

Changing Your Parenting Plan



Note: Use these instructions and forms to make changes to your Parenting Plan.

These instructions and forms may not be right for your case. They can not take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

Do not change these forms. If you change the forms, you might lose language you need.

What Forms Will I Need to Make Changes to My Parenting Plan?

If the other parent **does not agree** with the changes you want to make, you will need to fill out and file the following forms:

- Motion to Amend Parenting Plan
- Supporting Affidavit
- Proposed Amended Parenting Plan
- Order to Show Cause
- Request to Serve Documents
- Order Amending Parenting Plan
- Affidavit of Inability to Pay (only if you cannot afford filing fees)

The **Motion to Amend Parenting Plan** asks the court to make changes to your current Parenting Plan.

The **Supporting Affidavit** tells the court why you want to make changes to your current Parenting Plan.

The **Proposed Amended Parenting Plan** outlines the new parenting schedule you want the court to adopt as your new Parenting Plan.

The **Order to Show Cause** will be filled out by the judge. This order schedules a hearing on your Motion, and tells the other parent that he or she must show up and tell the court why your Proposed Amended Parenting Plan should not be adopted.

The **Request to Serve Documents** should be given to your local sheriff or a process server so the other parent can be given copies of your forms.

The **Order Amending Parenting Plan** will be filled out by the judge. This order will make your Proposed Amended Parenting Plan the new Final Parenting Plan.

The **Affidavit of Inability to Pay** asks the court to waive filing fees in your case.

What Words Do I Need to Know?



Petitioner- A Petitioner is someone who files an action in court. If you filed the **first** action for divorce or a parenting plan, you are the Petitioner.

Respondent- A Respondent is someone who has been filed against in court. If the other parent filed the **first** action for divorce or a parenting plan, you are the Respondent.

Moving Party- The Moving Party is the parent who wants to make changes to the Parenting Plan and files a Motion to Amend Parenting Plan.

Non-moving Party- The Non-moving Party is the parent who does not file forms to make changes to the current Parenting Plan

Who Can Use the Form?

You can use these forms if:

- Facts have changed since the parenting plan was entered; **or**
- Facts were not known to the court when the parenting plan was entered;
and
- The change in the parenting plan is needed to serve the best interests of the child(ren). (Mont. Code Ann. § 40-4-219(1)).

Note: If your child is in immediate danger, you may be able to get a change to your parenting plan faster than this process allows. You can **not** request an emergency change using these forms. Talk to a lawyer if you have an emergency or have any questions.

What if the Other Parent Does Not Live in Montana?

If you know where the other parent lives, you will need to contact the sheriff in the county where the other parent lives and ask how much they charge to serve documents on someone. Some states will waive the fee if you have an Order of Inability to Pay, but some may not. You should mail the documents to be served on the other parent to the sheriff of the county where the other parent lives, along with the fee or your Order of Inability to Pay. Once the other parent is served, the sheriff will return your Proof of Service.

If you are not sure where the other parent lives, you may be able to serve him or her by publication. You will need to fill out an Affidavit for Publication of Summons and fill in the caption on an Order for Publication of Summons and a Summons for Publication. These forms are available online separately. You should file these forms with the Clerk of District Court in the county where your original parenting action was filed.

If the other parent is an active duty member of the armed forces, the Soldiers' and Sailors' Civil Relief Act may protect the parent from being sued if it would affect his or her ability to defend the country. This does not mean you cannot ever change your parenting plan if the other parent is in the military. It means that you may have to wait until the other parent is out of harm's way or returns home to make changes to your parenting plan.

What Do I Do with The Forms?

1 Fill out the Forms

- Fill out all the blanks on the Motion to Amend Parenting Plan, Supporting Affidavit, Proposed Amended Parenting Plan, and Request to Serve Documents.

