

Introduction to Family Law in Montana

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DISCLAIMER

Information Not Legal Advice. This document has been prepared for general information purposes only. The information provided is not legal advice. Legal advice is dependent upon the specific circumstances of each situation. Also, the law may vary from state to state, so that some information may not be correct for your jurisdiction. Finally, the information contained in this document is not guaranteed to be up to date. The information cannot replace the advice of competent legal counsel licensed in your state.

Prepared by Montana Legal Services Association. Approved and distributed by the Montana Supreme Court Commission on Self-Represented Litigants.

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Warning

This packet and the forms which come with it were created for people who have simple, uncontested dissolution of marriage (commonly known as “divorce”) cases. This means that you do not expect your spouse to fight with you over the dissolution, property, debts, or kids. These forms may not be appropriate if you have a complicated family law case or if your spouse might contest the dissolution. Even “simple” dissolutions can involve a lot of work. Many people have difficulty reading, understanding, and filling out the necessary forms by themselves. If you have difficulty understanding this packet or filling out the forms, you should speak to an attorney and should probably not try to file for a dissolution of marriage by yourself.

How do I know if my case will become contested?

There is no way of knowing for sure whether your spouse will contest all or part of your dissolution. Consider several factors:

1. Do you and your spouse disagree about where the children will live?
2. Do you disagree about how to cover the children’s medical insurance?
3. Do you disagree on the division of property and debts?
4. Can you work out these differences without going to court?
5. Are you asking for severe restrictions on contact between the children and the other parent?
6. Does your spouse have the resources to hire a private attorney?

How do I know if my case is complicated?

If your dissolution involves any of the following issues, it may be too complicated to use these forms:

1. Pensions, retirement benefits, or profit-sharing plans;
2. A pending personal injury case involving you or your spouse;
3. Real estate that you or your spouse own with someone else or real estate located outside of Montana;
4. A family business;
5. A bankruptcy case filed by your spouse;
6. Complicated tax issues; or
7. Contested custody and/or child support issues.

Is there domestic violence involved ?

If you or your children were victims of violence or abuse by your spouse, these forms may not be appropriate for you. Before proceeding, you may want to contact a private attorney or the Montana Legal Services Association (800-666-6124). If you need immediate help and would like to find a victim advocate near you, you may contact the

Montana Coalition Against Domestic and Sexual Violence (406-443-7794).

Where Can I Get Help?

State Bar of Montana Lawyer Referral Service- (406) 449-6577

The State Bar of Montana offers a free lawyer referral service which can help connect you with a private attorney to discuss your dissolution. They will attempt to select an attorney near you. The attorney will consult with you for up to ½ hour for not more than \$30. If you decide to hire the attorney to represent you, the additional fees and costs will be arranged between you and the attorney. You may reach the Lawyer Referral Service Monday-Friday between 9:00 a.m. and 4:00 p.m.

Montana Legal Services Association- (800) 666-6124

The Montana Legal Services Association provides free legal assistance to low-income persons. If you are eligible for services, Montana Legal Services may be able to give you advice on filing your dissolution.

How to Use this Packet

Read the Entire Packet:

You should read this entire packet before attempting to use any of the forms that come with it. This packet is designed to provide you with the basic information you will need to file your own dissolution and/or parenting case. You may need to go back to these sections from time to time as you are filling out the forms and proceeding with your dissolution.

Introduction to Family Law will give you an overview of family law in Montana. It briefly describes some of the issues involved in dissolution and parenting cases.

Throughout this section you will see references to the *Montana Code Annotated* (M.C.A.). The M.C.A contains the laws governing dissolutions and parenting plans and can be found in your local library or on the state law library web page at www.lawlibrary.state.mt.us. Most of the relevant laws are in Title 40, chapter 4. A typical reference will look like this: M.C.A. § 40-4-212. This means Title 40, chapter 4, section 212. Reading the actual laws may be helpful to you.

When you receive this packet, you should also be given a document entitled, **How to**

File for Dissolution of Marriage in Montana. If you are not married but are seeking to establish a parenting plan, the document will be called, **How to File for a Permanent Parenting Plan in Montana.** This document will list all of the forms you will need to fill out and will walk you through the steps you will need to follow in order to obtain your dissolution and/or parenting plan.

Introduction to Family Law in Montana

Dissolution of Marriage

Dissolution:

In Montana, the legal name for a divorce is a “dissolution of marriage.”

The Parties to the Dissolution:

The wife and husband are called “the parties to the dissolution.”

The **Petitioner** is the party who first asks the court for a dissolution. The Petitioner asks the court for a dissolution by filing a **Petition for Dissolution** with the court.

The **Respondent** is the other party.

Who Can File for Dissolution in Montana?

You only can get a dissolution in Montana if Montana has **jurisdiction** over your case. Montana has jurisdiction to rule on your dissolution if you have resided in Montana for at least 90 days prior to getting your dissolution (M.C.A. § 40-4-104).

If there are children of the marriage who are under 18 years old, the children must have resided in Montana for at least six months before you can file for a dissolution in the state. There are a few exceptions, but, generally, Montana courts do not have jurisdiction to make judgments regarding the children unless they have resided in the state for at least six months (M.C.A. § 40-4-211).

How the Court Decides if You Should Get a Dissolution:

The legal reasons you must show to get a dissolution are called the **grounds for dissolution**. In Montana, the ground for dissolution is “**an irretrievable breakdown in the marriage**” (M.C.A. § 40-4-107). When you ask the court for a dissolution, you

must state in the Petition that there is an irretrievable breakdown in the marriage. In order to show that there is an irretrievable breakdown, you must tell the court that either (1) you have lived separate and apart for 180 days prior to filing for the dissolution, or (2) there is serious marital discord which adversely affects the attitude of one of the parties (M.C.A. 40-4-104).

No Fault Dissolution:

In Montana you do not have to show that one person is at fault for the breakdown of the marriage. Your spouse does not have to agree to getting the dissolution, and you do not need to prove that there has been wrong-doing by one of the parties.

Other Issues Settled in a Dissolution Case:

A dissolution legally ends the marriage and changes your status from married to single. It also determines related issues that you should address in the Petition for Dissolution, such as:

1. Living arrangements for the children and what contact they will have with each parent;
2. Child support and medical support for the children;
3. Who will keep what property; and
4. Who will be responsible for which debts.

You will need to know something about each of these issues before you file for your dissolution. Each issue is explained in more detail below.

If your spouse disagrees over how one or more of these issues should be resolved, s/he may file an **Answer** or **Response** to your Petition. If your spouse answers your Petition, the case becomes a **contested** dissolution case.

Default Dissolution:

A default judgment is what the court awards you if your spouse does not answer your Petition for Dissolution. Your spouse, the Respondent, has 20 days to respond to the Petition after s/he is served with a copy of it. After 20 days, the Respondent's default can be entered by the Clerk of Court. You still will have to schedule a hearing and appear in court in order to obtain your Final Decree of Dissolution. If you get a default judgment, you will be granted everything you asked for in the Petition, as long as the court finds that your request is "equitable" (fair). If there are children, the court also must find that your proposed parenting plan is in the best interests of the children. The instructions included in this packet assume that your dissolution will be a default dissolution. If your spouse is likely to contest your Petition, and especially if s/he is

likely to hire a lawyer, these forms probably are not appropriate for you, and you should consult an attorney before proceeding.

Joint Dissolution:

If both you and your spouse can agree to all of the terms of your dissolution, including the parenting of the children and the division of property and debts, you may file for a joint dissolution. With a joint dissolution, both you and your spouse are Petitioners, and you both sign the Petition and the Parenting Plan. If you can agree to do a joint dissolution, the process of filing for a dissolution may be more simple.

A Note about Maintenance:

Maintenance (sometimes called “alimony”) refers to money one spouse pays to the other, separate from child support. If you have been married to your spouse for several years, you lack the means to provide for your reasonable needs, and you are unable to support yourself through employment, you may want to request maintenance in your Petition (M.C.A. § 40-4-203). A request for maintenance usually is not appropriate in a default dissolution. If your spouse is likely to contest such a request, you should see a private attorney to represent your interests. The forms which come with this packet do not include a provision for maintenance.

Other Kinds of Legal Separation:

In addition to a dissolution of marriage, there are two other ways to change your marital status (neither of which are provided for in the set of forms which come with this packet. If you are interested in pursuing the options discussed in this section, you should speak to an attorney):

Declaration of Invalidity of Marriage: A declaration of invalidity of marriage is commonly known as an “annulment.” It states that the marriage never really existed because it was based on some false understanding or information. There are only certain, specific circumstances under which an annulment can be granted in Montana (M.C.A. § 40-1-402).

