

# WHAT FORMS DO I NEED TO FILE IF I AM MOVING?

SECTION 40-4-217 MONTANA CODE ANNOTATED reads as follows:

“ 40-4-217. Notice of intent to move. (1) A parent who intends to change residence shall, unless precluded under 40-4-234, provide written notice to the other parent.

(2) If a parent's change in residence will significantly affect the child's contact with the other parent, notice must be served personally or given by certified mail not less than 30 days before the proposed change in residence and must include a proposed revised residential schedule. Proof of service must be filed with the court that adopted the parenting plan. Failure of the parent who receives notice to respond to the written notice or to seek amendment of the residential schedule pursuant to 40-4-219 within the 30-day period constitutes acceptance of the proposed revised residential schedule.”

\*\*\*\*\*

**NOTE:** These forms are not intended to take the place of an attorney’s advice. If you have questions or do not understand your duties and obligations you should contact an attorney.

\*\*\*\*\*

**PLEASE READ THIS PACKET IN ITS ENTIRETY BEFORE PROCEEDING!**

If your move will not significantly affect the other party’s contact with your child(ren), you will only need to file a “Notice of Intent to Move.”

**If your move will significantly affect the other party’s contact with your child(ren) there are 6 forms you may need to file.**

Each form serves a specific purpose and you, as the party filing the Notice of Intent to Move, have the duty of following the steps and filing the forms necessary to complete the process.

If both parties agree to the move and the “Proposed Revised Residential Schedule – Exhibit A” or the “Proposed Amended Parenting Plan,” no filing fee will be required from the Clerk of District Court. However, if the revised schedule or amended parenting plan are contested, the Clerk of Court will require the statutory \$120 filing fee to be paid by the party filing the Notice of Intent to Move – see page 4, item No. 3 under “Consent.”

## DEFINITIONS

- **OPPOSING PARTY**: The “opposing party” is the person on the other side of your court action – it could be your former spouse or the other parent.
- **PARTY**: Each court action has a Plaintiff, Petitioner, Respondent or Defendant. Every person named is a “party” to the action.
- **COURT CAPTION/HEADING**: A document filed with the Court is called a “pleading” and all pleadings have a Court “caption” or “heading.”

In the District Court of the Eleventh Judicial District, Flathead County

In re the Marriage of:	)	Cause No. DR-13-401(B)
	)	
Name of Party,	)	
	)	
Petitioner,	)	
and	)	<u>NAME OF PLEADING OR DOCUMENT</u>
	)	
Name of Party.	)	
	)	
Respondent.	)	

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- Every pleading or document filed in an action must have the exact same caption/heading. You or the other party could have been a Petitioner, Co-Petitioner, or a Respondent in your original action (dissolution or parenting plan). You will remain that party-type throughout the life of the case – regardless of the type of document you may file. All documents filed in connection with your case must match the original court heading and case or “cause” number. If you have questions, contact the Clerk of District Court or the Self-Help Law Center (SHLC) BEFORE filling in your forms.

## FORMS

ATTACHED ARE 6 FORMS – SPECIFICALLY IDENTIFIED BY NAME. PLEASE READ THE DESCRIPTION AND PURPOSE OF EACH FORM TO DETERMINE IF THEY ARE APPROPRIATE IN YOUR CASE AND WHAT YOU NEED TO DO WITH THEM.

### 1) NOTICE OF INTENT TO MOVE

- If you are the party that is moving, you need to prepare and file with the Clerk of District Court a “Notice of Intent to Move” not less than
- 30 days before your proposed move. You will be providing the other parent with your phone number, new physical address, and your mailing address (if different than your physical address). You

are required to either mail the “Notice of Intent to Move” by certified mail or to have the other parent personally served (by sheriff or process service). A “Request to Serve Documents” for personal service can be obtained from the SHLC or Clerk of Court.

## 2) PROPOSED REVISED RESIDENTIAL SCHEDULE - EXHIBIT A

- If your move will significantly affect the other parent’s contact with the child/children, you are also required to prepare and file with the Clerk of District Court a “Proposed Revised Residential Schedule – Exhibit A” which must be stapled to the “Notice of Intent to Move.”

**PLEASE NOTE:** In the event Exhibit A provided is not sufficient to revise all of the necessary changes in your Parenting Plan, you may obtain a “Proposed Amended Parenting Plan” form from the Self-Help Law Center, the Clerk of Court’s office, or from the Self-Help website: [courts.mt.gov/library/topic/default.mcp.x](http://courts.mt.gov/library/topic/default.mcp.x). This form will likewise need to be attached to your “Notice of Intent to Move.”