- Put your name and the other parent's name in the caption of the Order to Show Cause and the Order Amending Parenting Plan. The caption looks like this:

| | |
|--|---|
| <p>Montana _____ Judicial District Court <i>Number of the judicial district where you are filing</i> _____ County <i>Name of the county where you are filing</i></p> | |
| <p>In the Matter of the Name Change of _____: <i>Your name now</i></p> <p>_____ <i>Petitioner (your name now)</i></p> | <p>Cause No.: _____ Dept No.: _____ <i>Filled out by Clerk of District Court</i></p> <p style="text-align: center;">Name of Form</p> |

- Sign, date, and notarize your Supporting Affidavit. Sign and date your Motion to Amend Parenting Plan, Request to Serve Documents, and Proposed Parenting Plan.

2 Make Copies

- Make at least two copies of each form once you have them filled out. You will need to mail one copy of the forms to the other parent. You will need to bring the other copy with you to the Show Cause hearing.

3 File Forms at the Courthouse

- File the original Motion to Amend Parenting Plan, Supporting Affidavit, Proposed Amended Parenting Plan, Order to Show Cause, and Order Amending Parenting Plan with the Clerk of District Court in the county where your original Parenting Plan was filed.
- Give the Clerk of Court a self-addressed stamped envelope. Be sure to ask the Clerk of Court to mail two conformed copies of the Order to Show Cause to you after the judge signs it. If you do not have an Order of Inability to Pay from the judge, you may be charged a fee for these copies.
- Give all your copies to the Clerk of District Court and ask her to stamp them as “Filed”. Keep the copies in a safe place. You should bring the copies with you to your hearing.

4 Wait for the Order to Show Cause

- If the court feels you have good reason to change your current

Parenting Plan, the court will set a hearing date and will fill out and sign your Order to Show Cause.

5 **Serve the Other Parent**

- Have the Motion to Amend, Supporting Affidavit, Proposed Amended Parenting Plan, and the Order to Show Cause that was filled out by the judge served on the other parent. Sheriffs in Montana will serve the other parent for free if you have an Order of Inability to Pay from the judge. If you do not have this, you will need to pay the sheriff to serve your forms.
- Mail or hand-deliver your original Request to Serve Documents and other documents to the Sheriff's office in the county where the other parent lives.
- Give the Sheriff's office a self-addressed, stamped envelope so they can mail you Proof of Service after they give your forms to the other parent.

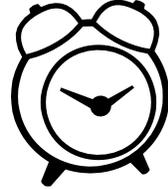
Note: When the other parent gets the Order to Show Cause, s/he will be able to file an "Opposing Affidavit" with the Court explaining why s/he disagrees with your Proposed Parenting Plan. S/he will also be able to go to the hearing and tell the Court his or her side of the story.

6 **File the Proof of Service**

- Once the Sheriff returns Proof of Service to you, make a copy and file the original with the Clerk of District Court in the county where your original Parenting Plan was filed. Have the Clerk stamp your copy of the Proof of Service as "Filed". This step is important. The Judge will need to see proof that the other parent was served before ordering a new parenting plan.

7 Go to Your Hearing

- Bring your stamped copies of the documents you filed with the court.
- Arrive at the courthouse at least 15 minutes before your scheduled hearing. Dress like you were going to an important job interview.
- Check with the Clerk of Court's office to find the right courtroom for your hearing. Go to that courtroom and wait for the judge to call your name and case number. Remember to address the judge as "Your Honor".
- Be prepared to tell the judge why you want to make changes to your current Parenting Plan.



Where can I get more information?

The Montana Code Annotated (M.C.A.) contains the law on changing your Parenting Plan. The laws related to changing your Parenting Plan can be found in Title 40, Chapter 4. The M.C.A. can be found at your local library or on the Montana State Law Library website at www.lawlibrary.mt.gov. Click on the "State Laws" option near the top of the page and select "MCA" from the list.

Where can I get legal help?

These organizations may be able to help you:

- **Montana Legal Services Association (MLSA)** gives free legal help to low and moderate-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899.

- **The State Bar Lawyer Referral and Information Service (LRIS)** refers people to Montana lawyers who might be able to help. The referral is free. Call LRIS at 1-406-449-6577.
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at www.lawlibrary.mt.gov. Or you can contact a Reference Librarian at 1-800-710-9827 or by email at mtlawlibrary@mt.gov.

Please take a short survey about these forms.

