



# **SUMMARY DISSOLUTION**

**of**

# **MARRIAGE**

**With Children**

**Prepared by:  
Office of Attorney General  
Department of Justice  
State of Montana**



## **F O R E W A R D**

The 1991 Legislature provided a simplified procedure for certain people to obtain a dissolution of their marriage. This publication, prepared pursuant to the Legislature's directive, is designed to enable those people to determine if they qualify for this procedure. It includes a brief overview of statutory requirements and forms that can be removed and used to obtain a dissolution.

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## **SUMMARY DISSOLUTION OF MARRIAGE**

### **I. WHAT IS THIS BOOKLET ABOUT?**

This booklet describes a way to end a marriage through a divorce proceeding called Summary Dissolution of Marriage. It is not intended to take the place of an attorney's advice, nor should it be relied upon as a guide for self-representation in summary dissolution proceedings.

Although you can appear in court without an attorney, it is in your best interests to consult with one in order to protect your legal interests in ending your marriage. An attorney can help you decide if this method is the right one for your situation and can give you advice concerning the division of your assets and liabilities. You may obtain legal services through lawyer referral services, group or prepaid legal services, or legal aid organizations. Attorneys' fees vary; some attorneys charge a set fee while others charge an hourly rate. Don't be afraid to ask the attorney in advance what fee will be charged. If you are not pleased with one attorney, you should feel free to consult with another one.

If you wish to use the summary dissolution proceeding you must, at the time you file the joint petition, sign a statement which says you have read and understood this booklet. It is important for you to read the entire booklet very carefully to ensure that you qualify for this type of dissolution. If you do not qualify because of children or excessive debts or property, you may obtain a formal dissolution of marriage and probably should consult an attorney.

### **II. ARE YOU STILL INTERESTED IN TRYING TO SAVE YOUR MARRIAGE?**

Montana law allows two persons to dissolve their marriage only when irreconcilable differences have caused irretrievable breakdown of the marriage and either the husband or the wife states that the marriage should be dissolved. If you aren't sure your marriage has completely broken down and would like to try to reconcile, there may be help available. Many communities offer marriage counseling services and a few counties have a conciliation court.

#### **WHAT IS A CONCILIATION COURT?**

The purpose of a conciliation court is to help preserve a marriage and to provide the means for reconciliation of a husband and wife and a peaceful settlement of any marital controversy. However, a conciliation court is not available in all counties. The clerk of the district court will tell you if there is one in your area.

If there is a conciliation court in your area and you want a reconciliation with your spouse or a peaceful settlement of a marital controversy, either of you can file a petition with the conciliation court. Ask the clerk of court if there is a form available. The judge of the conciliation court may hold a hearing on the dispute or refer you to a conciliation counselor. The counselor may be a pastor or director of the religious denomination to which either or both of you belong, or a psychiatrist, physician, attorney, social worker, or other person who is trained and experienced in personal counseling.

If there has been no reconciliation within 30 days after the date of the hearing in conciliation court and you and your spouse still wish to end your marriage, a petition for summary dissolution can be filed with the district court.

### **III. WHAT IS A SUMMARY DISSOLUTION PROCEEDING?**

A summary dissolution proceeding is a district court procedure to end a marriage more quickly and simply than through the regular dissolution procedure. Not everyone can use it. It is only for those people who meet the legal requirements listed below and who have no disagreements about how their belongings and their debts are going to be divided once they are no longer married to each other. It cannot be done in small claims court, justice court, or conciliation court. It is not necessary to go through the conciliation court procedure before filing for summary dissolution.

#### **A. WHO CAN USE THE SUMMARY DISSOLUTION PROCEEDING?**

You can get a divorce through a summary dissolution proceeding only if ALL of the following conditions exist on the date you file the Joint Petition for Summary Dissolution. Check this list very carefully. If even one of the statements is not true for you, you cannot use the summary dissolution procedure to get a divorce.