Separation: If either party asks, and the other party does not object, the court will grant a decree of separation instead of a decree of dissolution. The requirements for a legal separation are generally the same as for a dissolution. However, a decree of separation does not end the marriage. You cannot legally remarry until the legal separation is first changed into a dissolution. After six months, either party may ask the court to change the decree of separation into a decree of dissolution.

Parenting

A Note About the Word "Custody":

Montana law no longer uses the words "custody" and "visitation." Instead, it uses "parenting" to promote the idea that both parents should be involved in the children's lives.

How Will Parenting Duties Be Decided?

In every dissolution and/or parenting case, the parents are expected to develop a **Parenting Plan** that explains where the children will live, how much time the children will spend with each parent, and how decisions will be made about the children. The parents may or may not agree about all of the terms of the plan. If the parents cannot agree, the judge will hear both sides and decide what is in the best interests of the children. The court will approve a Final Parenting Plan which is intended to protect the best interests of the children, clarify parental authority and responsibility, and help prevent future court action (M.C.A. § 40-4-234).

If you and the other party were married, you will ask for a parenting plan when you file your petition for dissolution of marriage. As a part of the dissolution, the court will address parenting arrangements for the children.

If you were not married to the other parent, you can file a "Petition to Establish a Permanent Parenting Plan." In this kind of case, the court will not address property or debts. It will only address parenting arrangements, child support, and medical support for the children.

What Are the Best Interests of the Child?

Montana law states that the court will decide parenting arrangements based on what it believes are the "**best interests of the child**" (M.C.A. § 40-4-212). These are some of the factors that the court considers when trying to determine what the best interests of the child are:

1. The wishes of the child's parents;
2. The wishes of the child;
3. The interaction of the child with the parents, siblings, and other persons who may significantly impact the child;

4. One parent's physical abuse or the threat of physical abuse against either the child or the other parent;
5. Chemical dependency or abuse by either parent;
6. Continuity and stability of care;
7. Developmental needs of the child; and
8. Whether a parent has knowingly failed to pay birth costs or child support that the parent is able to pay.

Preference for Both Parents to Participate in the Children's Lives:

In Montana, the law presumes that "frequent and continuing contact" with both parents is best for the children unless it is proven to the court that this is not true (M.C.A. § 40-4-212). If you want to restrict or limit contact with the other parent, you will need to tell the court why it is in the children's best interests to do so.

Paternity:

Montana presumes that a child born during the marriage is the biological child of the husband. If you are not sure whether the husband is the father of the child, you may want to separately establish paternity. If the parents of the child are not married, and one of the parties questions the paternity, you will need to establish paternity before getting a parenting plan. Paternity can be established by a court or administrative judgment, decree, or order (M.C.A. § 40-6-105).

If You Are Pregnant:

If you are pregnant and your spouse is the father, you will have to wait until you are no longer pregnant in order to use the forms that come with this packet. If you are interested in filing for a dissolution of marriage before your child is born, you should speak to an attorney.

If you are pregnant and your spouse is not the father, you must state this in your Petition. You may be required to establish paternity of the child before the court will grant your dissolution.

Things to Consider when Setting Up Your Parenting Plan:

Frequent and Continuing Contact: The court assumes that children should have "frequent and continuing contact" with both parents. It is not necessary for children to spend exactly equal amounts of time with each parent. However, when the children reside with one parent most of the time, the court expects that the other parent will be

allowed to have reasonable contact with the children.

Decision Making: If you anticipate conflicts over issues related to your children's upbringing, you can specify in the parenting plan which parent will make decisions regarding such things as the children's education, spiritual development, and medical care. The court assumes that each parent has the authority to make emergency medical decisions as well as day-to-day decisions while the children are residing with that parent (M.C.A. § 40-4-234).

Restricting Contact: If you believe that restricting contact between the children and the other parent is necessary, you can request certain conditions in your parenting plan. Examples are:

1. Supervised contact by an agreed-upon third party (e.g., a grandparent, a mutual friend, a social agency, etc.). In order to get supervised visitation from the court, you will need to explain why the supervised visitation is necessary to protect the children;
2. Advance notice of intent to visit with the children (e.g., 24 or 48 hours, one week, one month);
3. Canceling the visit if the other parent is more than 30 minutes late;
4. Requiring the children to remain in Montana unless otherwise agreed upon by both parents.

Exchanging the Children for Visits: If you and your spouse often get into disagreements, you might want to include specific information about how the children will be exchanged for visits. If your relationship with your spouse has been abusive, you might want to set up a meeting place for the exchange that is public and safe, such as the parking lot of a busy restaurant or shopping center.

Setting Up a Residential Schedule: Parenting plans can be general or very specific in stating where the children will be at different times. For example, the plan can state who the children will live with before the children start school, while they are in school, during summer and winter vacations, and for different holidays and other special occasions. The more specific you make your parenting plan, the less you and the other parent will be able to disagree over vague or unclear language. It also will be easier to enforce with the police or other officials if the other parent violates the plan. If you are worried about enforcing the plan, the police should be able to tell by looking at the plan where the children should be. For example, you should use language like, "the first and third weekends of the month from 5:00 p.m. Friday to 5:00 p.m. Sunday" rather than just "every other weekend." Do not use general language such as "reasonable visitation" if you are worried that the other parent will not follow the plan or that you will have disagreements over what "reasonable" means.

If a Parent Violates the Parenting Plan:

If one parent violates the plan by failing to pay child support or by failing to return the children at the agreed-upon time, the other parent is still obligated to follow the plan. Child support and visits with the children are separate issues. If a parent does not visit the children, s/he must still pay court-ordered child support. If s/he does not pay court-ordered child support, that parent is still allowed to visit the children. Contact with both parents and child support are considered *rights of the children*.

However, violation of the residential plan by one of the parents is punishable by contempt of court and can be a criminal offense. The offending parent can be subject to arrest and a fine of up to \$500 or imprisonment in the county jail (M.C.A. § 45-5-631). When the other parent has kept a child over the set visitation time, you can go to court and get an order holding the other parent in contempt for violating the parenting plan. You should then be able to get the police to help you get your child back. Keep a diary of problems with contact with the other parent. You can use the diary to give details in your statement or testimony to the court.

Updating the Court with Information:

Parenting plans must include a provision requiring both parties to update the court with changes to the following information (M.C.A. § 40-4-204):

1. Your Social Security number;
2. Your residential and mailing addresses;
3. Your telephone number;
4. Your driver's license number;
5. Your employer's name, address, and telephone number;
6. If the children are covered by a health or medical insurance plan, the name of the plan, the policy identification number, and the names of the persons covered; and
7. If the children are not covered, information about availability of coverage through the party's employer.

Dispute Resolution:

If you later decide to change the parenting plan, the Judge may order you to go through some form of dispute resolution before returning to court (M.C.A. § 40-4-219). You can specify in your parenting plan what form of dispute resolution is appropriate. You can ask that a mutual friend, a family pastor, or another agreed-upon third party mediate between you and the other parent. A few community agencies offer free or reduced cost mediation services.

Mediation is not appropriate in cases involving domestic abuse (M.C.A. § 40-4-219(9)). If there has been physical abuse or the threat of physical abuse by one parent against the

other parent or the children, court action may be the only appropriate way to change the plan.

Child and Medical Support

Child Support:

When the court establishes a final parenting plan, it also will order one or both parents to pay child support (M.C.A. § 40-4-204). If you already have a Child Support and Medical Support Order through the Montana Child Support Enforcement Division (CSED) or another appropriate agency, the court may simply refer to that Order and acknowledge it as valid.

If you do not already have a Child Support Order in place, the court will determine a child support amount based on Montana's child support guidelines. Computer software programs can do the complicated calculations automatically, and you may have to provide the court with the result of these calculations in a document called the Child Support Guidelines worksheet. You should ask the Clerk of District Court in the County where you are filing your Petition if they have a procedure for doing the child support calculations. You may also call the Montana Legal Services Association (1-800-666-6124) to find out if there is assistance available for running child support calculations in your area.

How is the Child Support Amount Determined?

The amount that the parents are asked to pay is based on what the court considers reasonable or necessary for raising the child. The amount is not affected by marital misconduct. It is based on the following factors:

1. The financial resources available to the child;
2. The financial resources available to each parent (income, pensions, etc.);
3. The standard of living the child would have had if the parents were still together;
4. The child's emotional, educational, and medical needs;
5. The age of the child;
6. The cost of day-care; and
7. How much time the child spends with each parent.

Financial Affidavit:

One important factor in figuring the child support amount is how much each parent is earning. Both parents should complete a Child Support Guidelines Financial Affidavit. You must sign this document in front of a notary, swearing that the information in it is true. You are also required to attach copies of your pay stubs or other documentation of your income. CSED or the court will use this information to do the child support calculations. If you do not already have a child support order, you will be required to file a copy of this affidavit with the court and serve a copy on the other parent as a part of your dissolution or parenting case.