When you are done with the forms, please take our online survey at this address:

http://www.surveymonkey.com/s.aspx?sm=fCBbhbbJj4MdOWw_2fjsCjlg_3d_3d



Or you can access the survey on the “Forms” page of the State Law Library website, at www.lawlibrary.mt.gov. Your answers will help make the forms better. Thank you!

Your name

Your mailing address

City State Zip

Your phone number

Petitioner/ **Respondent**

Note: If you were the Respondent in your original parenting or custody case, you are still the Respondent. If you were the Petitioner, you are still the Petitioner. The caption below should be filled out exactly like it was in your original case. Even the cause number will be the same.

Montana _____ **Judicial District Court**
Number of the judicial district where you are filing
_____ **County**
Name of the county where you are filing

In re the Marriage of/ Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Dept. No.: _____

Motion to Amend Parenting Plan

I am the Petitioner/ Respondent in this case. I am asking this Court to change our final parenting plan in this case. This request is allowed under Mont. Code Ann. § 40-4-219.

Facts

1 Information about Me

Name: _____

Age: _____ Date of Birth: _____

Address: _____

City: _____ State: _____ County: _____

2 Information about the Other Parent

Name: _____

Age: _____ Date of Birth: _____

Address: _____

City: _____ State: _____ County: _____

3 Information about the Children

We have (#) _____ child(ren) younger than 18 years old:

| Child's Full Name | Age of Child |
|-------------------|--------------|
| | |
| | |
| | |

If needed, attach additional sheets as Exhibit _____.

4 Prior Parenting Plan

This Court entered a final parenting plan for our children on (mm/dd/yyyy):

_____.

5 Change in Circumstances

Circumstances have changes since the Court entered our prior parenting plan. I explain the changes in my Supporting Affidavit, which I am filing with this Motion.

Legal Basis

1 Jurisdiction

This Court ordered a final parenting plan in this action. This Court has exclusive and continuing jurisdiction under Mont. Code Ann. § 40-7-202.

2 Amendment of Parenting Plan

- a. Montana law says the court may change a prior parenting plan if:
- Facts have changed since the parenting plan was entered; **or**
 - Facts were not known to the court when the parenting plan was entered; **and**
 - The change in the parenting plan is needed to serve the best interests of the child(ren). (Mont. Code Ann. § 40-4-219(1).).
- The circumstances of the child(ren) have changed. These changes are outlined in my Supporting Affidavit.
- b. *Choose Any That Apply* (Optional):
- Montana law says that it is not in the child(ren)'s best interest when one parent does not allow the other parent to see the child(ren) or tries to keep the other parent from seeing the child(ren). Mont. Code Ann. § 40-4-219(3)
 - Montana law says that a parenting plan can be changed if one of the parents has died. Mont. Code Ann. §§ 40-4-219(6) and 40-4-221.

Montana law says that it is not in the child(ren)'s best interest if one of the parents- or someone living with the parent- is convicted of any of the following crimes: 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. Mont. Code Ann § 40-4-219(3) and (8)

c. My Proposed Amended Parenting Plan is necessary to serve the best interests of our minor child(ren).

I respectfully ask this Court to:

1. Change our final parenting plan and adopt my Proposed Amended Parenting Plan, filed with this motion;
2. Schedule a hearing and order all parties to appear and show why my Proposed Amended Parenting Plan should or should not be granted; and
3. Order any other relief the Court deems just and proper.

Date: _____

Your Signature

Print Name

Proof of Service

STATE OF MONTANA)
): ss
COUNTY OF _____)

I declare that the this Motion, Supporting Affidavit, and Proposed Parenting Plan were sent to the other parent by first class mail, postage prepaid on (mm/dd/yyyy.) _____ . The mail was sent to the following address:

(Name of other parent:) _____

(Address:) _____

Your Signature

Print Name

Your name

Your mailing address

City State Zip

Your phone number

Petitioner/ **Respondent**

Note: If you were the Respondent in your original parenting or custody case, you are still the Respondent. If you were the Petitioner, you are still the Petitioner. The caption below should be filled out exactly like it was in your original case. Even the cause number will be the same.

