

Obtaining a Parenting Plan and Child Support

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 obtain a parenting plan and a child support order?

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

- Summons;
- Petition to Establish Parenting Plan and Support
- Proposed Parenting Plan;
- Praecipe or Notice and Acknowledgment of Service; and
- Request for Hearing or Request for Default Hearing and Entry of Default

In addition to these forms, you may also need the forms listed below:

- Affidavit of Service;
- Affidavit of Publication

The **Summons** tells the Respondent that you have filed a Petition to establish a parenting plan and a child support order. It also tells the Respondent that he or she should file an answer within the time allowed if they do not agree with everything stated in your Petition.

The **Petition to Establish Parenting Plan and Support** asks the Court to approve a parenting plan and establish a child support and medical support order.

The **Proposed Parenting Plan** describes how you and your spouse will share parenting time and should reflect a plan that is in your child(ren)'s best interests.

The **Praecipe** asks the Tribal Police to serve the Respondent with the documents and describes where to locate the Respondent.

The **Notice and Acknowledgment of Service** can be used in place of the Praecipe. If the Respondent agrees to fill out and sign the Notice and Acknowledgment, you

will not need to have the Tribal Police serve the Respondent with the Summons, Petition, and Proposed Parenting Plan.

The **Request for Hearing** will be filed only if the Respondent files a Response. It asks the Court to set a hearing on your Petition.

The **Request for Default Hearing and Entry of Default** will only be filed if the Respondent does not file a Response within the time allowed. It asks the Court to enter judgment in your favor due to the Respondent's failure to contest or respond to your Petition.

The **Affidavit of Service** will only be needed if you are unable to have the Respondent personally served and you can complete service by registered or certified mail. The Affidavit is a sworn statement to the Court that you tried to locate the Respondent for personal service, were unable to do so, and you then sent your forms to the Respondent by registered or certified mail.

The **Affidavit of Publication** will only be needed if you are unable to have the Respondent personally served and, after trying, cannot locate the Respondent by registered or certified mail. The Affidavit is a sworn statement that must be filed with the Clerk of Tribal Court before you will be allowed to serve the Respondent by publication.

What words do I need to know?

Petitioner- A Petitioner is someone who files an action in court. You are the Petitioner in this case.

Respondent- A Respondent is the person who is filed against in court. Your child(ren)'s other parent is the Respondent in this case.

Praecipe- A Praecipe is a request to the Tribal Police that they serve the Summons, Petition, and Proposed Parenting Plan on the Respondent.

What do I do with the forms?

1 Fill out the forms

- Fill out all the blanks on the Petition, Proposed Parenting Plan, and Praecipe. If the Respondent is willing to fill out the Notice and Acknowledgment, you will not need the Praecipe.

Sign and date your Petition and Parenting Plan in front of a Notary Public. Be sure to have your form notarized after you sign it.

Fill out the top part of your Summons, but leave the signature line blank for the Clerk of Tribal Court to sign.

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 Summons, Petition, 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 Have the Respondent served.

If the Respondent will not agree to fill out the Notice and Acknowledgment and you know the Respondent's address, you will need to have the Tribal Police or Sheriff of the county where the Respondent lives serve copies of your completed forms on the Respondent.

Note: Using the Tribal Police or the Sheriff's office is probably the best way to serve the Respondent. A private process server may also serve the papers on the Respondent. However, the Tribal Police, Sheriffs, and private servers usually charge a fee for service. You may also choose to have a family member or friend over the age of 18 who is not involved in the case serve the Respondent for free.

If, after searching, you cannot locate the Respondent for personal service and you have the Respondent's current address, you may serve the Respondent by restricted delivery, registered or certified mail.

You must ask the post office for a return receipt so you will have proof that the Respondent received the papers. You must also complete, sign, and file an Affidavit of Service with the Tribal Court.

- If, after searching, you still cannot locate the Respondent for personal service or through registered or certified mail, the Court may let you serve the Respondent by publication. You must first fill out, sign, and file an Affidavit with the Clerk of Court. The Clerk will then issue a Summons by Publication. The Summons must be published in two consecutive issues of the Tribal newspaper and in at least one other newspaper within the Flathead Reservation once a week for three weeks in a row. You must file a copy of each publication of service certified by the publisher with the Clerk of Tribal Court.
- File your proof of service with the Clerk of Tribal Court.
- Give the Sheriff of the county where the Respondent lives or the Tribal Police a self-addressed, stamped envelope so they can notify you when the Respondent has been served.

