

INSTRUCTIONS & CHECKLIST

PACKET “H” -- PERMANENT PARENTING PLAN

NOTE: If an Order of Protection has been issued by the Justice Court or Municipal Court, see Pro Se Packet K for instructions on how to transfer the Order of Protection to District Court.

BEFORE YOU BEGIN: READ THESE INSTRUCTIONS AND FILL OUT A SENSITIVE DATA FORM

The Montana Supreme Court has enacted Court Rules for Privacy and Public Access to Court Records in Montana. These rules apply to all court records. There is certain information that you cannot put in a court record which should be maintained as confidential.

Fill out the **SENSITIVE DATA FORM** in this packet to keep the following sensitive information confidential in a court record:

- 1) Complete Social Security Numbers
- 2) Complete Financial Account Numbers (not usually applicable to parenting plans)
- 3) Full birth dates of any person involved in this case

Use these formats when required to put sensitive information **in all other court documents** in this packet:

- For a social security number, use this format: **XXX-XX-1234**.
- For a date of birth, use this format: **age ____**.
- For the name of a minor child, use the child’s full name and age at the time Petition is filed. For example, “Tyler Jones, age 3.”

File this form with your Petition. Keep a copy in a safe place.

The Clerk will keep the Sensitive Information Form separately. The public will not have access to this document, unless the court orders it.

I. PETITIONING FOR A PERMANENT PARENTING PLAN:

There are LOTS of forms that will need to be completed. Take it step-by-step-- in order -- and it should make it easier for you. On the top half of the first page of every court document there is a “**heading**” which identifies the party completing the form and a “**caption**” which sets out the case description. **Fill out the heading and caption exactly the same way on every form.** Because you filed this action, **YOU ARE THE PETITIONER**. You will always be the Petitioner, even if you are responding. Use initials of child(ren), **do not** put full name in caption.

STEP 1. -- Filling Out The Forms

Note: You might want to use a pen with **blue ink** so you always know which are the originals and which are copies. Also, put **N/A** (“not applicable”) in any spaces that don’t apply to your situation.

- Form #119** Fill in every section. Sign page 9 in two places in front of a notary public. The Clerk of Court’s Office can notarize these documents. Notaries also can be found at banks, law offices, etc.

(Revision Date: 01/11)

- Form #120 Fill in every section. Sign on pages 10 & 11 in front of a notary public. If you need assistance developing a parenting plan, consult Rule 12(f) of the Fourth Judicial Rules of Practice, which can be found via internet at: <http://www.montanacourts.org/dcourt/rules/local/4th.pdf>.

If you need help with the computation of child support payments, check the following website for more information and an application: <http://www.dphhs.mt.gov/csed/index.shtml>.
OR - an application packet may be purchased at the Clerk of District Court's office.
- Form #122 Complete caption and read. This is the Summons and the Order to attend parenting plan orientation, which the Clerk of District Court signs. You will receive a copy.
- Form #122 Complete and sign.
- Form #123 Complete caption only.
- Form #124 Sign and date letter.
- Form #126 Complete page 1 & 2, sign on page 2.

STEP 2. -- Making Copies

- Make 3 copies of Form 121 (Summons)
- Make 2 copies of Documents #119, 120, 122, 123, 124 & 126

STEP 3. -- Filing Your Case With Clerk of Court.

- Bring the originals and two copies of Form #119, 120, 121 & 122 to the Clerk of District Court's Office for filing. The Clerk will assign a cause number and department number to identify your case with the Court. One copy will be for your own personal records.
- \$120.00 Fee -- cash/money order/personal check (subject to change). If you cannot afford the fee, fill out the form "Affidavit of Inability to Pay" form in this packet, Form 118. If the Judge decides you cannot afford to pay the filing fee, your fees may be waived in whole or in part.
- The Clerk will file stamp all your documents (copies and originals). The Clerk will keep the originals and give you the copies. One set is to be retained by you. One copy is for service upon the co-parent. The original Summons will be retained by the Clerk of Court and they will issue a Duplicate Original to use for service.
- The Summons includes an order to attend mandatory Parenting Plan Orientation, Form 121 which is issued by the Clerk of Court. Parenting Plan Orientation is a 90-minute program that provides an overview of community resources available to assist parents and children through the process of establishing parenting plans.

II. SERVING PAPERS ON THE CO-PARENT:

STEP 4. -- Serving the co-parent.

NOTE: If there is a TOP or Order of Protection that prohibits you from contacting the co-parent, service of these documents must only be accomplished following the directions in #1 or #2 below. You must not personally deliver these documents to the co-parent.

There are four ways to serve the copies of documents you have now prepared on the co-parent.

- 1) You can give the documents to the Sheriff for delivery. You will be charged a fee. If you use this method, fill out Form 125 (Praeipce) which gives the Sheriff directions on who and where to serve the papers. Keep a copy for your records. After service is made, the Sheriff will complete his record of service on page 3 and return it to you with the duplicate original Summons. Both documents then need to be filed with the Clerk of Court.

Documents to Include With the Praeipce Given to the Sheriff's Office:

Copies of Form # 119 and 120 (Duplicate Original AND 1 copy of 121), 122, & 126

OR

- 2) You can mail the documents. The Clerk of Court will file the original of Form #121 and supply you with copies. Mail copies of Form # 119, 120, 121, 122, & 126 to the other party. **IT IS YOUR RESPONSIBILITY TO**

MAKE SURE THE OTHER PARTY SIGNS AND RETURNS THE ACKNOWLEDGMENT OF SERVICE FORM. If signed and returned, file the Acknowledgment of Service form (Form 126).