Montana _____ **Judicial District Court**

Number of the judicial district where you are filing

_____ **County**

Name of the county where you are filing

In re the Marriage of/ Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Dept. No.: _____

Supporting Affidavit

STATE OF MONTANA)
) : ss
COUNTY OF _____)

(Your Name): _____ says that:

1. This affidavit is in support of my Motion to Amend Parenting Plan

Choose All That Apply:

The other parent has not allowed me to see our child/ren, or the other parent has tried to keep me from seeing our child/ren.

The other parent has died.

The other parent, or someone living in the other parent's household, has been convicted of one of the following crimes: (*choose all that apply:*)

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.

2. Explain what has changed that makes you want to change your parenting plan:

3. I believe that my proposed amended parenting plan is necessary to serve the best interests of our minor child(ren).

Date (*mm/dd/yyyy*): _____
Signature _____
Print Name _____

SIGNED AND SWORN to before me on (*mm/dd/yyyy*)_____.

(Seal)

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

Your name

Your mailing address

City State Zip

Your phone number

Petitioner/ **Respondent**

Note: If you were the Respondent in your original parenting or custody case, you are still the Respondent. If you were the Petitioner, you are still the Petitioner. The caption below should be filled out exactly like it was in your original case. Even the cause number will be the same.

Montana _____ **Judicial District Court**

Number of the judicial district where you are filing

_____ **County**

Name of the county where you are filing

In re the Marriage of/ Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Dept. No.: _____

Proposed Amended Parenting Plan

I am the Petitioner/ Respondent. I propose the following amended parenting plan. This request is allowed under Montana law. See Mont. Code Ann. §§ 40-4-219 and 40-4-208:

1 The Parents

Your Name: _____

Your Address: _____

Other Parent's Name: _____

Other Parent's Address: _____

2 The Child(ren)

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

| Child's Name | Date of Birth | State where child lived the last six months |
|--------------|---------------|---|
| | | |
| | | |
| | | |

3 Prior Parenting Plan

This Court entered a final parenting plan for the minor child(ren) on (*date*):

_____.

4 Objectives of the Parenting Plan

- a. Protect the best interest(s) of the child(ren);
- b. Provide for the physical care of the child(ren);
- c. Maintain the child(ren)'s emotional stability and minimize the child(ren)'s exposure to conflict between the parents;
- d. Provide for the minor child(ren)'s changing needs as they grow and mature;
- e. Set forth the authority and duties of each parent with respect to the child(ren);
- f. Help the parents avoid expensive future court battles over the child(ren).

5 Residential Schedule for the Child(ren) (Paragraphs 5(a)-(i) are one way to write your residential schedule. This schedule should provide for the child(ren)'s changing needs as they grow and mature. The schedule shows when the child(ren) live with each parent, including holidays, vacations, and other special occasions. If you choose not to use this schedule, you may write your own schedule in Paragraph 5(j).)

a. Schedule Before School Enrollment (*Choose One*):

- There are no child(ren) under school age.
- There are child(ren) under school age, but the school schedule set forth in 5(b) below will apply to the child(ren) regardless of their age(s).
- Before enrollment in school, the child(ren) will live primarily with the Mother / Father. The other parent will have time with the child(ren) on the following days and times:

- Before their enrollment in school, the child(ren)'s schedule will be as follows:

b. School Schedule (*Choose One*):

- Once in school, the child(ren) will live with the Mother / Father. The other parent will have time with the child(ren) on the days and times listed:

- Once in school, the child(ren)'s schedule will be:

c. Holiday and Special Occasion Schedule (*Choose one*):

- No holiday and special occasion schedule will apply. The school year or pre-school schedule above applies.
- The following schedule applies for the holidays and special occasions listed below:

| Holiday/Special Occasion | With Mother (List odd/even/every year) | With Father (List odd/even/every year) |
|---------------------------------|---|---|
| New Year's Day | | |
| Martin Luther King Day* | | |
| Presidents' Day* | | |
| Easter | | |
| Mother's Day | | |
| Memorial Day* | | |
| Father's Day | | |
| 4 th of July | | |
| Labor Day* | | |
| Halloween | | |
| Veterans' Day* | | |
| Thanksgiving | | |
| Christmas Eve | | |
| Christmas Day | | |
| Mother's Birthday | | |
| Father's Birthday | | |
| Child(ren)'s Birthday(s) | | |
| Other: | | |
| Other: | | |

The child(ren)'s winter vacation schedule will be:

e. Summer Vacation (*Choose One*):

No summer vacation schedule will apply. The school year or schedule before school enrollment above will apply.

