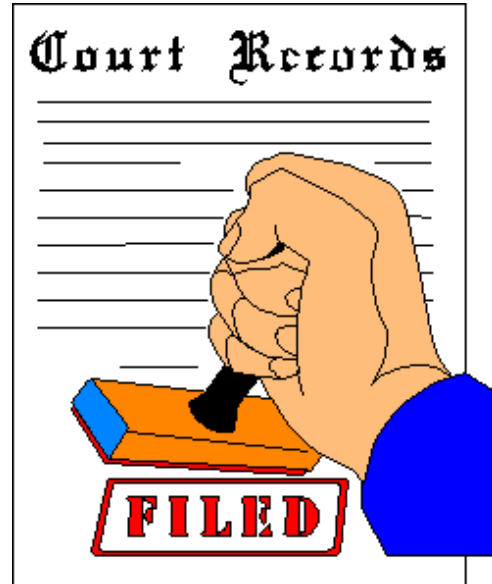


How to File an Answer to a Petition for Parenting Plan

Disclaimer:

These instructions will tell you how to file your own Answer to a Petition for Parenting Plan. This can be a confusing and complicated process. If you have questions about the instructions or the Answer form, you should talk to a lawyer. This Answer form is not designed to deal with every Parenting Plan situation and cannot take the place of a lawyer. If you use these forms without contacting a lawyer, you risk losing important legal rights.



Always be aware of filing deadlines. Typically, the deadline for filing an Answer to Petition for Parenting Plan is 20 days after you were served with the Petition (excluding the day of delivery.) You cannot use this packet if the deadline for filing your Answer with the Court has already passed.

The steps for filing an Answer 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 proper procedures.

What Form Will I Need?

You will only need one form to complete your answer:

- Answer to Petition for Parenting Plan

Who Should Use This Answer Form?

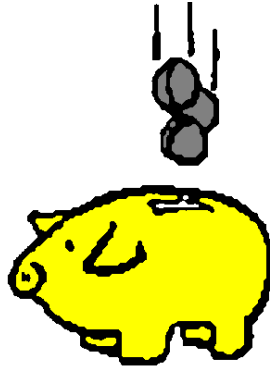
This Answer form can be used when the court has requested that you respond to a Petition for Parenting Plan. It is only necessary to file an answer after you have been served with a Petition and a deadline for your answer has been set. Remember, it is your choice whether or not to file an answer. If you agree completely with the Petition, you

may choose not to file an answer. In which case, the judge may order a default judgment granting the petitioner everything asked for in the Petition for Parenting Plan.

Does It Cost Money To File An Answer?

The Clerk will charge you a fee for filing your Answer to Petition for Parenting Plan. The cost may vary between judicial districts. Call your local Clerk of District Court to ask about the filing fee in your judicial district.

You might be financially eligible to have the filing fees waived. If you think you might be eligible, ask your local Clerk of District Court for a fee waiver application before you file or download the form from the “Legal System” section of www.MontanaLawHelp.org.



Definitions:

Petitioner – The Petitioner is the person who first asked the court for something by filing a petition. If you are using this form to answer a Petition for Parenting Plan, the Petitioner is the other parent of your children involved in this action.

Respondent – The Respondent is the person who must respond to a court case by filing a Response (also called an Answer.) You are the Respondent in your case because you must file an Answer to Petition for Parenting Plan.

Pro Se – This term is used to notify the court and the Petitioner that you are representing yourself and that you are not being represented by a lawyer in your parenting plan case.

Parenting – Montana no longer uses the words “custody” and “visitation,” instead, it uses the terms “parenting” or “parenting time.”

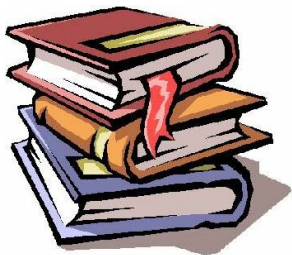
Default Judgment – This is a judgment granted to a Petitioner when the Respondent does not file an answer within the twenty day deadline. A default judgment usually grants a Petitioner everything that they asked for in the Petition, as long as the court finds the request to be equitable and in the best interests of the children.

Where Can I Get More Information?

The Montana Code Annotated (M.C.A.) contains the law on Parenting Plans. The laws can be found beginning at Title 40, Chapter 4, Section 201 of the M.C.A. This is often abbreviated as M.C.A. § 40-4-201. The Montana Code Annotated 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.