1. You or your spouse have lived in Montana (or either of you was a member of the armed services stationed and residing in Montana) for at least 90 days before the filing of the action;
2. Irreconcilable differences have caused the irretrievable breakdown of the marriage, and you both agree that the marriage should be dissolved;
3. The wife is not pregnant and:
  - a. there are no children from the relationship born before or during the marriage or adopted by the parties during the marriage; **or**
  - b. the parties have executed an agreed-upon parenting plan and the child support and medical support have been determined by judicial or administrative order for all children from the relationship born before or during the marriage or adopted by the parties during the marriage.
4. Neither of you has any legal interest (ownership or lease) in any real property such as land or buildings. However, this does not apply to a lease on a residence which is occupied by either spouse as long as the lease does not have an option to purchase the residence and the lease terminates within one year from the date the petition is filed;
5. There are no unpaid, unsecured obligations in excess of \$8,000 incurred by either or both of the parties after the date of their marriage. A debt is unsecured when the debtor's promise to pay the debt is not secured by specific property if the debtor does not pay the debt. For example, a credit card is usually an unsecured debt because you do not have to give the credit card company the financed property if you do not pay your debt;

\_\_\_ 6. The total fair market value of your and your spouse's assets, excluding secured obligations, is less than \$25,000. A debt is secured when the debtor's promise to pay the debt is backed by specific property if the debtor does not pay the debt. For example, your car can be taken by the bank to pay the debt if you miss a payment. This means that your car loan would be a secured debt.

\_\_\_ 7. Both of you have signed an agreement agreeing to the division of property and who will be responsible for any bills or obligations. Signed documents, title certificates, bills of sale, or other evidence of transfer or agreement should be presented to the court at the time of your hearing to confirm the division and responsibilities.

In addition, you and your spouse:

\_\_\_ 8. Must give up your individual right to maintenance (financial support from the other) (see sec. B below);

\_\_\_ 9. Must permanently give up your individual right to appeal the terms of the dissolution and your right to move for a new trial once the marriage is formally dissolved by the court;

\_\_\_ 10. Do not want help from the conciliation court to settle any controversy, or assistance in reconciling (see Part II) (If your county does not have a Conciliation court, this requirement does not apply);

\_\_\_ 11. Have read and state that you understand the contents of this summary dissolution booklet; and

\_\_\_ 12. Indicate to the court that you want the court to end the marriage.

#### **B. SPOUSAL MAINTENANCE OR SUPPORT**

Maintenance is financial support and assistance paid by one spouse to the other after dissolution of the marriage. Neither spouse may obtain maintenance from the other in a summary dissolution proceeding.

#### **C. HOW IS THE PROCEEDING STARTED?**

The summary dissolution proceeding is started by filing in district court a joint petition which has been signed under oath by both of you. The petition must include the required information, set out below in section D. A copy of the property settlement agreement must be attached to the petition. The agreement should be neatly typed or printed and signed by both of you.

#### **D. WHAT INFORMATION IS REQUIRED IN THE PETITION?**

A sample petition form is included in this booklet. The verified petition must be signed by each of you, under oath before a notary public, and include the following information:

1. A statement that all of the required conditions listed in part A have been

met (list the conditions);

2. The mailing address of each party;
3. Whether or not the wife wishes to have her maiden or former name restored and, if so, the name to be restored;
4. The age, occupation, and residence of each party and length of residence, date of marriage, and the place at which it was registered.

#### **E. HOW SOON CAN THE MARRIAGE BE DISSOLVED?**

The district court judge will hold a hearing sometime after 20 days from the date the joint petition is filed, at which time both of you must appear. If the required conditions exist, the judge will enter a final judgment dissolving the marriage. The judgment restores each of you to the status of a single person, at which time either is free to marry someone else.

#### **F. WHAT DOES THE FINAL JUDGMENT MEAN?**

A judgment is the written decision of the court. Upon conclusion of the hearing the judge will consider all the facts and make his or her decision. Until the final judgment is entered you are considered married. Once the judgment is entered each is returned to the status of a single person. **The Final Judgment means that all marital rights and obligations have been decided, including property and maintenance.**

#### **G. CAN THE JUDGMENT BE APPEALED OR A TRIAL REQUESTED?**

**The Final Judgment cannot be appealed or a new trial requested. However, the Court may be asked to set aside the Final Judgment for reasons of fraud, duress, accident, mistake, or other recognized legal grounds.**

An example of those grounds may be that the things you agreed to give your spouse were much more valuable than you thought; or your spouse used threats or other kinds of unfair pressure to get you to go along with the dissolution; or there are serious mistakes in the original agreement. Correcting mistakes and unfairness in a Summary Dissolution proceeding can be expensive, time-consuming, and difficult. It is very important for both of you to be honest, cooperative, and careful when you or your lawyers do the paperwork for the dissolution.