5 Wait for the Respondent to respond.

- The Respondent has 15 working days from the date of service to respond to your Petition. The Respondent should mail you a copy of the response, but you should also check with the Clerk of Tribal Court after 15 working days have passed to see if a response has been filed. The day of service is not counted. (currently, Fridays, Saturdays, Sundays and Tribal holidays do not count as working days)
- If the Respondent files a response, you must fill out and file the Request for Hearing. If the Respondent does not file a response, you should fill out and file the Request for Default Hearing and Entry of Default.
- The Court will send you an Order Setting Hearing after you have filed your Request for Hearing or Request for Entry of Default. Be sure to check your mail frequently. 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 answer any questions the judge might have about your Petition or Proposed Parenting Plan.
 - If the Respondent does not show up to the hearing and he/she was properly served with the papers, ask the Court to enter a default judgment.

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

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

IN RE THE CUSTODY OF _____)
_____))
Minor Children, _____) Cause No. _____)
_____))
Petitioner, _____))
and _____) **CERTIFICATE OF SERVICE**)
_____))
Respondent. _____))
_____)

The undersigned hereby certifies that he/she personally served the above-entitled summons and petition upon the Respondent named above as follows:

Date/Time: _____
Location: _____

Signed: _____
Police Officer

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se

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

IN RE THE CUSTODY OF)

_____,)

_____,)

Minor Child(ren),)

_____,)

Petitioner,)

and)

_____,)

Respondent.)

Cause No. _____

**PETITION TO
ESTABLISH PARENTING PLAN
AND CHILD SUPPORT**

I would like this Court to enter a parenting plan and order child support for my minor child(ren).

1. Parties

PETITIONER (*You are the Petitioner*):

1. Your Name: _____
2. Date of Birth: _____
3. Address: _____
4. Occupation: _____

5. Tribal Affiliation: _____
6. Enrollment Number: _____
7. Length of Residence on Flathead Indian Reservation: _____ years
_____ months.

RESPONDENT (*The other parent is the Respondent*):

1. Other Parent's Name: _____
2. Date of Birth: _____
3. Address: _____
4. Occupation: _____
5. Tribal Affiliation: _____
6. Enrollment Number: _____
7. Length of Residence on Flathead Indian Reservation: _____ years
_____ months.

CHILD(REN)

1. Name: _____
2. Date of Birth: _____
3. Address: _____
4. Place of Birth: _____
5. Tribal Affiliation: _____
6. Enrollment Number: _____
7. Length of residence on Flathead Indian Reservation: _____ years
_____ months.

1. Name: _____
2. Date of Birth: _____
3. Address: _____
4. Place of Birth: _____
5. Tribal Affiliation: _____
6. Enrollment Number: _____
7. Length of residence on Flathead Indian Reservation: _____ years
_____ months.

1. Name: _____
2. Date of Birth: _____
3. Address: _____
4. Place of Birth: _____
5. Tribal Affiliation: _____
6. Enrollment Number: _____
7. Length of residence on Flathead Indian Reservation: _____ years
_____ months.

2. Jurisdiction

This Court has jurisdiction over this matter because *(Check all that apply)*:

- The Petitioner and the Respondent are both enrolled members of a federally recognized tribe and both parties reside on the Flathead Indian Reservation;
- The Petitioner and the Respondent lived on the Flathead Indian Reservation and Petitioner continues to reside here;
- Respondent is an enrolled member of a federally recognized tribe and the Respondent resides on the Flathead Indian Reservation;
- The parties have minor children and the Tribal Court has jurisdiction to determine custody of the children because the children are enrolled or eligible for enrollment in a federally recognized tribe.

3. Paternity *(If you want to establish paternity, these forms are not right for your case.)*

The Petitioner/ Respondent is the biological father of the minor child(ren) and is/ is not listed as the father on the birth certificate.

4. Parenting Plan

It is in the best interest of the minor child(ren) for the Court to adopt the Petitioner's Proposed Parenting Plan which is filed separately from this Petition.

5. Child Support

It is in the best interest of the minor child(ren) for the Court to order Respondent to pay child support to the Petitioner as follows:

- \$ _____ per month, payable to the Petitioner and mailed to the Clerk of Court, starting on _____, 20____, and continuing each month after until the child reaches the age of 18 or is otherwise emancipated;
- The Court should establish the monthly child support obligation. The support should be made payable to the Petitioner and mailed to the Clerk of Court, starting on _____, 20____, and continuing each month after until the child reaches the age of 18 or is otherwise emancipated.