- In the event you are filing either a “Proposed Revised Residential Schedule – Exhibit A” or the “Proposed Amended Parenting Plan” form you may provide the other party with an opportunity to consent to the proposed schedule by filling out the court caption in the “Consent” (defined in No. 3 below) and sending it (or serving it) along with your “Notice of Intent to Move” and “Proposed Revised Residential Schedule – Exhibit A.”

## 3) CONSENT

- You may fill out the court heading/caption on the “Consent” form and provide the form to the other party along with a self-addressed stamped envelope. If the other party does not have any objection to your “Proposed Revised Residential Schedule – Exhibit A” or the “Proposed Amended Parenting Plan” they can sign the “Consent” and return it to you.
- Upon receipt of the signed “Consent” from the other party, you will need to file the “Consent” with the Clerk of District Court and also file your “Request for Uncontested Hearing” (defined in No. 4 below) along with a proposed “Order Granting Uncontested Hearing” (defined in No. 5 below). You will also need to provide the Court with a proposed “Order” to be signed AFTER the uncontested hearing (as defined in No. 6 below.)
- If the other party will not sign the “Consent” and opposes your move and the “Proposed Revised Residential Schedule – Exhibit A” or the “Proposed Amended Parenting Plan,” you can communicate with

them and come up with an agreed Stipulated Revised Residential Schedule (a form which can be obtained from the Self-Help Law Center, on line, or the Clerk of District Court) or you will need to file a “Request for a Contested Hearing” along with an “Order Granting Contested Hearing (as defined in No.’s 4 and 5 below).

- **PLEASE NOTE: MCA 25-1-201(a) requires a \$120 filing fee payable to the Clerk of District Court and becomes applicable in any situation wherein a “Consent” has not been obtained from the opposition or an agreement to modify an existing Parenting Plan cannot be reached.**

#### **4) REQUEST FOR CONTESTED OR UNCONTESTED HEARING**

Your request for a contested hearing or uncontested hearing is based upon whether or not you and the other party can come to an agreement.

- a.
  - If the other party **HAS NO OBJECTION** to your moving and agrees with the “Proposed Revised Residential Schedule – Exhibit A” or the “Proposed Amended Parenting Plan” they can sign the “Consent” and return it to you so it can be filed with the Clerk of District Court. By having the other party return the “Consent” to you, you will know that they do not object and you can proceed with filing a “Request for Uncontested Hearing” (see No. 4). You will also file a proposed “Order Granting Uncontested Hearing” and stamped, self-addressed, envelopes so both you and the other party will be notified of the hearing (see No. 5). You will also file an “Order” for the Court to sign after the uncontested hearing ( No. 6).
- b.
  - If the other party **OBJECTS** and will not sign the “Consent,” you must request a contested hearing (see No. 4) so the Court can determine the matter (this is if you are unable to come to an agreement with the other party and submit a Stipulated Revised Residential Schedule to the Court). In the event you file a “Request for Contested Hearing” you will also submit an “Order Granting Contested Hearing”(see No. 5) and self-addressed, stamped envelopes so you and the other party will be notified of the hearing date and time. You will also need to file an “Order” for the court to sign after the contested hearing (defined in No. 6 below).
- c.

- If the other party does nothing (does not respond) within 30 days of being served by a sheriff or process server OR your having mailed the “Notice of Intent to Move” by certified mail to them along with your “Proposed Revised Residential Schedule – Exhibit A” or “Proposed Amended Parenting Plan” (if applicable), their failure to respond constitutes their acceptance. You will then need to file a “Request for Uncontested Hearing” (No. 4) and the “Order Granting Uncontested Hearing” (No. 5), along with self-addressed, stamped envelopes for all parties. You will also need to file an “Order” for the Court to sign after the uncontested hearing (No. 6).

## 5) ORDER GRANTING CONTESTED OR UNCONTESTED HEARING

If the other party has no objection to your move and approves of your “Proposed Revised Residential Schedule – Exhibit A” or your “Proposed Amended Parenting Plan,” you can request an uncontested hearing. If the other party disagrees with your “Proposed Revised Residential Schedule – Exhibit A” or your “Proposed Amended Parenting Plan,” and you cannot come to a mutual agreement, you will need to request a contested hearing. At the time you file your request for a hearing you will also need to submit the “Order Granting [ ] Contested or [ ] Uncontested Hearing” for the Court to schedule the hearing date and time and you must provide the Court with stamped, self-addressed envelopes to all parties so you will be notified of the date and time of the contested or uncontested hearing.