How Does Unemployment Affect Child Support?

Even if a parent is unemployed, or if his/her earnings are not known, the parent is still responsible for paying child support. In general, the court assumes that everybody could be working 40 hours each week and earning at least minimum wage. This amount is therefore “imputed” to each parent. The court may impute higher than minimum wage if the parent’s earning potential justifies it.

How Are the Child Support Payments Made?

Child support payments are generally made by automatic income withholding unless the court finds a good reason why income withholding is not appropriate (M.C.A. § 40-5-411). Income also can be withheld if the child support payment is delinquent (M.C.A. § 40-5-412). Support is considered delinquent if it is 8 days overdue. If you and the children are receiving public assistance under Temporary Assistance to Needy Families (TANF), the child support payments must be made through CSED.

Notifying the Child Support Enforcement Division:

If you are already receiving services from CSED, or if you receive public assistance under TANF, you must notify CSED that you have filed for a dissolution of marriage and/or parenting plan (M.C.A. § 40-5-202).

Medical Insurance:

Finally, every child support order also must include a provision about who will pay for the medical insurance and medical expenses of the minor children (M.C.A. § 40-5-805, 806, 807).

The general rule is that a parent who has medical insurance available through his or her employment must cover the children, if the insurance is available at a reasonable cost. If both parents have health plans, they may both provide coverage for the children. Sometimes the court will order both parents to pay premiums, deductibles, or other health care expenses based on percentages determined by the child support guidelines. For instance, one parent may have to pay one-third of the expenses, while

the other parent pays two-thirds. The obligation to provide medical insurance ends when the child support obligation ends (M.C.A. § 40-5-808).

Property

As a part of a dissolution of marriage, the court must decide whether the property that belongs to the married couple should go to the husband or the wife. You must designate in your Petition who should get what property. The court will **equitably distribute** the property and assets of the marriage (M.C.A. § 40-4-202). In deciding what is equitable, the court will consider a number of factors, including:

1. The duration of the marriage;
2. The age, health, occupation, income, vocational skills, estate, liabilities, and needs of both parties;
3. The parenting arrangements, if children are involved;
4. Whether maintenance has been granted;
5. The opportunity for both parties to acquire income and assets in the future; and
6. The contribution of a spouse as a homemaker to the family.

Declaration of Assets, Debts, Income, and Expenses:

Under Montana law, both parties to the dissolution are required to give the other party a list of their assets, debts, income, and expenses within 60 days of serving the Petition (M.C.A. § 40-4-252). This document is called the Preliminary Declaration of Disclosure of Assets, Debts, Income, and Expenses. If BOTH parties agree, the exchange of preliminary declarations of disclosure may be waived.

The law also requires the exchange of final declarations of disclosure by both parties before the case goes to trial or before the parties reach an agreement. However, if your spouse does not answer the Petition, and a default judgement is granted, you may waive the final disclosure requirements (M.C.A. § 40-4-257). Except in the case of a default judgment, the parties can NOT agree to waive the exchange of final disclosures.

Failure of either party to file a complete financial disclosure statement can authorize the court to accept the statement of the other party as accurate. Any deliberately false statement may subject a party to contempt of court, fines, or appropriate penalties.

Major Property:

Property such as houses or land are referred to as **real property**. If you have large assets to distribute in the dissolution, you should consider seeking the advice of an attorney.

In addition, married people might have a right to part of each other's pensions or retirement accounts. If you or your spouse have a pension or retirement account, you should consider seeking the advice of an attorney.

If you have cars or real property that you are dividing in your dissolution, you might want to ask in your Petition that one party remove his or her name from the title and deeds of the other person's property within 20 days of when the final decree is entered.

Personal Property:

Typically, dissolution papers list who should get which major pieces of property, and also state that each party is entitled to the personal property (such as clothing and personal items) "currently in his or her possession." If your spouse still has some of your personal property that you would like returned, be sure to state so explicitly in your Petition.

Temporary Economic Restraining Order:

While your dissolution is pending, both you and your spouse are prohibited from selling, hiding, or disposing of any property without the consent of the other person, "except in the usual course of business or for the necessities of life" or to pay attorney's fees (M.C.A. § 40-4-121). Both of you also are restrained from changing the beneficiaries of your insurance coverage while the dissolution is pending. This temporary restraining order on property is included in the Summons, the document that officially notifies your spouse that you are filing for a dissolution.

Debts

When you are drafting your Petition for Dissolution, you also should designate who should be responsible for which debts (also known as "liabilities") of the marriage. The Petition also should state that each party should be responsible for his or her own debts from before the parties were married and after the parties separated. If you think the court should make an exception to this, state the exception and the reason for it.

Be Specific:

It is important to be as specific as possible when describing your debts. For example, describe a credit card debt as “Capitol One Visa for \$200.” Again, you are required to disclose all of your debts to your spouse in your Declaration of Disclosure (M.C.A. § 40-4-252). You might want to get a credit report prior to drafting your documents.

Creditors:

You are not responsible for the debts your spouse had before you were married or after you are divorced. However, creditors can collect from you on your joint debts of the marriage. These debts often include utility bills, credit cards, and contracts you both signed.

Notify joint creditors of your separation as soon as possible. Only you and your ex-spouse are parties to your dissolution. This means that creditors are not required to honor the court’s division of debts. For example, if your spouse had medical bills during your marriage, creditors may still require you to pay them, even if the court orders your spouse to pay them. You may show the creditor your decree of dissolution and explain to them how to contact your ex-spouse, but, again, the creditor does not have to honor the division of debts outlined in your decree.

However, you can go back to the court which issued your decree and ask the court to hold your ex-spouse in contempt for failing to pay the bills as required in the decree. You will usually need a lawyer to do this.

Temporary Orders

(Provisions for Temporary Orders are not provided for in the set of forms which come with this packet. If you are interested in pursuing any of the temporary orders discussed in this section, you should speak to an attorney.)

Temporary Order of Protection:

If you feel that you or your children are in danger, you can file for a Temporary Order of Protection. A Temporary Order of Protection makes it illegal for the other party to have any contact with you and/or the minor children. The other parent may not come near you, call you, or threaten you. You can add specific language to protect you at school or work or any place that you often go.

District Court: If you are in the middle of filing for a dissolution or a parenting plan, any temporary orders that you file must be filed in District Court, where your dissolution

or parenting plan also will be heard. If you already have an Order of Protection in place from municipal or justice court, you should transfer the Order to District Court. In order to do this, you must file a Notice of Removal with the court who issued the Order.

For More Information: If you want more information about filing for a temporary order of protection, you should call a victim advocate in your area. To find a victim advocate near you, call the Montana Coalition Against Domestic and Sexual Violence at 1-888-443-7794.

Other Temporary Orders:

Interim Parenting Plan: You can ask the court for an Interim Parenting Plan to outline the living arrangements for the children while you are waiting for the court to issue the Final Parenting Plan. You may want an Interim Parenting Plan if you feel that your children are in imminent danger of being “snatched” by the other parent. You will probably need an attorney to handle this matter.

Temporary Maintenance: If you have been married to your spouse for several years and need temporary financial assistance, you may want to pursue a Temporary Maintenance Order. A request for maintenance usually is not appropriate in a default dissolution. If your spouse is likely to contest such a request, you may need a private attorney to represent your interests.

Temporary Child Support: If child support has not been established already and you need money from the other parent to take care of the children while your dissolution is pending, you can file a Motion for Temporary Child Support. Again, this might not be appropriate for an uncontested dissolution or parenting plan, and a private attorney may be necessary.

Temporary Family Support Orders: You also can request a Temporary Family Support Order which, if granted, is effective while your dissolution is pending. This order is not meant to eliminate orders for temporary maintenance or child support. A Family Support Order puts a “holding pattern” on the marital estate while property and debt issues are being decided. The Order gives the court the power to pay marital bills based on the income and assets of both parties. The court may order one or both parties to sell assets in order to pay bills, if necessary (M.C.A. § 40-4-121).

Post-Dissolution Issues

Remember to Follow the Decree:

When the court grants your dissolution, it will issue a “Final Decree of Dissolution” dissolving the marriage and resolving the issues raised in the dissolution. Keep a copy of the Decree and the Final Parenting Plan in a safe place. Make sure to follow the orders in the Decree, including:

1. Paying your portion of the marital debts as soon as possible; and
2. Making sure vehicle and other titles are signed over to the appropriate party.