The child(ren) will live with the Mother / Father during summer vacations. The other parent will have time with the child(ren) on the following days and times:

The child(ren)'s summer vacation schedule will be:

f. Spring Break (*Choose One*):

No Spring Break schedule will apply. The school year or schedule before school enrollment above will apply.

The child(ren) will live with the Mother / Father during Spring Break. The other parent will have time with the child(ren) on the following days and times:

The child(ren)'s schedule for Spring Break will be:

g. Other Vacations with Parents

The child(ren)'s schedule for vacations with parents will be:

h. Priorities under the Residential Schedule

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

- Rank the order of priority, with 1 being the highest priority
 - ___ School Schedule (or Schedule Before School Enrollment)
 - ___ Holidays/Special Occasions
 - ___ Winter/Summer/Spring Break Vacations
 - ___ Other Vacations with Parents
- 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.
- (i) The Mother's/ Father's parenting time will be supervised or limited because he/she has shown the following behavior which is not in the best interest(s) of the child(ren):
 - (ii) It is in the best interest(s) of the child(ren) that the Mother's/ Father's parenting time be limited in the following ways:
Supervised by: _____

Located at: _____

How often: _____

For how long: _____

- (iii) The supervised and limited visitation conditions will take priority over the residential schedule. (iv) If the Mother / Father completes the following and follows through with any and all recommendations by an evaluator, treatment counselor, and/or other professionals, the Mother / Father agrees to consider allowing 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:

6 Designation of Custodian

For laws that require a finding of custody, the Mother / Father will be named the custodian. This will not affect either parents' rights or responsibilities under this parenting plan.

7 Transportation Arrangements (*Choose All That Apply*):

- Transportation arrangements for the child(ren) between parents will be: _____.
- Unless both parents agree upon a different meeting place, the exchange of the child(ren) will be at: _____.
Transportation costs will be divided as follows:
_____.
- If the Mother / Father is more than ____ minutes late to pick the child(ren) up for a visit, that visit will be canceled.

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

- Each parent will promote a healthy relationship between the child(ren) and the other parent. Neither parent will speak out in any way that could damage the relationship between the other parent and the child(ren).
- Each parent will notify the other parent at least _____ days in advance when a particular parenting time will not be exercised. The missed time will not be replaced, unless both parents agree. The parents should be fair and modify visits when reasonable family needs, sickness, or other commitments arise. The requesting parent will act in good faith and give as much notice as the situation allows.
- Each parent will supply the proper clothing with the child(ren) for their scheduled time with the other parent. These clothes are considered the child(ren)'s clothes and will be returned with the child(ren).
- Each parent will provide separate clothes for the child(ren) at their own home, unless both parents agree to something else. In the cold months of the year, both parents are required to have adequate boots, gloves, hats, and jackets for the child(ren).
- If a parent plans an activity that requires clothing and/or items that would normally not be with the child(ren), that parent must check and see if the

child(ren) have such clothing and/or items with the other parent, ask that the clothing and/or items travel with the child(ren), and make sure that the clothing and/or items return the same with the child(ren).

- Each parent will make sure the child(ren) attend regularly scheduled activities, including but not limited to sports and extra-curricular activities, while they are with that parent.
- Neither parent will subject the children to (*Choose All That Apply*):
 - Persons abusing alcohol or using illegal drugs within 24 hours of contact with the child(ren). This includes the parent's abuse of alcohol or use of illegal drugs.
 - Smoking environment.
 - Use of profane language.
 - Removal of the child(ren) from Montana, except as authorized by the Court or agreed to by both parents.
 - Other: _____.
 - Other: _____.
 - Any violation of these terms will result in the immediate termination of the violating parent's contact with the child(ren).
- Relationships between the child(ren) and relatives and family friends on both sides of the family will be protected and encouraged. The parents will have their child(ren) maintain ties with both the mother's and father's family. In Montana, grandparents have a legal right to request a court order for 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 father's relatives during times the child(ren) are with their father. They visit the mother's relatives during times they are with their mother.