A final judgment will be set aside upon proof that all the requirements of Mont. Code Ann. § 40-4-130 (see section III A. above) were not met on the date the petition was filed.

#### **H. WHAT ARE COURT COSTS FOR A SUMMARY DISSOLUTION PROCEEDING?**

The usual court costs are \$200 for filing a petition for dissolution and a \$45 fee for the final judgment. The fees must be paid in cash or money order. Other usual charges

include a stenographer fee and a document certification fee. The district judge can excuse you from paying court costs if your income is very low and you file an affidavit with the court showing your inability to pay the costs.

### **I. ARE THERE REASONS FOR STOPPING THE PROCEEDING?**

There are three reasons you might want to stop the summary dissolution proceeding:

1. You have decided to return to your spouse and continue the marriage;
2. You may want to change over to the regular dissolution as a better way of getting your dissolution (i.e., you feel you will get a better settlement if you go to court); or
3. The wife becomes pregnant.

If you wish to stop the proceeding, it must be done BEFORE the final decree is signed by the Judge by filing a notice of revocation with the clerk of court. A copy of the notice must be sent to your spouse by first-class mail, postage prepaid. A sample form is provided with this booklet.

### **RELEVANT MONTANA CODE ANNOTATED SECTIONS:**

**Part I:** § 40-4-136.

**Part II:** §§ 40-3-111, 40-3-125, 40-3-127.

**Part III:** A. §§ 40-4-130, 40-4-104; B. § 40-4-130(8); C. § 40-4-131;  
D. §§ 40-4-130, 40-4-131; E. § 40-4-133; F. §§ 40-4-134, 40-4-136;  
G. § 40-4-135; H. § 25-1-201.

**Part IV:** § 40-4-132.

## INSTRUCTIONS FOR FILING AND COURT APPEARANCE

**NOTE: BEFORE FILLING OUT THE FORMS, READ THE ENTIRE SUMMARY DISSOLUTION BOOKLET TO DETERMINE IF YOU QUALIFY FOR THE SUMMARY DISSOLUTION PROCEDURE.**

1. Carefully read and fill out the Petition for Summary Dissolution of Marriage form found in this booklet. Each of you must sign it before a Notary Public. (The Notary Public must watch you sign the document.) After the petition is signed, take it to the clerk of court in the county courthouse where you reside. The clerk will file the petition and charge you a filing fee. Call the clerk if you need to know the fee in advance. Twenty (20) days or more after the date you file the petition, you can go to court and obtain your dissolution. When you file the petition ask the clerk what time and date are available for your appearance before the Judge. The clerk will assign your case a number. Write down the number and take it with you. Ask the clerk what you must do to insure your case is scheduled for a particular day. Judges do not necessarily hold Court every day.

2. On the date of your court appearance be sure to be on time. Both of you must attend. Take with you the Final Decree of Summary Dissolution found in this booklet. When you get to the courthouse, check with the clerk to ensure your case is ready to be heard and to find out what courtroom you should wait in for your case to be called. Have your written property/debt agreement with you (neatly typed or printed), along with the documents that were signed to effect the agreement (such as car title, etc.). Make sure the cause number assigned earlier is written in the blank on the Final Decree. If the wife seeks to have her former name restored, make sure the name to be restored on the decree is identical to the name to be restored on the petition.

3. When the Judge calls your case, approach the Judge's bench and prepare to be sworn in by the court clerk who sits near the Judge. Each Judge has his/her own procedures in dissolution hearings. Some Judges may ask few or even no questions. Others may inquire as to the elements of your petition. If the Judge directs the hearing, answer the questions asked. If the Judge expects you to proceed, each of you can make a short statement. Be prepared to tell the Judge that your marriage is irretrievably broken, that you have lived in Montana for more than ninety (90) days, that there are no children and the wife is not now pregnant, and that you have divided your debts and property.