If You Receive Support Payments Directly from the Other Parent:

1. Keep a written record of all payments; and
2. Make copies of all checks, and keep them in a safe place.

If You Changed Your Name as Part of the Dissolution:

1. Keep your conformed copy of the Decree as proof of the name change;
2. Notify the Social Security Administration (SSA) and complete the necessary forms to receive a new identification card;
3. Update your driver’s license with the Department of Motor Vehicles;
4. Change your name on other important legal papers (e.g., powers of attorney, living wills, trusts, and contracts);
5. Notify other people and institutions with whom you have contact (e.g., friends and family, employers, schools, post office, banks, creditors, telephone and utility companies, insurance agencies, the Public Assistance office, etc.).

Some Tax Issues to Keep in Mind:

1. The IRS assumes that the parent who has the children most of the time is entitled to the exemptions, but parents are allowed to trade them back and forth, using IRS Form 8332.
2. Your marital status for tax filing is set as of the last day of the year. If you are still married on December 31 (and you file as of a calendar year, as most people do), you must file as married (either jointly or separately). If you are divorced as of December 31, you must file single (either as head of household or not).
3. Contact a tax professional if you have further questions or think you may be eligible for other tax credits.

If You or the Other Party Wants to Change a Parenting Plan Later:

Dispute Resolution: Look at your Final Parenting Plan to see if there is a section on Dispute Resolution. If you agreed to try mediation before going back to court, you should initiate mediation by following the process described in the plan. If the plan does not specify who should do the mediation, try to find a mediator who can do the mediation for you.

Modifying Your Plan through the Court: If you cannot work out your disagreements through mediation, or if your plan does not provide for mediation, you will probably need a private attorney to amend your plan through the court.

If You Decide to Move:

A parent is required to give the other parent 30 days written notice before making any move that will “significantly affect” the other parent’s contact with the children (M.C.A. § 40-4-217). You must give notice by certified mail or personal service, and you must file proof of service with the court. You must include a proposed revised residential schedule with the notice.

Thirty (30) days notice gives the other parent time to ask the court to change the residential schedule. If you move to another state with your children without giving written notice to the other parent or getting the other parent’s consent, you may be charged with “aggravated visitation interference.” You could be fined up to \$1000 and imprisoned up to 18 months. You may also be held in contempt of court (M.C.A. § 45-5-632).

How to File for Dissolution of Marriage in Montana (no children)

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DISCLAIMER

Information Not Legal Advice. This document has been prepared for general information purposes only. The information provided is not legal advice. Legal advice is dependent upon the specific circumstances of each situation. Also, the law may vary from state to state, so that some information may not be correct for your jurisdiction. Finally, the information contained in this document is not guaranteed to be up to date. The information cannot replace the advice of competent legal counsel licensed in your state.

Prepared by Montana Legal Services Association. Approved and distributed by the Montana Supreme Court Commission on Self-Represented Litigants.

What Forms Will I Need?

Initial Documents:

1. Petition for Dissolution
2. Petitioner's Preliminary Declaration of Disclosure of Assets, Debts, Income, and Expenses
3. Summons and Temporary Economic Restraining Order

Service Documents:

You only need to serve your spouse using one of the following three methods. If you are unable to serve by one method, you may try to serve by using one of the other two.

4. Notice and Acknowledgment of Receipt of Summons and Petition for Dissolution
5. Praecipe
6. Service by Publication:
 - a. Affidavit for Publication of Summons
 - b. Order for Publication of Summons
 - c. Summons for Publication

Final Documents:

1. Request for Entry of Default, Application for Default Judgement, and Waiver of Final Disclosure Requirements
2. Entry of Default
3. Request for Hearing and Order
4. Findings of Fact, Conclusions of Law, and Final Decree of Dissolution
5. Notice of Entry of Decree
6. Vital Statistics Form

Eight Steps to Getting a Dissolution of Marriage

Warning:

These instructions will walk you through the steps you will need to follow in order to file your dissolution. This can be a confusing and complicated process. If you have questions about the instructions or any of the forms, you should talk to an attorney.

The steps for filing for a dissolution 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 right procedures.

Step One: Collect Information and Make Decisions

- [] Be sure to read “Introduction to Family Law in Montana” before you begin filling out the forms. It will highlight the major decisions you will have to make.
- [] You should begin by making a list of all marital property and debts and deciding who should get what property and who should have to pay what debts. If you are not sure how much you owe on current debts, or if you are worried that your spouse has incurred debts without your knowledge, you may want to get a credit report.

Step Two: Prepare the Forms

- [] Included in this packet are all of the forms you will need to file for a dissolution of marriage. Fill out each form neatly and completely. Be aware that some judicial districts may require you to type the forms. For a list of the forms you will need, read “What Forms Will I Need?” also in this packet. If you have questions about the forms, talk to an attorney.

Step Three: File Your Documents with the Court

- [] After you have completed all of the forms, make copies of the following documents:
 - [] Summons (one copy)
 - [] Petition for Dissolution (two copies)
 - [] Petitioner’s Preliminary Declaration of Disclosure of Assets, Debts, Income, and Expenses (one copy)

Always keep one copy of everything that you file with the Clerk of District Court or serve on your spouse. The original documents get filed with the Clerk. Every

time you file a document with the Clerk, bring a copy of the document 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.

- [] Go to the Clerk of District Court in the County Courthouse where you are filing for your dissolution. Generally, you will file in the county where you are living. You will have to pay a filing fee in order to file your papers with the Court. If you cannot afford to pay the filing fee, you may be eligible to have prepayment of the fee waived. If you think you may be eligible for such a waiver, ask the Clerk of District Court for an "Affidavit of Inability to Pay Filing Fees."
- [] After you have paid the filing fee (or the Judge has decided to waive the filing fee), file the following documents with the Clerk of District Court. Remember to have the Clerk date and stamp a copy of each document to keep for your records.
 1. Summons
 2. Petition for Dissolution
- [] The Clerk will sign and stamp the original Summons and return it to you. Make two copies of the Summons that has been signed and stamped by the Clerk.
- [] The Clerk will put a cause number on all of the documents you filed. This cause number is how the court will identify your case. Put this cause number on all of your forms from now on.

Step Four: Notify Your Spouse

After you file your papers with the Clerk, you will need to serve the papers on your spouse using one of the methods described below.

- [] Depending on how you plan to serve your spouse, make copies of either the:
 - [] Notice and Acknowledgment (two copies)
 - [] Praecipe (one copy)

or

 - [] Affidavit for Publication of Summons, Order for Publication of Summons, and Summons for Publication (two copies of each)

Choose One:

- [] **Notice and Acknowledgment.** If your spouse is willing to help you dissolve your marriage, you may serve him or her by mailing the following documents:
 1. Notice and Acknowledgment of Receipt of Summons and Petition for Dissolution of Marriage (original and one copy)
 2. Summons (copy)
 3. Petition for Dissolution (copy)

4. Petitioner's Preliminary Declaration of Disclosure of Assets, Debts, Income, and Expenses (original)

Also, include a self-addressed stamped envelope.

Your spouse should sign and return the Notice and Acknowledgment back to you. The Notice and Acknowledgment is your proof that your spouse was served. If you do not receive the Notice and Acknowledgment back within 20 days, you may need to serve your spouse by one of the other methods. You may be able to ask the court to have your spouse pay for any fees associated with these other forms of service.

- [] **Service by Sheriff.** Sheriffs in Montana will serve the papers on your spouse for free if you have an Order of Inability to Pay from the Judge, otherwise you will need to pay the sheriff for this service. Either mail or personally deliver the following documents to the sheriff in the county where your spouse lives:
1. Praecipe (original)
 2. Summons (original and one copy)
 3. Petition for Dissolution of Marriage (copy)
 4. Petitioner's Preliminary Declaration of Disclosure of Assets, Debts, Income, and Expenses (original)

Also give the sheriff a self-addressed return envelope. When the sheriff has served the documents, s/he will send you a Return of Service and the original Summons. The Return of Service is your proof that the documents were served.

- [] **Service by Publication.** If you are unable to serve your spouse by one of the methods above, you may be able to serve by publication. To serve by publication you will need the original and two copies of the following documents:
1. Affidavit for Publication of Summons
 2. Order for Publication of Summons
 3. Summons for Publication

[] Take all three documents to the Clerk of District Court. The Clerk will sign, date and stamp the Order for Publication of Summons and the Summons for Publication. Have your copies of all three documents dated and stamped by the Clerk.

[] Mail or hand deliver one copy of both the Order for Publication of Summons and the Summons for Publication to the designated weekly newspaper with instructions to run your notice for three weeks. You must also pay a publication fee to the newspaper. This fee cannot be waived.

After the paper runs your notice for three weeks, they will send you a notice called "Proof of Publication." The Proof of Publication is your proof that the summons was served.