6. Medical Support

It is in the best interest of the minor child(ren) if medical support is provided as follows
(Check all that apply):

- Neither parent has medical insurance coverage available through an employer. Each parent should be responsible for 50% of all uncovered medical costs for the minor child(ren).
- If medical insurance coverage becomes available through the employer of either or both parents, at a reasonable cost, the parent having coverage available should enroll the minor child(ren) in the plan. Each parent should be responsible for 50% of the cost of the insurance premium. Each parent should be responsible for 50% of all uncovered medical costs.

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se/ **Respondent Pro Se**

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

IN RE THE CUSTODY OF)

_____,)

_____,)

Minor Child(ren),)

_____,)
Petitioner,)

and)

_____,)
Respondent.)

Cause No. _____

**PETITIONER'S/
RESPONDENT'S PROPOSED
PARENTING PLAN**

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 child(ren) not covered by Indian Health Services or insurance will be paid by each parent.

DATED this _____ day of _____, 20____

STATE OF MONTANA)

: ss

County of _____)

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

 Petitioner/ Respondent

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

(NOTARY SEAL)

Notary Public for the State of Montana
Printed name: _____
Residing at: _____
My Commission Expires: _____

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se

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

IN RE THE CUSTODY OF)

_____,)

_____,)

Minor Child(ren),)

_____,)

Petitioner,)

and)

_____,)

Respondent.)

Cause No. _____

PRAECIPE

To: Civil Process Division, Tribal Police Department, Confederated Salish and Kootenai Tribes

Please serve the attached Summons, Petition for Parenting Plan and Child Support, and Proposed Parenting Plan on the following Respondent:

Respondent's Full Name: _____

Respondent's Home Address: _____

Times Respondent is at Home: _____

Respondent's Work Address: _____

Times Respondent is at Work: _____

Describe Respondent's Physical Appearance: _____

Please serve the papers on Respondent as soon as possible. Please return proof of service to me at the address listed above.

Date: _____

Petitioner Pro Se

Print Your Name

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se

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

IN RE THE CUSTODY OF)

_____,)

_____,)

Minor Child(ren),)

_____,)

Petitioner,)

and)

_____,)

Respondent.)

) Cause No. _____

**NOTICE AND ACKNOWLEDGMENT
OF SERVICE**

NOTICE

To (*Respondent's Name*): _____

(*Respondent's Address*): _____

Enclosed are a copy of a Summons and Petition for Dissolution of Marriage, which have been filed in the Tribal Court of the Confederated Salish & Kootenai Tribes.

If you want to avoid having law enforcement serve you with the documents enclosed, you may complete the acknowledgment part of this form and return one copy of the completed form to the Petitioner in the enclosed self-addressed stamped envelope, within 30 days after the date it was mailed or given to you as shown below.

If you decide to complete and return this form, you must fill in the address where you received it, then sign and date it and return it to the Petitioner.

If you complete and return this form, you must answer the Petition within fifteen (15) working days (exclusive of holidays and weekends) after the date of your signature if you wish to respond to any relief requested by Petitioner. If you fail to answer the Petition within fifteen (15) working days after the date of your signature, judgment by default will be entered for the relief requested in the Petition.

I declare, under penalty of perjury, that the original and one copy of this Notice and Acknowledgment of Receipt of Summons and Petition, along with a stamped return envelope, were mailed on this _____ day of _____, 20_____.

By: _____
Petitioner

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND PETITION

I declare under penalty of perjury that I received a copy of the Summons, Petition to Establish Parenting Plan, and Proposed Parenting Plan in the above-entitled action at (Address):

_____ on (Date): _____.

Respondent

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se

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

IN RE THE CUSTODY OF)

_____,)

_____,)

Minor Child(ren),)

_____,)

Petitioner,)

and)

_____,)

Respondent.)

Cause No. _____

**REQUEST FOR DEFAULT HEARING
AND ENTRY OF DEFAULT**

I am asking the Court for an Order Granting Default Judgment against the Respondent in this action granting the relief requested in my Petition to Establish Parenting Plan and Child Support. The Respondent has been properly served with the Summons, Petition, and Proposed Parenting Plan and has failed to respond within the time allowed by law. The Respondent was served on (date): _____ as shown by the Certificate of Service on the Summons filed with the Court.

I ask that the Court set a date for a default hearing, enter the Respondent's default, and grant judgment by default against the Respondent for the relief requested in the Petition.

Date: _____

Petitioner Pro Se