The State Law Library web site also contains an easy-to-read “Introduction to Family Law in Montana.” This can be found at the Montana State Law Library website, www.lawlibrary.mt.gov

1. Click ‘Find a Law by Topic’
2. Click ‘Parenting Plans’
3. Scroll down to ‘Free Information on the Web about Child Custody in Montana’
4. Click on ‘Introduction to Family Law in Montana’



Where Can I Get Legal Help?

If you need help, the following resources may be available to you:

1. Montana Legal Services Association (MLSA) provides free legal assistance to low and moderate-income individuals. To find out if you qualify for MLSA services, call the MLSA HelpLine at 1-800-666-6899.
2. The State Bar Lawyer Referral and Information Service (LRIS) refers people to Montana lawyers who have agreed to charge a reasonable fee for the first visit. The referral is free. Contact LRIS at 1-406-449-6577.
3. The State Law Library can help you to 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 1-406-444-3636 or by email at mtlawlibrary@mt.gov.

How Do I Use The Answer To Petition For Parenting Plan Form?

Complete the following steps:

Step One: Fill In The Answer Form

Fill in the Answer to Petition for Parenting Plan form completely.

Get your Answer notarized. This is when you sign the signature line in front of a notary. The Clerk of Court offers this service for a small fee, in addition to most banks and law offices.

Step Two: Make Copies

You will need a total of three completed Answer forms (2 copies plus the original.) The original will go the District Court, one copy will go to the Petitioner, and you will keep one copy for your own records.

Step Three: File Your Answer With The Court

Go to the Clerk of District Court in the County Courthouse where the Petition for Parenting Plan was filed. As mentioned above, you will have to pay a filing fee unless you are eligible for a fee waiver.

File the original Answer to Petition for Parenting Plan form with the Clerk of District Court.

Bring your copy of the Answer with you and ask the Clerk to stamp it, showing that the document has been filed. Keep an organized file of all your court papers and letters concerning your case.

Step Four: Send A Copy To The Petitioner

Once you have filed your Answer, it is your responsibility to send a copy to the Petitioner.

Mail a copy to the Petitioner at the exact address you listed for him or her on the “Certificate of Service” section of the Answer form. You should use the regular first class mailing service offered by the U.S. Postal Service for this purpose.

Step Five: Prepare Your Own Proposed Parenting Plan

Because you are contesting the Petitioner’s Proposed Parenting Plan, it is in your best interest to submit your own Proposed Parenting Plan to the Court. This provides you with an opportunity to show the Court and the Petitioner exactly how you think the Parenting Plan should look. Follow the instructions below to prepare your own Proposed Parenting Plan.

Go to the Montana State Law Library website at www.lawlibrary.mt.gov.

Click ‘Find a Law by Topic.’

Click ‘Parenting Plans.’

Click ‘Petition for Parenting Plan Packet.’

Select ‘Parenting Plan’ from the list of documents.

Complete the Proposed Parenting Plan (instructions are provided on the form). Remember to notarize the document.

File the original Proposed Parenting Plan with the Clerk, mail a copy to the Petitioner and keep a copy for your own files.

Step Six: Attend Mediation

Many Judges require the Petitioner and the Respondent to attend mediation before their parenting plan case will be heard by the Court. When you file your Answer, ask the Clerk whether your Judge will require mediation.

***Important note:** Victims of domestic violence cannot be ordered to attend mediation. If you are a victim of domestic violence at the hands of the Petitioner, you have the option of notifying the Judge that you chose not to attend the mediation. This means your case will go directly to the hearing stage, described below.

Step Seven: Prepare For A Hearing In Front Of The Judge

Because you are choosing to file an Answer, your Parenting Plan action is contested and a Judge will hold a hearing to make a decision on the contested issues.

Collect evidence to support your case at the hearing. This evidence should include any paperwork or witnesses that will persuade the Judge to decide the contested issues in your favor. The following are some examples of the evidence you might gather for the hearing:

Evidence about your child:

- Report cards
- Attendance records from school/daycare
- Progress reports from school/daycare
- Health care providers' progress/treatment reports
- Mental health care providers' notes/diagnoses/treatment reports

Evidence about parents/family members/others who play a significant role in your child's life:

- Health care providers' treatment reports
- Mental health care providers/chemical dependency providers' notes/diagnoses/treatment reports
- Police reports
- Child protective services reports
- Court records of criminal charges/convictions
- Reports from domestic violence advocacy programs
- Previous court orders (protection orders, contempt orders, etc)
- Receipts from expenses spent on the child (for health care, clothing, school, etc)
- Administrative or court findings of unpaid child support

You should write down and practice the questions that you want to ask the Petitioner at the hearing. *Important:* Only ask questions that you think will help your case.