Step Five: File the Original Summons and Return of Service

- [] After you receive proof that your spouse was served (by either a Return of Service, a Notice and Acknowledgment, or a Proof of Publication), make one copy of the proof of service. File the original with the Clerk of District Court. At the same time, file the original Summons.

If your spouse files a Response or Answer with the court, you should consult with an attorney before proceeding. The rest of these instructions assume your dissolution is not being contested by your spouse.

Step Six: Request a Default

- [] Wait 21 days from the date your spouse was served. Give the Clerk of District Court your cause number and confirm that your spouse has not filed a Response.

- [] Complete and make copies of the following documents:
 1. Findings of Facts, Conclusions of Law, and Final Decree of Dissolution (two copies)
 2. Request for Entry of Default, Application for Default Judgment, and Waiver of Final Disclosure Requirements (one copy)
 3. Entry of Default (one copy)
 4. Request for Hearing and Order (one copy)
 5. Vital Statistics Form (one copy)

- [] File the Request for Entry of Default, the Entry of Default, and the Request for Hearing and Order. As always, get a filed stamped copy of each document for your files. The Clerk will schedule a final hearing for your dissolution.

- [] Also leave with the Clerk your original Findings of Fact, Conclusions of Law, and Final Decree of Dissolution. The Clerk will give this document to the Judge to review before your final hearing.

Step Seven: Go to Court for Your Hearing

- [] Be at the courthouse at least 15 minutes before your scheduled hearing time.

Dress as you would for an important meeting or 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 your two copies of the following document with you to the hearing:
 1. Findings of Fact, Conclusions of Law, and Final Decree of Dissolution

- [] The Judge will ask you to be sworn in and to take the witness stand. The Judge will ask you a few questions regarding your Petition and Proposed Decree. The questions should center around the following topics:
 1. Whether you have been a resident of Montana for the past 90 days
 2. Whether your marriage is irretrievably broken
 3. If you want your former name to be restored
 4. If your proposal for dividing the assets and debts is fair and equitable

The Judge should then sign your Decree and excuse you.

- [] *Immediately after the hearing*, bring the signed Decree to the Clerk of District Court. Ask the Clerk to put the appropriate stamps on your two copies of the document in order to show that it has been filed and signed by the Judge. At the same time, file your Vital Statistics Form.

Step Eight: Notify Your Spouse

- [] Make two copies of the Notice of Entry of Decree.

- [] Mail copies of the following documents to your spouse:
 1. Notice of Entry of Decree
 2. Findings of Fact, Conclusions of Law, and Final Decree of Dissolution

- [] File the original Notice of Entry of Decree with the Clerk of District Court. Your spouse has 30 days from your filing of the Notice of Entry of Decree to appeal the Decree. For this reason, it is important that you file the Notice with the Clerk.

- [] Keep your copy of the Decree in a safe place.

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Marriage of:

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Petition for Dissolution

The Petitioner respectfully submits the following:

1. Information about Petitioner

a. Name: _____

b. Age: _____ Date of Birth: _____

c. Address: _____

City: _____ State: _____ County: _____

d. Length of Residence in County: _____

e. Length of Residence in Montana, if applicable: _____

f. Occupation: _____

2. Information about Respondent

- a. Name: _____
- b. Age: _____ Date of Birth: _____
- c. Address: _____
City: _____ State: _____ County: _____
- d. Length of Residence in County: _____
- e. Length of Residence in Montana, if applicable: _____
- f. Occupation: _____

3. **Date and Place of Marriage**

Choose One:

- The parties were married on (*date*):_____. The marriage was registered in the County of _____, State of _____.
- The parties were married at common law. The parties assumed a marital relationship by mutual consent and agreement and confirmed their marriage by cohabitation and public repute.

4. **Separation**

Choose One:

- The parties separated on (*date*):_____.
- The parties are not yet separated.

5. **Jurisdiction**

- a. The jurisdictional requirements of M.C.A. § 40-4-104 exist.
- b. Choose One:
 - The marriage is irretrievably broken in that there is serious marital discord which adversely affects the attitude of one of the parties towards the marriage, and there is no reasonable prospect of reconciliation.
 - The marriage is irretrievably broken in that the parties have lived separate and apart for a period of more than one hundred eighty (180) days preceding

the commencement of these proceedings, and there is no reasonable prospect of reconciliation.

- c. The conciliation provisions of the Montana Conciliation law and M.C.A. § 40-4-107 do not apply.

6. No Children of the Marriage

Choose One:

- There were no children born of the marriage.
- There were children of the marriage, but none are now minors.
- There were children born of the marriage, but this Court has no jurisdiction over them.

7. Pregnancy

Choose One:

- The wife is not pregnant.
- The wife is pregnant. However, the husband is not the father, and the child is not at issue in this proceeding.

8. Preliminary Disclosure

The Petitioner is complying with the preliminary disclosure requirements of M.C.A. §40-4-252 and will serve a Declaration of Disclosure of Assets, Debts, Income and Expenses upon the Respondent at the time of service of this Petition.

9. Real Property

Choose One:

- The parties do not own any real property.

or

- a. The Petitioner/ Respondent/ both parties is/are the owner(s) of record of real property located at _____
- _____

_. The legal description of the property is _____

_____.

b. This real property should be distributed as follows. Choose One:

The Petitioner/ Respondent should be awarded ownership of this real property.

or

Describe the proposed distribution of the real property:

_____.

If needed, attach additional sheets as Exhibit _____.

10. Vehicles

Choose One:

The parties do not own any vehicles.

or

The parties own the following vehicle(s). It is equitable that the vehicle(s) be distributed as follows (*Please include the year, make, and model for each vehicle listed.*):

To Petitioner:

Vehicle: _____ VIN#: _____

Vehicle: _____ VIN#: _____

Vehicle: _____ VIN#: _____

To Respondent:

Vehicle: _____ VIN#: _____

Vehicle: _____ VIN#: _____

Vehicle: _____ VIN#: _____

If needed, attach additional sheets as Exhibit _____.

11. Personal Property

Choose One:

The parties have already divided their personal property. It is equitable that each party retain the property currently in his or her possession.

or

The parties have not divided their personal property. It is equitable that the property be divided as follows:

To Petitioner:

To Respondent:

If needed, attach additional sheets as Exhibit _____.

12. Debts

Choose One:

There are no debts of the marriage.

The parties have accumulated debts during the course of their marriage. It is equitable that each party retain responsibility for the debts currently in his or her name.

or

[] The parties have accumulated debts during the course of their marriage. It is equitable that responsibility for the debts be divided as follows:

To Petitioner:

Description of Debt	Creditor	Current Balance	Amount to Petitioner

Any and all other debts in Petitioner's name only; any and all other debts incurred solely by the Petitioner since the parties' separation.

To Respondent:

Description of Debt	Creditor	Current Balance	Amount to Respondent

Description of Debt	Creditor	Current Balance	Amount to Respondent

Any and all other debts in Respondent's name only; any and all other debts incurred solely by the Respondent since the parties' separation; and any and all other debts not disclosed by the Respondent to the Petitioner.

If needed, attach additional sheets as Exhibit _____.

13. Wife's Former Name

Choose One:

- The wife would like to be restored to her former name of _____.
- The wife does not want to be restored to her former name.
- The husband does not know whether the wife would like to be restored to her former name.

14. Other Provisions _____

 _____.

WHEREFORE, the Petitioner requests as follows:

1. That this Court enter a Decree of Dissolution of Marriage dissolving the marital status between the parties;
2. That each party be granted real and personal property as requested above;
3. That each party be granted ownership of the vehicles as requested above;
4. That each party be ordered to pay debts as requested above;
5. That the wife be restored to use of her former name, if requested above;
6. Other Provisions: _____
_____; and
7. For such other and further relief as the Court deems just and proper.

DATED this _____ day of _____, 20____.

Petitioner Pro Se

Print Name

STATE OF MONTANA)
) ss.
COUNTY OF _____)

_____, being first duly sworn on oath, says that he/she is the Petitioner in the above-entitled proceeding; that he/she has read the foregoing Petition 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.

Petitioner Pro Se

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 _____

Name

Address

City State Zip Code

Phone Number

[] PETITIONER/[] RESPONDENT PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

<p>In re the Marriage of:</p> <p>_____, Petitioner,</p> <p>and</p> <p>_____, Respondent.</p>	<p>Cause No.: _____</p> <p><input type="checkbox"/> Petitioner's/<input type="checkbox"/> Respondent's <input type="checkbox"/> Preliminary/<input type="checkbox"/> Final Declaration of Disclosure of Assets, Debts, Income, and Expenses</p>
--	--

Warning: Montana law, M.C.A. § 40-4-252, requires the full disclosure of all assets, debts, income, and expenses. Failure of either party to file a complete financial disclosure statement shall authorize the Court to accept the statement of the other party as accurate. Any deliberately false statement made hereon or on any schedules or attachments may subject you to the penalty of perjury or other appropriate relief and may be considered a fraud upon the Court.

