district judge against whose ruling it is directed and upon all parties.** Such petition shall include, in its title, the name of the district judge and the judicial district from which the ruling was issued.

After you file

Upon the filing of a petition, the supreme court may order that a summary response be filed, or the supreme court may dismiss the petition without ordering a response. A summary response shall summarize the arguments and authorities for rejecting jurisdiction. No separate memorandum of law or brief shall be filed with the summary response. No reply memorandum shall be filed to the summary response, except on order of the supreme court.

In the event the supreme court orders a summary response, the supreme court also may order more extensive briefing, order oral argument, issue any other writ or order deemed appropriate in the circumstances, or dismiss the petition.

The supreme court may order a stay of further proceedings in the other court, pending the supreme court's disposition of the petition.

If you want a more thorough explanation, read Rule 14 and Rule 11 of the Montana Rules of Appellate Procedure.

WRIT PETITION CHECKLIST

First page <ul style="list-style-type: none"> • Top left: Name, address and telephone number of Petitioner • Name of this Court (Supreme Court of Montana) • Case number for original petition (Clerk of Supreme Court will assign) • Caption: Names and designations of parties (For example, Petitioner, Respondent) • Title of petition 	
Paper size and color [Rule 11(3)(a)] 8.5 x 11 inches white paper	
Computer type size [Rule 11(2)] 14-point Times New Roman	
Margins [Rule 11(3)(a)] 1 inch on top, bottom and both sides	
Line spacing [Rule 11(3)(b)] Double space all text except footnotes and quoted indented material	
Page numbering [Rule 11(3)(b)] Number each page	
Contents of a Petition [Rule 14(5)] <ul style="list-style-type: none"> • Facts that support the Court having jurisdiction to issue the writ • Legal questions and issues raised • Summary of arguments and citations to authority for accepting jurisdiction and supporting the merits of the issues raised • Exhibits that include title of court and cause number challenged, copy of judgment, order, document, or other pleading to make a showing of the elements of the petition. • Do not use Social Security numbers, bank or credit card numbers, or last names of children under 18. [Rule 10(6) & (7)]. 	
Page or word limit [Rule 14(9)(b)] <ul style="list-style-type: none"> • Petition- 12 pages or no more than 4,000 words • Response - 12 pages or no more than 4,000 words • Word and page limits do not include table of contents, table of authorities, certificates or service and compliance, or any exhibit or other pertinent materials. Exhibits should be separated by sheets of colored paper and given a number or letter (e.g. Exhibit "A"). 	
Attach Certificate of Service to petition [Rule 10(4)]	
Attach Certificate of Compliance [Rule 11(4)(e)]	
Exhibits - Attach & identify exhibits	
Binding [Rule 11(3)(b)] Bind or staple petition on left	
File an original and 9 copies of the Petition with the Clerk of Court the same day you sign the Certificate of Service [Rule 14(9)(a)]	
Serve all parties or their attorneys [Rules 10(2) and (3)] <ul style="list-style-type: none"> • Each self-represented person and each attorney must be served with a copy of the petition. • If filing a <i>Petition for Supervisory Control</i>, the petition must be served upon the district judge whose ruling is challenged. The Petition shall include in its title the name of the district judge and the judicial district that issued the ruling. 	
Procedure after writ is filed [Rule 14(7)] <ul style="list-style-type: none"> • No separate memorandum of law or brief may be filed unless ordered by the Court. • The Court may require more extensive briefing. • No reply to the summary response is allowed, unless the Court orders otherwise. 	