You should also practice what you want to say to the Judge. Practice with a friend until you feel comfortable with everything that you want to say.

Step Eight: Go To The Hearing

The time and date for the hearing will be sent to you on a court document normally called a "Scheduling Order." You must attend that hearing. Be at the courthouse at least 15 minutes before your scheduled hearing time. Dress as you would for an important job interview. Ask the Clerk of District Court which courtroom your Judge is in. Go to the appropriate courtroom and wait for the Judge to call your name and cause number. Be calm and polite and address the Judge as "Your Honor."

Bring all of your court papers to the hearing.

Bring all of the evidence you gathered in Step Seven above.

If the Petitioner is at the hearing, the Judge will ask him/her to be sworn in and take the witness stand. The Petitioner will be allowed to tell his/her side of the story. Then you will be allowed to ask the Petitioner any questions you have prepared.

The judge will then ask you to take the witness stand. You should bring your evidence with you. You will then be allowed to tell your side of the story. The Petitioner will be given the opportunity to ask you any question he/she has prepared.

After the hearing, the Judge will enter a final ruling on the contested issues in your Parenting Plan case. It may take awhile for the Judge to enter a final ruling. However, once the ruling has been made, the Judge will mail a copy to you.

1

Your Name

Your Address

City State Zip Code

Your Phone Number

RESPONDENT PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

<p>The [] Marriage of:/[] Parenting of: — — — minor child(ren);</p> <p>_____, Petitioner (<i>Other Parent</i>),</p> <p>and</p> <p>_____, Respondent (<i>You</i>).</p>	<p>Cause No.: _____</p> <p>Answer to Petition for Parenting Plan</p>
---	---

ANSWER

I am the Respondent in this case. I am answering the Petition for Parenting Plan in my case:

1. These paragraphs in the Petition for Parenting Plan are true. I admit them (*list the paragraph numbers that are true*):

_____.

2. These paragraphs in the Petition for Parenting Plan are not true. I deny them (*list the paragraph numbers that are not true*):

_____.

3. These paragraphs in the Petition for Parenting Plan are partly true and partly not true . I admit the parts that are true and deny the parts that are not true (*for each paragraph that is partly true and partly not true, list the paragraph number and tell the Court what is not true*):

A. Paragraph No. ___

Everything in this paragraph is true except for (*state the part of the paragraph that is not true*):

.

B. Paragraph No. ____

Everything in this paragraph is true except for (*state the part of the paragraph that is not true*):

.

C. Paragraph No. ____

Everything in this paragraph is true except for (*state the part of the paragraph that is not true*):

.

4. I do not know whether these paragraphs in the Petition for Parenting Plan are true or not true. I deny them (*if you don't know whether a paragraph is true or not true, list the paragraph number here*):

_____.

5. I deny any claims not specifically admitted in this Answer.

6. Other Provisions:

_____.

I respectfully request that the Court deny the Parenting Plan requested by Petitioner and order Respondent's Proposed Parenting Plan, filed separately, be adopted by this Court and order any further relief that the Court deems proper.

DATED this _____ day of _____, 20____.

Respondent Pro Se (Your Signature)

Print Your Name

STATE OF MONTANA)
): ss
COUNTY OF _____)

_____, being first duly sworn on oath, says that he/she is the Respondent in the above-entitled proceeding; that he/she has read the above Answer and knows the contents thereof; and that the matter, facts and things stated therein are true to the best of his/her knowledge and belief.

Respondent Pro Se (Your Signature)

Print Your Name

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

Notary Public for the State of Montana.

Residing at _____

My Commission Expires _____

Certificate of Service

I certify that I sent a copy of this Answer to the Petitioner. I sent the copy on (date) _____. I sent the copy using U.S. Mail, postage prepaid, to the following address (*Use the name and address listed in the top left corner of the Petition for Parenting Plan. If your spouse has a lawyer, this will be the lawyer's address. If your spouse does not have a lawyer, it will be your spouse's address.*):

_____ Name

_____ Address

_____ City State Zip Code

_____ Respondent Pro Se (*Your Signature*)

_____ Print Your Name