If you need additional space on which to list your assets, debts, income, or expenses, please attach additional sheets of paper as necessary. Do not write in the margins or on the reverse sides of the pages of this document.

1. Disclosure of Assets

a. Real Estate

<u>Description</u>	<u>Estimated Value</u>	<u>Name(s) on Title</u>
Address: _____ Legal Description: _____ _____ Is there a secured debt on the property? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, amount owed: _____ As of: ____ / ____ / ____ Lender: _____		
Address: _____ Legal Description: _____ _____ Is there a secured debt on the property? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, amount owed: _____ As of: ____ / ____ / ____ Lender: _____		

b. Vehicle(s)

<u>Description</u>	<u>Estimated Value</u>	<u>Name(s) on Title</u>
Year/Make/Model: _____ VIN#: _____ Is there an outstanding loan on the vehicle? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, amount owed: _____ As of: ____ / ____ / ____ Lender: _____		
Year/Make/Model: _____ VIN#: _____ Is there an outstanding loan on the vehicle? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, amount owed: _____ As of: ____ / ____ / ____ Lender: _____		

<u>Description</u>	<u>Estimated Value</u>	<u>Name(s) on Title</u>
Year/Make/Model: _____ VIN#: _____ Is there an outstanding loan on the vehicle? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, amount owed: _____ As of: ___ / ___ / ___ Lender: _____		
Year/Make/Model: _____ VIN#: _____ Is there an outstanding loan on the vehicle? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, amount owed: _____ As of: ___ / ___ / ___ Lender: _____		

c. Bank Accounts and Cash

<u>Description</u> (include name of bank and account number)	<u>Balance as of</u> ___ / ___ / ___	<u>Name(s) on Account</u>
Cash		XXXXXXXXXX

d. Pensions/Retirement Accounts; Life Insurance (Cash Value); Stocks, Bonds, Secured Notes, Mutual Funds

<u>Description</u>	<u>Estimated Value</u>	<u>Name(s) on Account</u>

e. Personal Property (including appliances, furniture, jewelry, art, guns, etc.)

<u>Description</u>	<u>Estimated Value</u>	<u>Name(s) on Title</u>

g. Other Assets

<u>Description</u>	<u>Estimated Value</u>	<u>Name(s) on Title</u>

2. Disclosure of Debts

<u>Description</u>	<u>Creditor</u>	<u>Amount Owed</u>	<u>Name on Debt</u>
<i>Secured Debt on Real Property</i>	<i>(See 1(a) above)</i>	<i>XXXXX</i>	<i>XXXXXXXXXX</i>
<i>Vehicle Loan(s)</i>	<i>(See 1(b) above)</i>	<i>XXXXX</i>	<i>XXXXXXXXXX</i>
Utility Bill(s):			

<u>Description</u>	<u>Creditor</u>	<u>Amount Owed</u>	<u>Name on Debt</u>
Credit Card(s):			
Student Loan(s):			
Medical Expenses:			
Other Liabilities:			

3. Disclosure of Income

The []Petitioner/ []Respondent has the following income:

<u>Source of Income</u>	<u>Amount per Month</u>
Gross Wages, Salary, Commissions	
Rents, Interests, Dividends	
Self Employment Earnings	
Unemployment or Worker's Compensation	
Social Security Benefits, including SSI	
Public Assistance	
Food Stamps	
Pension, Retirement	

<u>Source of Income</u>	<u>Amount per Month</u>
Child Support	
Dependent's Benefits	
Other Income (<i>describe</i>):	

4. Disclosure of Expenses

The Petitioner/ Respondent has the following expenses:

<u>Description of Expense</u>	<u>Amount per Month</u>
Taxes and other money withheld from income	
Retirement	
Health Insurance (self and children)	
Medical Expenses	
Housing (rent or mortgage payment)	
Property Taxes	
Property Insurance	
Transportation	
Car Insurance	
Student Loans	
Utilities	
Telephone	
Clothing	
Food and Household Supplies	
Child Care	
Child Support Payments	

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Marriage of:

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

**Summons and Temporary Economic
Restraining Order by Clerk of Court**

**THE STATE OF MONTANA SENDS GREETINGS TO THE ABOVE-NAMED
RESPONDENT:**

YOU, THE RESPONDENT, ARE HEREBY SUMMONED to answer the Petition in this action which is filed in the office of the Clerk of the above-named Court, a copy of which is served upon you with this Summons, and to file your answer and serve a copy of your answer upon the Petitioner within twenty-one days after the service of this Summons, exclusive of the day of service. If you fail to appear or answer, judgment will be taken against you by default for the relief demanded in the Petition.

TO PETITIONER AND RESPONDENT:

Pursuant to Mont. Code Ann. 40-4-121(3), the Petitioner and Respondent are hereby restrained from transferring, encumbering, pawning, pledging, hiding, or in any way disposing of any property, real or personal, whether jointly or separately held, without either the consent of the other party or an order of the court, except in the usual course of business or for the necessities of life. Each party must notify the other of any proposed extraordinary expenditures at least five business days before incurring the expenditures and must account to the court for all extraordinary expenditures made after service of the summons.

This restraining order does not prevent either party from using any property to pay reasonable attorney fees in order to retain counsel in the proceeding.

Petitioner and Respondent are further restrained from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile and disability coverage held for the benefit of a party or a child of a party for whom support may be ordered.

This temporary restraining order shall continue until another order of the Court is issued either amending or vacating this temporary restraining order.

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER M.C.A. §§ 45-5-220 OR 45-5-626.

DATED this ___ day of _____, 20___.

(SEAL)

Clerk of the District Court

By: _____
Deputy Clerk

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

<p>In re the Marriage of:</p> <p>_____, Petitioner,</p> <p>and</p> <p>_____, Respondent.</p>	<p>Cause No.: _____</p> <p>Notice and Acknowledgment of Receipt of Summons and Petition for Dissolution of Marriage</p>
--	--

NOTICE

To: _____, the Respondent herein:

The following documents are served pursuant to Rule 4(D)(1)(b) of the Montana Rules of Civil Procedure:

- Summons and Temporary Economic Restraining Order
- Petition for Dissolution of Marriage
- Petitioner's Declaration of Assets, Debts, Income and Expenses
- _____
- _____

If you want to avoid having the sheriff serve you with the documents enclosed, you may complete the acknowledgment part of this form and return the completed form to the sender within

20 days after the date it was mailed to you, as shown below. You may retain the other enclosed copy of this form for your records.

By signing the Acknowledgment, you are agreeing to be served by mail instead of by the sheriff. It does not mean that you agree to the contents of the Petition, and it does not take away any of your rights to contest the Petition.

If you decide to complete and return this form, you must sign and date the Acknowledgment below, and return it in the enclosed stamped return envelope.

If you do not complete and return this form to the sender within 20 days after the date it was mailed to you, as shown below, you may be required to pay any expenses incurred in serving the enclosed documents in any other manner permitted by law.

If you do complete and return this form, you must answer the Petition within 20 days after the date of signature which you place on the Acknowledgment below. If you fail to answer the complaint within the foregoing 20 day period, judgment by default will be taken against you for the relief demanded in the Petition.

CERTIFICATE OF MAILING

I declare under penalty of perjury that two copies of this Notice and Acknowledgment of Receipt of Summons and Petition, a stamped return envelope, and the following documents:

- Summons and Temporary Economic Restraining Order
- Petition for Dissolution of Marriage
- Petitioner's Declaration of Assets, Debts, Income and Expenses
- _____
- _____

were sent to the Respondent by first class mail, postage prepaid on the _____ day of _____, 20__.

Date of Signature

Petitioner Pro Se Signature

Print Name

ACKNOWLEDGMENT OF RECEIPT

I declare, under penalty of perjury, that I am the Respondent and that I accept service in this action of the following:

- Summons and Temporary Economic Restraining Order
- Petition for Dissolution of Marriage
- Petitioner's Declaration of Assets, Debts, Income and Expenses
- _____
- _____

and that I received a copy of these documents in the above-captioned matter at (*address*):

_____ on the
_____ day of _____, 20____.

Date of Signature

Respondent's Signature

Print Name

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

<p>In re the Marriage of:</p> <p>_____, Petitioner,</p> <p>and</p> <p>_____, Respondent.</p>	<p>Cause No.: _____</p> <p style="text-align: center;">Praecipe</p>
--	--

To the Sheriff of _____ County:

Please serve upon the Respondent the following documents:

- Summons and Temporary Economic Restraining Order (original and one copy)
- Petition for Dissolution of Marriage
- Petitioner's Declaration of Assets, Debts, Income and Expenses
- _____
- _____
- _____

Also enclosed is:

- The Petitioner's Affidavit and 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. A physical description of the Respondent is: _____
_____.

