

Changing Your Parenting Plan

Waiver: These instructions and forms are just information. They are not legal advice.

Legal advice depends on the specific circumstances of each situation. The information contained in this document is not guaranteed to be up to date. The information cannot replace the advice of an attorney licensed to practice law.

What forms will I need to make changes to my parenting plan?

You will need to fill out and file the following forms:

- Motion to Amend Parenting Plan;
- Supporting Affidavit;
- Proposed Parenting Plan; and
- Request for Hearing

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 Parenting Plan** outlines the new visitation schedule you want the Court to adopt as your new parenting plan.

The **Request for Hearing** will be filed if the other parent files a response or fails to respond to your Motion within 10 working days.

What words do I need to know?

Petitioner- A Petitioner is someone who files an action in court. The parent that filed the first action for divorce or parenting plan is the Petitioner.

Respondent- A Respondent is someone who has been filed against in court. The parent that was filed against in the first action for divorce or parenting plan is the Respondent.

Moving Party- The Moving Party is the parent who wants to enforce the current parenting plan. You are the Moving Party.

Non-moving Party- The Non-moving Party is the parent who does not file forms to enforce the current parenting plan. The other parent is the Non-moving Party.

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, and Proposed Parenting Plan.
 - Sign and date your Motion. Your Supporting Affidavit and Proposed Parenting Plan must be signed and dated in front of a Notary Public.
- 2 Make copies.
 - Make at least two copies of each of your forms once you have them filled out.
- 3 File forms at the Tribal Court.
 - Go to the Clerk of Tribal Court's office. File your original Motion, Supporting Affidavit, and Proposed Parenting Plan with the Clerk.
 - If you cannot afford the filing fees, ask the Clerk for a fee waiver application.
 - Give your copies to the Clerk and ask her to stamp them as "Filed." Keep the copies in a safe place.
- 4 Mail a copy to the other parent.
 - Send a copy of your completed Motion, Supporting Affidavit, and Proposed Parenting Plan to the other parent by U.S. mail, postage prepaid.
- 5 Wait for the other parent to respond.
 - The other parent has 10 working days from the date you file your Motion to file a response. The other parent should mail you a copy of the response, but you should also check with the Clerk of Tribal Court after 10 working days have passed to see if a response has been filed. (Currently, Fridays, Saturdays, Sundays and Tribal holidays do not count as working days.)

- Whether the other parent responds to your Motion or not, you must fill out and file the Request for Hearing. Be sure to check your mail often. Write down and remember the date and time for your hearing.
- 6 Go to your hearing.
- Bring your stamped copies of the papers you filed with the Court.
 - Arrive at Court at least 15 minutes before your scheduled hearing and check in with the Clerk. Dress like you were going to an important job interview.
 - Be prepared to explain to the Court what has changed since your prior parenting plan was entered and why the changes you are asking for are necessary.

Where can I get more information?

The Laws of the Confederated Salish and Kootenai Tribes contain the law on filing civil cases. The laws concerning jurisdiction over children can be found in Title III, Chapter 2. CSKT Laws Codified can be found online at www.cskt.org/gov/court-triballawcode.htm

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner/ **Respondent**

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

IN RE THE MARRIAGE OF)

_____,)
Petitioner,)

and)

_____,)
Respondent.)

Cause No. _____

MOTION TO AMEND PARENTING PLAN

I am asking this Court to change our Final Parenting Plan in this case. This Court entered a Final Parenting Plan on (mm/dd/yyyy): _____.

1. Parties

Petitioner (*The parent who originally filed the action is the Petitioner*):

1. Name: _____

2. Date of Birth: _____

3. Address: _____

Respondent (*The parent who did not file the original action is the Respondent*):

1. Name: _____

2. Date of Birth: _____

3. Address: _____

Child(ren)

We have _____ (# of children) children under the age of 18.

1. Name(s): _____
2. Date(s) of Birth: _____

2. Change in Circumstances

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

3. Legal Basis

This Court has jurisdiction over this action because the prior parenting plan was ordered by this Court. The proposed changes are needed to serve the child(ren)'s best interests.

I respectfully ask this Court to:

1. Change our final parenting plan and adopt my Proposed Parenting Plan, filed with this Motion;
2. Schedule a hearing and order all parties to appear and show why my Proposed Parenting Plan should or should not be granted; and
3. For such other and further relief as the Court may deem just and proper.

DATED this _____ day of _____, 20_____.