4. Once you are finished, the Judge will usually grant your dissolution and sign the Decree. In some courts the Judge will hand you the file and ask you to return it to the clerk of court. **IF THE JUDGE DOES GIVE YOU THE FILE, IT IS IMPERATIVE THAT YOU RETURN IT IMMEDIATELY TO THE CLERK OF COURT** so your dissolution can be recorded and the court file doesn't get misplaced. The clerk of court keeps the original signed Decree, but you can get certified copies from the clerk if you need them. The dissolution is final as of the time the Judge signs the Decree.

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4 Wife's Name, Address, Phone

5 \_\_\_\_\_  
6 \_\_\_\_\_

7 Husband's Name, Address, Phone

8 \_\_\_\_\_  
9 \_\_\_\_\_

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11 MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_  
12 COUNTY

13 IN RE THE MARRIAGE OF

14 \_\_\_\_\_, Cause No. \_\_\_\_\_

15 Wife,

16 and

17 \_\_\_\_\_,

18 Husband,

19 Joint Petitioners.

20 **JOINT PETITION FOR SUMMARY DISSOLUTION OF MARRIAGE**

21 The Petitioners jointly request this court to issue a decree for summary  
22 dissolution of marriage based upon the contents of this petition and subsequent  
23 hearing.

24 The parties certify to the Court as follows:

25 **BASIC INFORMATION ABOUT THE PARTIES**

26 1. We have read and understand the booklet issued by the Montana  
27 Attorney General entitled SUMMARY DISSOLUTION OF MARRIAGE.

2. We have both lived in Montana for at least ninety (90) days or have  
otherwise met residency requirements. Wife has resided in Montana since  
\_\_\_\_\_. Husband has resided in Montana since \_\_\_\_\_.

3. We were married on \_\_\_\_\_, \_\_\_\_\_, (month, day, year) at \_\_\_\_\_. The marriage is registered at \_\_\_\_\_ (city, county, state).

4. The occupation of the wife is \_\_\_\_\_ and the occupation of the husband is \_\_\_\_\_.

5. We both want our marriage dissolved because irreconcilable differences have caused the irretrievable breakdown of our marriage. We do not want help from the conciliation court to settle any controversy or assistance in reconciling.

6. We both agree to appear at a hearing before this Court.

7. Our Social Security Numbers are set forth in the attached Confidential Report of Social Security Numbers filed with this petition.

**INFORMATION ABOUT OUR CHILD(REN) AND PARENTING PLAN**

8. We have the following child(ren) from our relationship born before or during the marriage or adopted during the marriage: \_\_\_\_\_

\_\_\_\_\_

9. Wife declares that she is not now pregnant.

10. We have both signed an agreed-upon parenting plan in the best interests of our child(ren), which is attached as Exhibit B.

**CHILD SUPPORT AND MEDICAL SUPPORT**

11. \_\_\_\_\_ shall pay \_\_\_\_\_ child support of \$\_\_\_\_\_ per month (combined child support for all our children of this marriage). This child support amount has been determined by a judicial (District Court) or administrative order (Child Support Enforcement Division of the Montana Department of Public Health and Human Services, if determined in Montana). **A COPY OF THE ORDER DETERMINING CHILD SUPPORT AND MEDICAL SUPPORT IS ATTACHED AS EXHIBIT C.**

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4 12. Child support and medical support shall be paid/provided until  
5 terminated by emancipation of each child or each child's graduation from high  
6 school if the child is enrolled in high school, whichever occurs later, but in no  
7 event later than each child's 19th birthday. This obligation to pay child support  
8 should be enforced by immediate income withholding under Mont. Code Ann.  
9 Title 40, chapter 5.

10 **OUR ASSETS AND DEBTS**

11 13. Neither of us owns any land, nor do we have a lease that ends more  
12 than one year from the date we sign below.

13 14. The total value of all our assets in the name of husband or the name of  
14 wife, or in both our names, minus any debts that are secured by those assets do not  
15 total more than \$25,000.

16 15. All our unsecured obligations incurred after the date of our marriage,  
17 in the name of husband or name of wife, or in both names, do not total more than  
18 \$8,000.

19 16. We have divided our assets and debts as set forth in Exhibit A  
20 attached. The division of our assets and debts is fair and equitable to both of us.