2. The Respondent does not/ does carry a weapon.
3. At present, the Respondent can be found:
 - At his/her residence: _____.
Times normally available at this address: _____.
 - At his/her place of employment: _____.
Times normally available at this address: _____.
 - Other: _____.
Times normally available at this address: _____.

Please serve the papers on the Respondent as soon as possible. Please return the original Summons to me at the address above, along with proof of service or a statement that you were unable to locate the Respondent.

DATED this ____ day of _____, 20____.

Petitioner Pro Se

Print Name

Record of Service *(for Sheriff's use only)*

I hereby certify that (Choose One):

- I personally served the Summons and the accompanying documents listed herein on the Respondent by delivering a copy of said Summons and documents to him/her personally on the ____ day of _____, 20____, in the County of _____, State of _____.
- After due effort, I was unable to locate or serve the Respondent in the County of _____, State of _____.

DATED this ____ day of _____, 20____.

Sheriff

By: _____
Deputy Sheriff

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

In re the Marriage of:

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Summons for Publication

**THE STATE OF MONTANA SENDS GREETINGS TO THE ABOVE-NAMED
RESPONDENT:**

You, the Respondent, are hereby summoned to answer the Petition in this action, which is filed with the Clerk of this Court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the Petitioner within twenty-one days after service of this Summons, exclusive of the day of service; and in case of your failure to appear or answer, judgment will be taken against you for the relief demanded in the Petition. This action is brought to obtain a dissolution of marriage.

Title to and interest in the following real property will be involved in this action :

_____.

DATED this _____ day of _____, 20____.

(SEAL)

Clerk of Court

By: _____

Deputy Clerk

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Marriage of:

Petitioner,

and

Respondent.

Cause No.: _____

Affidavit for Publication of Summons

STATE OF MONTANA)
) ss.
COUNTY OF _____)

_____, being first duly sworn, deposes and says as follows:

1. I am the Petitioner in the above-entitled action.
2. I am a resident of the state of Montana.
3. I have a cause of action against the Respondent for dissolution of marriage.
4. The Petition in this action was duly filed with the Clerk of this Court on the ___ day of _____, 20 ____, and a Summons was thereupon issued.

5. The Summons was duly issued out of this Court to the Sheriff of the County of _____, State of _____, with direction to said Sheriff to serve the Summons and Petition upon the Respondent. The Sheriff returned the Summons showing a failure to find the Respondent.
6. The Respondent (Choose All that Apply):
- resides out of the state;
 - has departed from the state;
 - cannot, after due diligence, be found within the state;
 - has concealed himself/herself in order to avoid the service of summons.
7. Personal service of the Summons cannot be made upon the Respondent.
8. The Respondent is a necessary and proper party to the above-entitled action.
9. For the foregoing reasons, I request an order for service of summons by publication to be made in a _____ County, Montana, newspaper.

DATED this ____ day of _____, 20__.

 Petitioner Pro Se

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

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

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

<p>In re the Marriage of:</p> <p>_____, Petitioner,</p> <p>and</p> <p>_____, Respondent.</p>	<p>Cause No.: _____</p> <p style="text-align: center;">Order for Publication of Summons</p>
--	--

Upon reading Petitioner’s filed Affidavit for Publication of Summons, the Clerk of this Court finds that:

1. The Petitioner has a cause of action against the Respondent in the above-entitled action;
2. The Respondent is a necessary and proper party to the above-entitled action; and
3. Personal service cannot be made upon the Respondent for the reasons contained in the Petitioner’s Affidavit.

IT IS ORDERED that service of the Summons in this action be made upon the Respondent by publication in the _____, a newspaper published in _____ County, Montana, which is hereby designated as the newspaper most likely to give notice to the Respondent; that such publication shall be published once each week for three successive weeks; and that the Summons shall contain a general statement of the nature of this action.

DATED this _____ day of _____, 20 ____.

(SEAL)

Clerk of District Court

by: _____
Deputy Clerk

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Marriage of:

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Request for Hearing

COMES NOW the Petitioner and respectfully requests that this Court schedule a hearing for the purpose of obtaining a Final Decree of Dissolution in the above entitled cause. The Petitioner estimates that the hearing will only be 15 minutes and that the Petitioner will be the only person to testify.

DATED this ____ day of _____, 20____.

Petitioner Pro Se

Print Name

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Marriage of: _____, Petitioner, and _____, Respondent.	Cause No.: _____ Order Granting Hearing
---	---

IT IS HEREBY ORDERED that the final hearing in this matter is scheduled for the ____ day
of _____, 20____, at _____ o'clock ____m.

DATED this ____ day of _____, 20____.

DISTRICT COURT JUDGE

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

**MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY**

<p>In re the Marriage of:</p> <p>_____, Petitioner,</p> <p>and</p> <p>_____, Respondent.</p>	<p>Cause No.: _____</p> <p style="text-align: center;">Request for Entry of Default, Application for Default Judgment, and Waiver of Final Disclosure Requirements</p>
--	---

The Respondent has been duly served with Summons in the above entitled action and has not made an appearance herein by answer or otherwise within the time allowed by law.

1. The Petitioner requests that Respondent's default be entered by the Clerk of Court and that the Court issue a default judgment;
2. Pursuant to M.C.A. § 40-4-257, the Petitioner waives the final disclosure requirements of M.C.A. §§ 40-4-253 and 40-4-254. The Respondent was duly served with a copy of the Petitioner's Preliminary Declaration of Disclosure as required by M.C.A. § 40-4-252.

Dated this _____ day of _____, 20____.

Petitioner Pro Se

Print Name

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

<p>In re the Marriage of:</p> <p>_____, Petitioner,</p> <p>and</p> <p>_____, Respondent.</p>	<p>Cause No.: _____</p> <p>Entry of Default</p>
--	--

The Default of the Respondent is hereby entered on this ____ day of _____,
20____, for his/her failure to appear or answer the Petition within the time allowed by law, or at all.

By: _____
Clerk of Court

Deputy Clerk of Court

Name

Address

City State Zip Code

Phone Number

PETITIONER PRO SE

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Marriage of:

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

Notice of Entry of Decree

TO THE ABOVE-NAMED RESPONDENT:

Notice is hereby given that on the _____ day of _____, 20____, the Court entered a Final Decree of Dissolution in the above-entitled action. A true and correct conformed copy of the Final Decree of Dissolution is attached to this Notice and served upon you.

DATED this _____ day of _____, 20____.

Petitioner Pro Se

Print Name

Proof of Service

STATE OF MONTANA)
): ss
COUNTY OF _____)

_____, being first duly sworn, deposes and says as follows:

A true and correct copy of the foregoing Notice of Entry of Decree was served the ____ day of _____, 20____, by mailing said copy, postage paid, to:

Respondent

Address

DATED this ____ day of _____, 20____.

Petitioner's Signature

SIGNED AND SWORN to before me on the ____ day of _____, 20____.

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

MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

In re the Marriage of:

_____,
Petitioner,

and

_____,
Respondent.

Cause No.: _____

**Findings of Fact, Conclusions of Law
and Final Decree of Dissolution**

The Petition for Dissolution, filed herein on the ____ day of _____, 20____, came for hearing this ____ day of _____, 20____. The Petitioner appeared pro se. The Respondent did not appear or otherwise respond to the Petition. The Respondent's default was entered on the ____ day of _____, 20____. After considering all evidence and pleadings, the Court finds:

FINDINGS OF FACT

1. The Respondent was served with the Petition and Summons on the ____ day of _____, 20____.

2. Choose One:
- The parties were married on (*date*):_____. The marriage was registered in the County of _____, State of _____.
- The parties were married at common law. The parties assumed a marital relationship by mutual consent and agreement and confirmed their marriage by cohabitation and public repute.
3. Choose One:
- The parties separated on (*date*): _____.
- The parties are not yet separated.
4. Choose One:
- The marriage is irretrievably broken in that there is serious marital discord which adversely affects the attitude of one of the parties towards the marriage, and there is no reasonable prospect of reconciliation.
- The marriage is irretrievably broken in that the parties have lived separate and apart for a period of more than one hundred eighty (180) days preceding the commencement of these proceedings, and there is no reasonable prospect of reconciliation.
5. The conciliation provisions of the Montana Conciliation law and M.C.A. § 40-4-107 do not apply.
6. The Petitioner has been domiciled within the state of Montana for at least ninety (90) days prior to the filing of this action.
7. Choose One:
- There were no children born of the marriage.
- There were children of the marriage, but none are now minors.
- There were children born of the marriage, but this Court has no jurisdiction over them.
8. The wife is not pregnant with a child of this marriage.
9. A Temporary Economic Restraining Order was issued in this matter under M.C.A. § 40-4-121(3) and is currently in effect.