9 Telephone Contact (*Choose One*):

- While the child(ren) stay with one parent, the other parent will be allowed to speak with the child(ren) at reasonable times.
- While the child(ren) stay with one parent, the other parent will be allowed to speak with the child(ren) only at the following times:

10 Decision Making

a. Day-to-Day Decisions

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

- Sole decision making is given to the Mother/ Father for the following reasons:
 - Major decisions concerning the child(ren)'s education will be made by the Mother/ the Father/ both parents jointly.
 - Major decisions concerning the non-emergency health care of the child(ren) will be made by the Mother/ the Father/ both parents jointly.
 - Major decisions concerning the spiritual development of the child(ren) will be made by the Mother/ the Father/ both parents jointly.
- The consent of both parents is required before any minor child(ren) (*Choose All That Apply*):
 - Get a tattoo
 - Pierce any body part
 - Marry

Enlist in the armed service

Other: _____

Other: _____

Other: _____

b. Emergency Decisions

Each parent is authorized to make emergency decisions affecting the health or safety of the child(ren).

11 Access to Information

a. The law says both parents will have access to all information relating to their child(ren) including, but not limited to, school records, counseling records, medical, and dental records. (M.C.A. § 40-4-225.)

b. The law says both parents will update each other and the Court with written notice of changes to the following information (M.C.A. § 40-4-204(6)(a)):

(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 that could cover the minor child(ren).

The personal information of the Mother/ Father will remain private and will not be given to the other parent because:

12 Residential Changes

The law says a parent who moves must give written notice and a new residential schedule to the other parent if the move will affect the other parent's visits. The notice and new schedule must be personally served or sent by certified mail to the other parent at least 30 days before the move. Proof of service must be filed with the court that adopted the parenting plan. If the parent who is not moving does not respond or seek to amend the new residential schedule within 30 days, the proposed schedule is accepted. (M.C.A. § 40-4-217).

14 Other Provisions:

Warning: The duties of each parent under this plan are independent. If one parent disobeys the plan, the other parent must still obey the plan. A parent who knowingly disobeys this plan may be held in contempt of court. Disobeying the plan may be a crime under M.C.A. §§ 45-5-631 or 45-7-309 and may be punished by arrest, a fine of up to \$500, or imprisonment.

Date: _____

Your Signature

Print Name

Montana _____ Judicial District Court

Number of the judicial district where you are filing

_____ County

Name of the county where you are filing

In re the Marriage of:/ Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Dept. No.: _____

Order to Show Cause

Based on the Petitioner's/ Respondent's Motion and Supporting Affidavit, this Court finds good cause for hearing the Motion to Amend Parenting Plan.

This Court orders:

1. A hearing in this matter is scheduled for:

• Date: _____
mm/dd/yyyy

• Time: _____

• Place: _____ County Courthouse

2. **To the person who did not file the Motion to Amend Parenting Plan in this case:** You should go to the scheduled hearing and tell the Court if there are any reasons why the other parent's Proposed Amended Parenting Plan should not be granted. If you do not appear, the Court may grant the other parent's motion by default judgment.

3. **To the person who filed the Motion to Amend Parenting Plan:** You must go to the hearing and tell the Court why your motion should be granted. You must also personally serve a copy of this Order to Show Cause on the other parent at least ten (10) days before the hearing.

Date: _____

DISTRICT COURT JUDGE

Your name

Your mailing address

City State Zip

Your phone number

Petitioner/ **Respondent**

Note: If you were the Respondent in your original parenting or custody case, you are still the Respondent. If you were the Petitioner, you are still the Petitioner. The caption below should be filled out exactly like it was in your original case. Even the cause number will be the same.

Montana _____ **Judicial District Court**
Number of the judicial district where you are filing

_____ **County**
Name of the county where you are filing

In re the Marriage of: / Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____
Dept. No.: _____

Request to Serve Documents

To the Sheriff of _____ County:

Please serve (full name of other parent) _____ with the attached Order to Show Cause (original and one copy).