OR

3) You can personally deliver copies of Form #119, 120, 121, 122 & 126 to the other party, **UNLESS there is a TOP or Order of Protection in place.** It is your responsibility to make sure the other party signs and returns the Acknowledgment of Service form (Form 126). If signed and returned, file the Acknowledgment of Service form with the Clerk of Court.

OR

4) If you absolutely do not know where the child's parent lives and cannot have the Summons served, there is the option of "Service by Publication." **This is not intended as a substitute for other forms of service if you know where the other party is.** The Court will require you to swear under oath that you made a diligent search for the other party and what specific things you did to locate him/her for serving the Summons. You will be required to publish your summons in a local newspaper three times, once each week for 3 successive weeks. The opposing party will have 20 days to respond, which will start to run after the last day of publication. Specific information on how to serve by publication may be found at: <http://www.montanacourts.org/>, click on "Forms" and look through for "Service" under the Parenting Plan packet.

STEP 5. – Mailing CSED Paperwork.

You must complete this step even if you already have an open CSED case.

- Mail the following to CSED:
Form #123 & 124 -- Originals
Form #122 -- Copy
- Mailing Address: Montana D.P.H.H.S.
Child Support Enforcement Division
2675 Palmer Street - Suite C
Missoula MT 59808
- CSED will either decline to be involved, or you will be contacted by them for more information.

***** **IF 20 DAYS HAVE PASSED AFTER THE DAY THE OPPOSING PARTY WAS SERVED AND THE CO-PARENT HAS NOT FILED A RESPONSE TO YOUR PETITION ----- YOU WILL NEED TO COMPLETE PACKET J, "PARENTING DEFAULT PACKET"**

***** **DO NOT DISCARD THE BALANCE OF THE DOCUMENTS -- YOU WILL USE THEM!**

IV. REACHING AGREEMENT:

If you can agree on a Parenting Plan, you will not have to appear in Court for a hearing. If you agree, complete Step 6.

STEP 6. -- Final Agreements.

It is best if you are able to reach an agreement between yourselves on parenting and child support. IF YOU CAN AGREE,

- Form # 127 Fully complete this form.
- Form # 128 Complete page 1 and fill in caption only on page 2. The Court may or may not set a hearing.
- Form # 131 Fully complete this form.
- Form # 132 Complete the Stipulated Permanent Parenting Plan
- Form # 133 Complete the Caption -- Order Adopting Stipulated Permanent Parenting Plan

- Make 2 copies of each form - one for yourself and one for the co-parent.
- File original Form #127, 128, 131, 132 & 133 with the Clerk of Court.
- There may be a short hearing on the best interests of the child(ren). If so, you will receive an Order setting a hearing date. Once the Court approves the Parenting Plan, you will receive a copy of the Order. YOU ARE DONE!!!

V. UNABLE TO REACH AGREEMENT:

If you cannot reach agreement, you have several more steps to complete and will have to appear in Court.

STEP 7. -- Asking the Court to Decide.

- Form #127 If you can't agree on parenting, child support, or property division, complete this form, sign, and file the original with the Clerk of Court. Mail a copy to your spouse. You should receive notice from the Court of the next step in your case.
- Form #129 Complete entirely. The Judge will make amendments, if necessary.
- Form #130 Complete the caption. Do not sign. (You will sign later - see Step #10.)
- Form #131 Complete those sections you can. After the final hearing you will be expected to **fully** complete the form.

VI. FINAL PAPERWORK:

STEP 8. -- Just a Little More !!!

- Make 2 copies of Form #127 and mail a copy of each to the co-parent.
- Make a copy of Form #130 & 131 for your records.
- Make 4 copies of Form #129. Keep one for your records, mail a copy to the co-parent with Form 134, Certificate of Service.
- Deliver the originals of Form #127, 129, 130, & 131 and the two copies of Form #129 to the Clerk of Court -- **with Form #127 on top.**

- You will be notified of the hearing or mediation date to decide the issues.

VII. HEARING IN COURT:

You have chosen to represent yourself. Arrive at the courthouse early. While parenting can be very difficult and emotional, the Court expects the parties to be civil and remain focused on the legal issues.

STEP 9. -- Court Hearing - on Contested Issues.

Be prepared to present evidence to the Court and discuss your position. This will include calling witnesses and/or presenting exhibits.

VIII. AFTER THE HEARING:

STEP 10. -- Final Paperwork.

- After the hearing, you must file Form 131 with the Clerk of Court.
- A filing fee of \$45 (subject to change) must be paid to the Clerk of Court before the Final Decree (Form #129) is filed.
- Copies of the Final Decree will be available at the Clerk of Court's office. The Clerk's office charges \$10 per copy. However, you have already supplied two extra copies of the Final Decree. The Clerk's office will conform these copies with the original at no cost. The Clerk should then certify one copy. The cost for certification is \$2.00 each.
- Form #130 Complete, sign, and mail a copy to your spouse, together with one certified copy of the Final Decree (Form #129) signed by the Judge. File original Form #130 with the Clerk of Court.
- If there is a child support order in the Final Decree, you will need to submit a certified copy of the Decree, with calculations attached, to CSED (Child Support Enforcement Division) along with a completed application to CSED and a \$15 fee. The application is available at: <http://www.dphhs.mt.gov/csed/csedforms/index.shtml>