



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 you want to make changes to your Parenting Plan and the other parent **agrees** with the changes you want to make, you will need to fill out and file the following forms:

- Motion to Amend Parenting Plan
- Agreed Amended Parenting Plan
- Order Adopting Agreed Amended 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 **Agreed Amended Parenting Plan** outlines the new parenting schedule that you and the other parent have agreed on.

The **Order Adopting Agreed Amended Parenting Plan** will be filled out by the judge. It adopts the Agreed Amended Parenting Plan as your new 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 this form if:

- You have a Parenting Plan ordered by a Montana court, and
- You and the other parent agree to make changes to your parenting plan, and
- You will file to change your parenting plan in the same court that made it.

What Do I Do with The Forms?

1 Fill out the Forms

- Fill out all the blanks on the Motion to Amend Parenting Plan and the Agreed Amended Parenting Plan.
- Do not put in full birth dates of anyone, the children's full names, or full social security numbers of anyone. You can put in the year of birth for anyone and the children's initials. You will need to use another form called a "sensitive data sheet" to give the court more information. You can get that form from your local court or from the place you got this form.
- Put your name and the other parent's name in the caption of the Order Adopting Agreed Amended Parenting Plan. The caption looks like this:

<p>Montana _____ Judicial District Court <i>Number of the judicial district where you are filing</i></p> <p>_____ County <i>Name of the county where you are filing</i></p>	
<p>In re the marriage of/ parenting of minor children</p> <p>_____</p> <p>Petitioner and</p> <p>_____</p> <p>Respondent</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 both your Motion to Amend Parenting Plan and one of the Declarations attached to the Agreed Amended Parenting Plan. If you are the Petitioner, sign the Petitioner's Declaration. If you are the Respondent, sign the Respondent's Declaration.

- Have the other parent sign, date, and notarize the other Declaration.

2 Make Copies

- Make at least one copy of each form once you have them filled out. You will need to bring the copies with you to the hearing.

3 File Forms at the Courthouse

- File the original Motion to Amend Parenting Plan, Agreed Amended Parenting Plan, and Order Adopting Agreed Amended Parenting Plan with the Clerk of District Court in the county where your original Parenting Plan was filed.

- Give your copies to the Clerk of District Court and ask her to stamp them as “Filed”. Keep the copies in a safe place. You will need them at your hearing.

4 Go to Your Hearing

- Bring your stamped copies of the forms 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 and the other parent want to make changes to your 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=fCBhbhbJj4MdOWw_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 (Agreed)

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. The other parent agrees with the changes I want to make.

Facts

1 Information about Me

Name:

Age: _____ Date of Birth (*year only*):

Address:

City: _____ State: _____ County:

2 Information about the Other Parent

Name:

Age: _____ Date of Birth (*year only*):

Address:

City: _____ State: _____ County:

3 Information about the Children

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

Child's Initials	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**
 - 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):

- 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). That is happening in this case. Mont. Code Ann. § 40-4-219(3)
- A parenting plan can be changed if one of the parents has died. Mont. Code Ann. §§ 40-4-219(6) and 40-4-221.
- 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). That is happening in this case.

- 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 our Agreed Amended Parenting Plan, filed with this motion;
- 2. Order any other relief the Court deems just and proper.

Date: _____

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.: _____

Agreed Amended Parenting Plan

The other parent and I agree to 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 Initials	Age	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 Change in Circumstances

Circumstances have changed since the entry of the prior parenting plan. The following things changed after the court entered our parenting plan:

5 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).

6 Residential Schedule for the Child(ren) (Paragraphs 6a)-(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 6j).

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 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:		

(Choose All That Apply:)

- Unless stated differently below, holidays/special occasions will begin at _____ a.m. and end at _____ p.m.
- Holidays that fall on a Friday or a Monday and are considered three day holidays (as noted by an asterisk (*) above) will not/ will include the Saturday and Sunday directly before or after the holiday.
- Thanksgiving will begin on (day and time) _____ and will last until (day and time) _____.
- Christmas Eve will begin on (day and time) _____ and will last until (day and time) _____.
- Christmas Day will begin on (day and time) _____ and will last until (day and time) _____.
- The child(ren)'s school attendance will take priority over the holiday and special day schedule. The child(ren) will not miss school because of the holiday or special occasion schedule.

d. Winter Vacation *(Choose One):*

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

(i) The parent with the child(ren) on Christmas Eve (as outlined above) will have the following additional time with the child(ren) over winter vacation

(ii) The parent with the child(ren) on Christmas Day (as outlined above) will have the following additional time with the child(ren) over winter vacation:

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
- ___ Schedule Before School Enrollment and School Schedule
 - ___ 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 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:

7 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.

8 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.

9 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.

10 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:

11 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 services
 - Other:
- Other: _____
- Other: _____

b. Emergency Decisions

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

12 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. (See 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.-iii.)):
 - (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:

13 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 Giving Up Right to Hearing and Agreeing to Court's Order

Both parties give up their right to a hearing on the issues resolved in this plan. Both parties agree to the entry of a court order consistent with the terms of this Agreed Amended Parenting Plan.

15 Voluntary Agreement

The parties voluntarily enter into this Agreed Amended Parenting Plan. Each of the parties read and approved the plan on their own.

16 Effective Date

This Agreed Amended Parenting Plan will be in effect after the District Court with jurisdiction approves the plan.

17 Enforcement

This Agreed Amended Parenting Plan will be enforceable at law or in equity and is binding upon the parties.

18 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.

Declaration of Petitioner

DATED this _____ day of _____, 20____.

Signature, Petitioner Pro Se

STATE OF MONTANA)
) ss.
COUNTY OF _____)

_____, being first duly sworn on oath,
says that s/he is the Petitioner in the above proceeding; that s/he has read the
Stipulated Amended Parenting Plan and knows what the plan contains. To the best of
Petitioner’s knowledge the matter, facts, and things stated in the plan are true.

Signature, Petitioner Pro Se

Print Name

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

(Seal)

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

Declaration of Respondent

DATED this _____ day of _____, 20____.

Signature, Respondent Pro Se

STATE OF MONTANA)
): ss
COUNTY OF _____)

_____, being first duly sworn on oath,
says that s/he is the Respondent in the above proceeding; that s/he has read the
Stipulated Amended Parenting Plan and knows what the plan contains. To the best of
Respondent’s knowledge the matter, facts, and things stated in the plan are true.

Signature, Respondent Pro Se

Print Name

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

(Seal)

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

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 Adopting
Agreed Amended
Parenting Plan**

After reading the parties' Agreed Amended Parenting Plan and seeing good cause at the hearing on (mm/dd/yyyy): _____, the Court orders

that the Agreed Amended Parenting Plan is adopted as an Order of this Court.

Violation of this order is a criminal offense under Mont. Code Ann. § 45-5-631.

Date: _____

DISTRICT COURT JUDGE