-
-
-
18. All of the other allegations of the Petitioner's complaint not inconsistent herewith are true, and the relief requested should be granted.

FROM the above Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. The Court has jurisdiction over this cause.
 2. The marriage of the parties is irretrievably broken.
 3. The Petitioner, having complied with the Preliminary Disclosure requirements of M.C.A. § 40-4-252 and waived the final disclosure requirements of M.C.A. §§ 40-4-253 and 40-4-254, and the Respondent having failed to answer within the statutory time frame, the Court finds good cause to enter this Decree without service of final declarations of disclosure.
 4. Based on the duration of the marriage and on the parties' age, health, education, skills, and financial circumstances, the Petitioner's proposed division of property and debts is equitable.
 5. If requested, the wife should be restored to her former name.
 6. Other Provisions: _____
-
-
-

FROM the above Findings of Fact and Conclusions of Law, the Court orders the following:

DECREE OF DISSOLUTION OF MARRIAGE

1. The marriage between the Petitioner and the Respondent is hereby dissolved.
2. Choose One:

The parties do not own any real property.

The Petitioner/ Respondent is hereby granted all right, title, and interest in the real property located at _____, with legal _____ description _____ of _____.

The Petitioner/ Respondent shall transfer his/her interest in this real property to the Petitioner/ Respondent.

or

Describe the proposed distribution of the real property: _____

If needed, attach additional sheets as Exhibit _____.

3. Choose One:

The parties do not own any vehicles.

or

The parties' vehicle(s) shall be distributed as follows (*Please include the year, make, and model for each vehicle listed.*):

a. The Petitioner is awarded all right, title and interest in following vehicle(s):

Vehicle: _____ VIN#: _____

Vehicle: _____ VIN#: _____

Vehicle: _____ VIN#: _____

b. The Respondent is awarded all right, title, and interest in the following vehicle(s):

Vehicle: _____ VIN#: _____

Vehicle: _____ VIN#: _____

Vehicle: _____ VIN#: _____

- c. The parties shall transfer all right and title in said vehicle(s) to the appropriate party. If either party fails to transfer such right and title in the vehicle(s) within twenty (20) days from the date of this Decree, the registrar of Motor Vehicles of the State of Montana is hereby ordered to issue sole title to the party awarded said vehicle(s) upon receipt of a certified copy of this Decree.

If needed, attach additional sheets as Exhibit _____.

4. Choose One:

- Each party is hereby granted the exclusive right and title to the personal property currently in his or her possession.

or

- Each party is hereby granted the exclusive right and title to the following personal property:

To Petitioner:

To Respondent:

If needed, attach additional sheets as Exhibit _____.

5. Choose One:

- [] There are no debts of the marriage.
- [] The parties have accumulated debts during the course of their marriage. Each party shall be responsible for the debts currently in his or her name.

or

- [] The parties have accumulated debts during the course of their marriage. The responsibility for the debts shall be distributed as follows:

To Petitioner:

Description of Debt	Creditor	Current Balance	Amount to Petitioner

Any and all other debts in Petitioner’s name only; any and all other debts incurred solely by the Petitioner since the parties’ separation.

To Respondent:

Description of Debt	Creditor	Current Balance	Amount to Respondent

Description of Debt	Creditor	Current Balance	Amount to Respondent

Any and all other debts in Respondent's name only; any and all other debts incurred solely by the Respondent since the parties' separation; and any and all other debts not disclosed by the Respondent to the Petitioner.

If needed, attach additional sheets as Exhibit _____.

6. The Temporary Economic Restraining Order issued in this matter under M.C.A. § 40-4-121(3) is hereby dissolved.

7. Each party is ordered to execute any and all documents which now or in the future may be necessary to carry into full force and effect the terms and conditions of this Decree.

8. Choose One:

The wife's (D.O.B. _____) name is restored to _____.

The wife's name is not restored to her former name.

9. Other Provisions: _____

DATED this ____ day of _____, 20____.

DISTRICT COURT JUDGE

INSTRUCTIONS

Order Information: Check the box that most accurately describes the type of order being entered. If it is a dissolution of marriage, enter the place of marriage and indicate if child support is ordered. Temporary support orders and paternity orders that contain child support are categorized as “child support order, without dissolution.” “Child support order” includes medical support orders. If the order does not contain a child support order, social security numbers of the parties are not required and only Parts 1, 2 and 9 need to be completed.

Parts 1 and 2: Provide information about the parties to the order. If there is a child support order, be sure to check the box that shows whether the party owes support (payer) or will receive support (payee). If a party is ordered to both pay and receive support, check the box labeled “both.” If there is no support order, check the box labeled “N/A” for not applicable. If a party is ordered to pay \$0 support, that party should be considered a payer.

Part 3: Provide information about the children named in the order and indicate which parent or other party the children live with. If the parenting plan provides for shared residential parenting, circle “B” for both. If a child is not living with either parent, circle “O” and list the child’s name and address.

Part 4: Complete this part if support is ordered to be paid to an agency or an individual other than a parent.

Part 5: Indicate whether any of the parties are protected from each other by a protective or restraining order. If yes, list the names of the protected parties. This includes any protected children.

Part 6: Provide information about the employment or other source of income of the party who is ordered to pay child support. If both parties are ordered to pay support, skip Part 6 and complete Part 10 instead.

Part 7: Provide information about the support order. Check the type(s) of support ordered and enter the amount and how often it is due. (Example: \$100 per week.) All orders should have a “begin” date; many will not have an “end” date. If both parties are ordered to pay support, skip Part 7 and complete Part 11 instead.

If the order enters a judgment for past due support, show the **total** amount of the judgment. If the judgment includes amounts for penalties, fees or interest, list those amounts on the appropriate lines.

List any special conditions of the support order. (Example: support is due until the child graduates from college.)

Copy the information requested about the guidelines to this form from the guidelines worksheet.

Part 8: Provide information about health insurance coverage for the children. If insurance is not provided, indicate whether it is available through the employer of either parent. Relationship of the party providing insurance is the party’s relationship to the children. (Example: mother, father, mother’s spouse, father’s spouse.) List the terms and conditions of the insurance coverage. (Example: 80/20 plan, \$500 deductible, major medical only.)

Part 9: Provide information about the person completing this form.

Part 10: Employment information for multiple payers. Complete only if both parties are ordered to pay support. See Part 6 instructions.

Part 11: Order information for multiple payers. Complete only if both parties are ordered to pay support. See Part 7 instructions.

Multiple Payers: Complete Parts 10 and 11 only if the order requires both parties to pay support.

10 **Mother's Employer/Income Source Information:** Provide information about the mother's employment or periodic source of income. (Attach additional pages if needed.)

Name of Employer or Source of Income Telephone

Street City State Zip

Father's Employer/Income Source Information: Provide information about the father's employment or periodic source of income. (Attach additional pages if needed.)

Name of Employer or Source of Income Telephone

Street City State Zip

11 **Support Order:** Date Order Signed: _____

Mother's Support Obligation If applicable, arrears due at time of order: \$ _____

Check type of support and enter appropriate information

Support Type	Total Due	Frequency	Begin Date	End Date	Judgment	Penalty* (*list amounts if included in judgment)	Fees*	Interest*
<input type="checkbox"/> Child Support:	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____
<input type="checkbox"/> Medical Support:	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____
<input type="checkbox"/> Spousal Support: (Alimony)	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____

Is the mother exempt from income withholding under MCA 40-5-315? No Yes Tribal Order

Father's Support Obligation If applicable, arrears due at time of order: \$ _____

Check type of support and enter appropriate information

Support Type	Total Due	Frequency	Begin Date	End Date	Judgment	Penalty* (*list amounts if included in judgment)	Fees*	Interest*
<input type="checkbox"/> Child Support:	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____
<input type="checkbox"/> Medical Support:	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____
<input type="checkbox"/> Spousal Support: (Alimony)	\$ _____	per _____	_____	_____	\$ _____	\$ _____	\$ _____	\$ _____

Is the father exempt from income withholding under MCA 40-5-315? No Yes Tribal Order

List any special terms/conditions of the support order(s): _____

Was the mother represented by an attorney? Yes No Was the father represented by an attorney? Yes No

Information from child support guidelines worksheet:

Mother: "Income after Deductions": \$ _____ "Credit for Payment of Expenses": \$ _____

Father: "Income after Deductions": \$ _____ "Credit for Payment of Expenses": \$ _____