

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 children, you will only need to file the “Notice of Intent to Move.”

If your move will significantly affect the child/ children’s contact with the other parent 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, no filing fee will be required from the Clerk of District Court. However, if the “Proposed Revised Residential Schedule” – Exhibit A is 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 of your child.
- **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” which specifically identifies the case and looks something like the following example:

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.)	

- 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). All documents filed in connection with your case must match the original court heading and case or “cause” number. For example, if you were the Petitioner in the original action, you will be the Petitioner in any subsequent pleadings filed. If you are uncertain if you were the Petitioner, Co-Petitioner, or the Respondent, and you cannot locate any documents in your case, contact the Clerk of District Court or the Self Help Law Center 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 WHEN THEY ARE APPROPRIATE TO FILE IN YOUR CASE. YOU MAY NEED TO FILE ALL OF THEM WITH THE COURT AND/OR SERVE THEM UPON THE OPPOSING PARTY.

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).

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.”
- In the event you are filing a “Proposed Revised Residential Schedule” – Exhibit A, 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, they can sign the “Consent” and return it to you.
- Upon receipt of the signed and notarized “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 “Proposed Revised Residential Schedule” – Exhibit A, you can either communicate with them and come up with a Stipulated Revised Residential Schedule (a schedule which you both agree to) 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 (if applicable), they can sign the “Consent” before a notary 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 (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, you can request an uncontested hearing. If the other party disagrees with your “Proposed Revised Residential Schedule” – Exhibit A, 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 an “Order Granting [] Contested or [] Uncontested Hearing” for the Court to schedule the hearing date and time. It is your responsibility to 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 or approving of your stipulated (agreed) Revised Residential Schedule – 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 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 a Proposed Revised Residential Schedule is attached (Exhibit A).

CHECK ONE OF THE FOLLOWING:

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

DATED this is _____ day of _____, 20_____.

Signature of 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 (**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: _____
(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>REQUEST FOR</p> <p><input type="checkbox"/> CONTESTED HEARING</p> <p><input type="checkbox"/> UNCONTESTED HEARING</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:

The opposing party:

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

notarized 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

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.: _____ ORDER GRANTING <input type="checkbox"/> CONTESTED HEARING <input type="checkbox"/> UNCONTESTED HEARING
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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 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.: _____ <u>ORDER</u>
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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

REVISED RESIDENTIAL SCHEDULE – EXHIBIT A

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;**

The parties having filed a Stipulated Revised Residential Schedule –
Exhibit A;

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 parties Stipulated Revised Residential Schedule – Exhibit A filed herein is 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)