## 6) ORDER

After the contested or uncontested hearing is held, the Court will issue an Order either approving of your “Proposed Revised Residential Schedule – Exhibit A”, your “Proposed Amended Parenting Plan” or stipulated (agreed) Revised Residential Schedule or plan – or in a contested matter the Court may impose its own Residential Schedule based upon the evidence submitted during the contested hearing. Your duty is to provide the Court with this proposed Order, along with self-addressed, stamped envelopes so that a copy of the Final Order can be mailed to all parties in the action.

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Petitioner, Pro Se  Co-Petitioner, Pro Se  Respondent, Pro Se

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT FLATHEAD COUNTY**

In re: the  Marriage  Parenting of: )

)

)

Cause No. \_\_\_\_\_

)

\_\_\_\_\_ )

Petitioner,

)

and

)

)

**NOTICE OF INTENT TO MOVE**

)

\_\_\_\_\_ )

Co-Petitioner  Respondent. )

**NOTICE** is hereby given pursuant to Section 40-4-217 of the Montana Code Annotated that  Petitioner  Co-Petitioner /Respondent intends to change their place of residence. The move will take place on or about \_\_\_\_\_[date] .

**\*\*\*NOTE: Failure of the parent receiving this Notice to respond or to seek amendment of the Proposed Residential Schedule within 30 days constitutes acceptance of the proposed move and/or the Proposed Revised Residential Schedule attached (if applicable).\*\*\***

The  Petitioner's  Co-Petitioner's/Respondent's new address and phone number will be as follows:

NAME: \_\_\_\_\_ PHONE NUMBER: \_\_\_\_\_

PHYSICAL ADDRESS: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

**CHECK ONE OF THE FOLLOWING:**

The change in residence **WILL NOT** significantly affect the child's contact with the other parent.

**OR**

- The change in residence **WILL** significantly affect the child's contact with the other parent and either a Proposed Revised Residential Schedule – Exhibit A or Proposed Amended Parenting Plan is attached.

**CHECK ONE OF THE FOLLOWING:**

- This NOTICE OF INTENT TO MOVE and Proposed Revised Residential Schedule – Exhibit A or Proposed Amended Parenting Plan (if applicable) will be personally served [by process server or sheriff] and proof of service will be filed with the court henceforth.

**OR**

- This NOTICE OF INTENT TO MOVE and Proposed Revised Residential Schedule – Exhibit A or Proposed Amended Parenting Plan (if applicable) will be mailed by certified mail as evidenced in the following Certificate of Service.

Dated this is \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature

Petitioner  Co-Petitioner/ Respondent

**CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, I served a true and correct copy of the foregoing Notice of Intent to Move and Proposed Revised Residential Schedule/Exhibit A or Proposed Amended Parenting Plan (if **applicable**) upon the opposing party by certified mail, postage prepaid addressed as follows:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Signature

**PROPOSED REVISED RESIDENTIAL SCHEDULE**

**1) WEEKEND CONTACT:**

- Shall remain the same
- Shall be revised (sample – every other weekend/once per month)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- TRANSPORTATION: \_\_\_\_\_  
\_\_\_\_\_

**2) HOLIDAY CONTACT:**

- Shall remain the same
- Shall be revised as follow: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

- TRANSPORTATION: \_\_\_\_\_  
\_\_\_\_\_

**3) SUMMER CONTACT:**

- Shall remain the same
- Shall be revised as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- TRANSPORTATION: \_\_\_\_\_  
\_\_\_\_\_

**4) SCHOOL HOLIDAYS:**

- Shall remain the same
- Shall be revised as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

- OTHER: \_\_\_\_\_  
\_\_\_\_\_

- TRANSPORTATION: \_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Petitioner  Co-Petitioner  Respondent, Pro Se

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT FLATHEAD COUNTY**

In re: the  Marriage of  Parenting of: )

)

)

Cause No. \_\_\_\_\_

)

\_\_\_\_\_ )

Petitioner,

)

and

)

**CONSENT**

)

\_\_\_\_\_ )

Co-Petitioner  Respondent. )

I, \_\_\_\_\_  Petitioner  Co-Petitioner  Respondent

in the above-entitled cause hereby consent to the proposed:

Revised Residential Schedule – Exhibit A dated \_\_\_\_\_;

or

Proposed Amended Parenting Plan dated \_\_\_\_\_.