I have also attached (Choose One):

My 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. Here is a brief description of how the other parent looks:

2. The other parent:

does not carry a weapon.

carries a weapon.

3. At present, the person to be served can be found:

At his/her home:

Times person is at home: _____.

At his/her place of work: _____.

Times person is at work: _____.

Other: _____.

Times person is at this address: _____.

Please serve these papers as soon as possible. Please return the original Order to Show Cause to me at the address above, along with proof that service was made.

Date: _____

Your Signature

Print Name

Record of Service (for Sheriff's use only)

I hereby certify that (Choose One):

- I personally served the Order to Show Cause and the accompanying documents listed herein on the non-moving party by delivering a copy of said Order and documents to him/her personally on (mm/dd/yyyy.) _____ in the County of _____, State of _____.
- After due effort, I was unable to locate or serve the non-moving party in the County of _____, State of _____.

DATED this _____ day of _____, 20____.

Sheriff

By: _____
Deputy Sheriff

Montana _____ Judicial District Court
Number of the judicial district where you are filing

_____ County
Name of the county where you are filing

In re the Marriage of: / Parenting of:

minor child(ren);

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____
Dept. No.: _____

**Order Amending
Parenting Plan**

A Motion to Amend Parenting Plan was filed with this court on (date) _____.

The matter came for hearing on (mm/dd/yyyy) _____. The non-moving party was served on (mm/dd/yyyy) _____ with the Order to Show Cause.

Choose All That Apply:

- The non-moving party did not respond or otherwise appear.
- The non-moving party filed an opposing affidavit on (date)

_____.

The non-moving party appeared at the hearing pro se/ represented by (*name of lawyer.*) _____.

Based on the parties' affidavits and the evidence, the Court finds:

Findings of Fact

1 Mother's Information

Name: _____

Age: _____ Date of Birth: _____

Address: _____

City: _____ State: _____ County: _____

2 Father's Information

Name: _____

Age: _____ Date of Birth: _____

Address: _____

City: _____ State: _____ County: _____

3 Children's Information

The parties have _____ child(ren) younger than 18 years old.

| Child's Full Name | Age of Child |
|-------------------|--------------|
| | |
| | |
| | |

4 Prior Parenting Plan

This court entered the parties' final parenting plan on
(*mm/dd/yyyy*): _____.

5 Change in Circumstances

Circumstances have/ have not changed since the court entered the parties' final parenting plan. The adoption of a new Amended Parenting Plan is/ is not in the best interests of the children.

Conclusions of Law

1 Jurisdiction

This Court ordered a final parenting plan in this action. This Court has exclusive and continuing jurisdiction under Mont. Code Ann. § 40-7-202.

2 Amendment of Parenting Plan

Choose All That Apply.

There has not been a sufficient change in circumstances to justify the amendment of the prior parenting plan. It is in the best interest of the child(ren) that the current parenting plan remain in effect. Mont. Code Ann. § 40-4-219(1).

A change in circumstances occurred since the prior parenting plan was entered. The Petitioner's/ Respondent's Proposed Amended Parenting Plan is necessary to serve the best interests of the child(ren).
Mont. Code Ann. § 40-4-219(1).

The Parenting Plan must be changed because one of the parent's has died. Mont. Code Ann. §§ 40-4-219(6) and 40-4-221.

One of the parent's did not act in the child(ren)'s best interest by not allowing the other parent to see the child(ren) or trying to keep the other parent from seeing the child(ren). Mont. Code Ann. § 40-4-219(3).

One of the parent's, or someone living with one of the parent's, did not act in the child(ren)'s best interest by being convicted of one or more

of the following crimes: 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. Mont. Code Ann § 40-4-219(3) and (8).

Order

This Court orders that:

Choose All That Apply:

The Motion to Amend Parenting Plan is denied. The parties' current parenting plan will remain in force.

The Petitioner's/ Respondent's Proposed Parenting Plan is adopted by this Court as the Final Amended Parenting Plan. The Court orders the parties to follow the terms of the Final Amended Parenting Plan.

Other Provisions:

Date: _____
DISTRICT COURT JUDGE