Signed: _____
 Petitioner/ Respondent

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I sent a true and correct copy of the foregoing Motion by U.S. Mail, postage prepaid, to the following parties:

(Other Parent's Address): _____

 Petitioner/ Respondent

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner/ **Respondent**

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IN RE THE MARRIAGE OF)

_____,)
Petitioner,)

and)

_____,)
Respondent.)

Cause No. _____

SUPPORTING AFFIDAVIT

I, _____, do hereby swear and declare that the following is true and correct to the best of my knowledge, information and belief:

1. This Affidavit is in support of my Motion to Amend Parenting Plan.
2. The following things have changed since the Court ordered our prior parenting plan:

(Attach separate sheets if you need more space to write.)

3. I believe that my Proposed Parenting Plan is necessary to serve the best interests of our minor child(ren).

DATED this _____ day of _____, 20_____.

Signed: _____
 Petitioner/ Respondent

STATE OF MONTANA)
 ss
COUNTY OF LAKE)

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

Notary Public for the State of Montana
Residing at: _____
My commission expires: _____

Your Name

Your Mailing Address

City State Zip

Your Telephone Number
 Petitioner/ **Respondent, Pro Se**

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

IN RE THE MARRIAGE OF)
) Cause No. _____
_____,)
) Petitioner,)
)
) and) **PETITIONER'S**/ **RESPONDENT'S**
) **PROPOSED PARENTING PLAN**
_____,)
) Respondent.)
)

I would like the Court to adopt my Proposed Parenting Plan because it is in the best interests of our minor child(ren).

1. Petitioner's Information

Petitioner is the mother/ father of the minor child(ren).

Name: _____

Address: _____

Telephone Number: _____

Date of Birth: _____

Job Title: _____

Employer's Name: _____

Employer's Address: _____

Length of Residence on Reservation: _____

Tribal Affiliation: _____

Enrollment Number: _____

2. Respondent's Information

Respondent is the mother/ father of the minor child(ren).

Name: _____

Address: _____

Telephone Number: _____

Date of Birth: _____

Job Title: _____

Employer's Name: _____

Employer's Address: _____

Length of Residence on Reservation: _____

Tribal Affiliation: _____

Enrollment Number: _____

3. Child(ren)'s Information

Name: _____

Address: _____

Date of Birth: _____

Place of Birth: _____

Tribal Affiliation: _____

Enrollment Number: _____

Name: _____

Address: _____

Date of Birth: _____

Place of Birth: _____

Tribal Affiliation: _____

Enrollment Number: _____

Name: _____

Address: _____

Date of Birth: _____

Place of Birth: _____

Tribal Affiliation: _____

Enrollment Number: _____

Name: _____

Address: _____

Date of Birth: _____

Place of Birth: _____

Tribal Affiliation: _____

Enrollment Number: _____

If needed, attach additional sheets listing the other children of the marriage.

4. Objectives of Parenting Plan

This plan is intended to:

- a) Protect our child(ren)'s best interest;
- b) Provide for the physical care of our child(ren);
- c) Provide for our child(ren)'s changing needs as they grow and mature;
- d) Set forth our authority and responsibilities with respect to our children;
- e) Help us avoid expensive future Court battles over our children.

5. Other Legal Actions

The parties have not participated in any other litigation concerning the parenting of the child(ren) listed above. The parties have no information of any custody or parenting proceeding concerning the child(ren) pending in any other court or tribunal in Montana or any other state.

6. Children’s Residential Schedule

Both parents have important roles to play in the development of their child(ren).

Petitioner asks the Court to award joint custody to the mother and father with the

mother/ father designated as the primary residential custodian, and the

mother/ father having time with the children as follows (*Check all that apply*):

Every weekend starting on (*day*) _____ at
(*time*) _____ a.m./ p.m. and ending on
(*day*) _____ at (*time*) _____ a.m./ p.m.

The first and third weekend of each month starting on
(*day*) _____ at (*time*) _____ a.m./ p.m.
and ending on (*day*) _____ at
(*time*) _____ a.m./ p.m.

The second and fourth weekend of each month starting on
(*day*) _____ at (*time*) _____ a.m./ p.m.
and ending on (*day*) _____ at
(*time*) _____ a.m./ p.m.

If one party cannot care for the child(ren) during the party’s assigned times, the other party shall be given the first chance to be with the children before getting a babysitter, relative, or friend to watch the child(ren). There is no obligation for the parties to consult one another for babysitting arranged to allow either parent to engage in occasional social activities.