I understand that an uncontested hearing will be scheduled and I request the Court to issue an Order amending our Parenting Plan in accordance with said revised schedule or plan.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

**CONSENT**

Flathead County Revised May 2015

NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_  
(Street or P. O. Box)

\_\_\_\_\_  
(City/State/Zip Code)

PHONE NUMBER: \_\_\_\_\_

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY**

<p>In re the <input type="checkbox"/> Marriage of <input type="checkbox"/> Parenting of</p> <p>_____,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">and</p> <p>_____,</p> <p style="text-align: center;"><input type="checkbox"/> Co-Petitioner <input type="checkbox"/> Respondent</p>	<p>Cause No.: _____</p> <p><b>REQUEST FOR</b></p> <p><input type="checkbox"/> <b>CONTESTED HEARING</b></p> <p><input type="checkbox"/> <b>UNCONTESTED HEARING</b></p>
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COMES NOW the Petitioner  Co-Petitioner Respondent and respectfully requests the Court to schedule a hearing in the above entitled cause on their NOTICE OF INTENT TO MOVE and proposed REVISED RESIDENTIAL SCHEDULE – EXHIBIT A or PROPOSED AMENDED PARENTING PLAN.

The opposing party:

- DOES NOT** consent to the proposed revised schedule or plan;
- HAS NOT RESPONDED** within 30 days of service as required by statute;
- CONSENTS** to the proposed revised schedule or plan and their executed

Consent has been filed with the Court.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*Your Signature*

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served upon the opposing party on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the method and at the address indicated below:

\_\_\_\_\_  
**Name** [ ] U.S. Mail (first class postage prepaid)

\_\_\_\_\_  
**Address** [ ] Hand Delivery

\_\_\_\_\_  
**City**                      **State**                      **Zip Code**

\_\_\_\_\_  
*Your Signature*

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY**

<p>In Re the <input type="checkbox"/> Marriage of <input type="checkbox"/> Parenting of _____, Petitioner, and _____, <input type="checkbox"/> Co-Petitioner <input type="checkbox"/> Respondent</p>	<p>Cause No.: _____ <b>ORDER GRANTING</b> <input type="checkbox"/> <b>CONTESTED HEARING</b> <input type="checkbox"/> <b>UNCONTESTED HEARING</b></p>
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**IT IS HEREBY ORDERED** that a hearing on the matter of  Petitioner's  Co-Petitioner's  Respondent's **NOTICE OF INTENT TO MOVE** and proposed **REVISED RESIDENTIAL SCHEDULE – EXHIBIT A** or **PROPOSED AMENDED PARENTING PLAN** is set for the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ .m.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
DISTRICT COURT JUDGE

cc: \_\_\_\_\_  
(Print name of Petitioner)  
  
\_\_\_\_\_  
(Print name of Co-Petitioner or Respondent)

MONTANA ELEVENTH JUDICIAL DISTRICT COURT FLATHEAD COUNTY

In re the <input type="checkbox"/> Marriage of <input type="checkbox"/> Parenting of _____ Petitioner and _____ <input type="checkbox"/> Co-Petitioner <input type="checkbox"/> Respondent	Cause No.: _____  <b><u>ORDER</u></b>
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The  Petitioner  Co-Petitioner  Respondent having filed their

- NOTICE OF INTENT TO MOVE** pursuant to Section 40-4-217 of the Montana Code Annotated and
- REVISED RESIDENTIAL SCHEDULE – EXHIBIT A**
- PROPOSED AMENDED PARENTING PLAN**

**AND**

- There being no response from the opposing party within 30 days of proof of service by certified mail or personal service;
- The opposing party having filed their **CONSENT to the Revised Residential Schedule – Exhibit A or Proposed Amended Parenting Plan;**
- The parties having filed a Stipulated Revised Residential Schedule – Exhibit A or Stipulated Amended Parenting Plan;

**AND**

- A  contested  uncontested hearing having been held;

**NOW THEREFORE IT IS THE ORDER OF THIS COURT:**

- That the  Petitioner's  Co-Petitioner's  Respondent's Notice of Intent to Move is hereby approved;
- THAT** the Revised Residential Schedule – Exhibit A, originally submitted by the filing party with their Notice of Intent to Move, is hereby ordered to be in full force and effect;
- THAT the Proposed Amended Parenting Plan originally submitted by the filing party with their Notice of Intent to Move, is hereby ordered to be in full force and effect;**
- THAT** the parties Stipulated Revised Residential Schedule – Exhibit A or Stipulated Amended Parenting Plan filed herein is hereby ordered to be in full force and effect.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this is \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
DISTRICT COURT JUDGE

cc: \_\_\_\_\_  
(Print name of Petitioner)

\_\_\_\_\_  
(Print name of Co-Petitioner or Respondent)