7. Transportation

The mother and father will travel an equal distance, or share equally in the transportation expenses, to accommodate transportation of the children to and from their homes.

8. Holiday Schedule

The residential schedule for the child(ren) on holidays is listed below. For each of the holidays listed below except Christmas Eve and Christmas Day, if the holiday falls on a Monday, it shall include the Saturday and Sunday before it. If the holiday falls on a Friday, it shall include the Saturday and Sunday immediately following (*Write “even years,” “odd years,” or “every” next to the holiday*):

Holiday	With Mother	With Father
Thanksgiving		
Christmas Eve		
Christmas Day		
New Years Day		
Easter		
Memorial Day		
Labor Day		
President’s Day		
Veterans’ Day		
4 th of July		
Other:		
Other:		
Other:		

The child(ren) will spend Mother’s Day with their mother and Father’s Day with their father.

9. Communication

- a) Each parent shall promote a healthy, beneficial relationship between the other siblings and the other parent and will not demean or speak or act out negatively in any manner that would damage the natural flow of love and caring between either parent and other siblings. The parents shall not make and shall not allow others to make derogatory remarks about the other parent in the children's presence, and neither shall make inquiries to the children about what is going on in the other parent's home.
- b) Each parent shall share important information about the children's health, education, discipline and all aspects of the children's upbringing with each other.
- c) Both parents shall update each other with written notice of changes to the following information:
 - i) Changes in residential and mailing addresses;
 - ii) Changes in telephone numbers at home and at work;
 - iii) Changes in day care providers.
- d) Both parents shall limit any contact and discussion between themselves to those issues which pertain to the children.
- e) Both parties shall have equal access to all information relating to the children, including but not limited to, school records, counseling records and medical records.

10. Residential Changes

If either parent's change of residence will significantly affect the children's contact with the other parent, the parties shall follow the following procedure:

- a) The moving parent will:

- i) Provide written notice to the other parent of their intention to change residences;
- ii) Prepare a proposed revised residential schedule;
- iii) Serve the non-moving parent personally or by certified mail not less than 30 days before the proposed change of residence with the written notice of intention to change residences and with the proposed revised residential schedule; and
- iv) File proof of service upon the non-moving parent with the Court named above.

b) If the non-moving parent fails to respond to the written notice of intention to change residences and the proposed revised residential schedule, then the non-moving parent will be deemed to have accepted the proposed revised residential schedule. If the non-moving parent objects to the proposed revised residential schedule, the non-moving parent shall:

- i) Prepare an alternative proposed revised residential schedule or state why the existing residential schedule should continue;
- ii) Serve the moving parent personally or by certified mail within 30 days of the notice and proposed revised residential schedule from the moving parent, the alternative proposed change of residential schedule; and
- iii) File proof of service upon the moving parent with the Court named above.

c) If the parties cannot agree upon a revised residential schedule for the children, they shall promptly make arrangements to mediate their differences as provided below.

d) If the parties cannot agree upon a revised residential schedule for the children after mediation, they may file appropriate petitions and motions with the Court.

11. Dispute Resolution

In the event that the parties are unable to resolve an important conflict involving the children, the parties agree to seek the assistance of a neutral third party acceptable to both parties and try to resolve the differences through confidential mediation.

12. Child Support

The mother/ father agrees to pay child support in the amount of \$ _____ per month for each child until the child reaches the age of 18, or graduates from high school, whichever occurs last, or until the child is otherwise emancipated but not beyond the child's 19th birthday.

The mother/ father shall make child support payments payable to _____, and shall mail the payment to the Clerk of Tribal Court, P. O. Box 278, Pablo, Montana 59855, on or before the 10th of every month.

13. Tax Exemption

The mother/ father shall be entitled to claim future dependency exemptions for the child(ren) on State and Federal income tax returns for all tax returns filed after the adoption of this parenting plan.

The mother/ father shall promptly sign and deliver to the mother/ father all documents required to be submitted to claim this dependency exemption.

14. Day Care Expenses

The mother/ father shall pay daycare expenses for the minor child(ren).

15. Medical Support

The parties agree that one-half of any and all medical or dental expenses for the

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

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IN RE THE MARRIAGE OF)

_____,)
Petitioner,)

and)

_____,)
Respondent.)

Cause No. _____

REQUEST FOR HEARING

I would like the Court to set a hearing on my Motion to Amend Parenting for the purpose of resolving any issues that may have been raised by the other parent in response to my Motion and obtaining a parenting plan that is in the best interest of our minor child(ren).

Date: _____

 Petitioner/ Respondent