21 17. If the wife seeks restoration of her former name, the name to be  
22 restored is set out here in full: \_\_\_\_\_.

23 18. Upon entry of the judgment for summary dissolution of marriage, we  
24 both waive any right to maintenance.

25 19. Upon entry of the judgment for summary dissolution of marriage, we  
26 both waive any right to appeal the terms of the dissolution.

27 20. Upon entry of the judgment for summary dissolution of marriage, we  
both waive any right to request a trial.

WHEREFORE, Wife and Husband pray:

1. That the marriage of the parties be dissolved.

2. That the Court adopt the Final Parenting Plan attached as Exhibit B as the Final Parenting Plan governing the parties and minor child(ren) and incorporate same as part of the Final Decree dissolving the marriage of the parties.

3. That the Court take notice of the prior Child Support and Medical Support Order, a certified copy of which is attached as Exhibit C.

4. That the property and debts of the parties be distributed between them as provided in Exhibit.

5. For such other and further suitable relief as this Court may seem just and proper.

DATED: \_\_\_\_\_

\_\_\_\_\_  
WIFE, Joint Petitioner

DATED: \_\_\_\_\_

\_\_\_\_\_  
HUSBAND, Joint Petitioner

STATE OF MONTANA            )  
  ): ss.  
County of \_\_\_\_\_        )

\_\_\_\_\_, being first duly sworn, deposes and says that she has read the foregoing Petition for Summary Dissolution of Marriage, knows the contents thereof and that the same is true of her own knowledge, except as to matters stated on information and belief, and as to those matters she believes them to be true.

\_\_\_\_\_  
WIFE, Joint Petitioner

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 \_\_\_\_\_.

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4 STATE OF MONTANA )  
5 County of \_\_\_\_\_ ) : ss.

6 \_\_\_\_\_, being first duly sworn, deposes and says that he  
7 has read the foregoing Petition for Summary Dissolution of Marriage, knows the  
8 contents thereof and that the same is true of his own knowledge, except as to  
9 matters stated on information and belief, and as to those matters he believes them  
10 to be true.

11 \_\_\_\_\_  
12 HUSBAND, Joint Petitioner

13 SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of  
14 \_\_\_\_\_, 20\_\_\_\_.

15 (SEAL)

16 \_\_\_\_\_  
17 Name (Printed) \_\_\_\_\_  
18 Notary Public for the State of Montana.  
19 Residing at \_\_\_\_\_.  
20 My Commission expires \_\_\_\_\_.  
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MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY  

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IN RE THE MARRIAGE OF

\_\_\_\_\_, Cause No. \_\_\_\_\_  
Wife,

and

\_\_\_\_\_,  
Husband.

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**FINAL DECREE OF SUMMARY DISSOLUTION OF MARRIAGE**

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The petition for summary dissolution of marriage was fully filed herein by the parties. Both petitioners appeared in Court in open hearing and testified in support of the petition.

**FROM THE EVIDENCE AND PLEADING, THE COURT FINDS:**

1. That the parties have both signed the Petition for Summary Dissolution.
2. That there are irreconcilable differences causing the irretrievable breakdown of the marriage.
3. That the parties have read and understand the booklet entitled SUMMARY DISSOLUTION OF MARRIAGE and have met its requirements and qualify for dissolution of marriage under Mont. Code Ann. § 40-4-130.
4. That the wife is not now pregnant.

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4 5. That the parties have entered into a written agreement regarding the  
5 debts and property of their marriage and have executed all documents required to  
6 enact its provisions.

7 6. That the parties have \_\_\_\_ children from their relationship born before  
8 or during the marriage or adopted during the marriage, that the parties have signed  
9 an agreed-upon parenting plan for the child(ren) of the relationship which is  
10 attached to the Petition as Exhibit B.

11 7. That child support and medical support for the child(ren) has been  
12 determined by a judicial or administrative order. A certified copy of the order  
13 determining child support and medical support is attached as Exhibit C to the  
14 Petition.

15 8. If the wife seeks restoration of her former name, the name to be  
16 restored is set out here in full: \_\_\_\_\_.

17 9. Both parties waive any right to maintenance.

18 10. Both parties waive any right to appeal the terms of the dissolution.

19 11. Both parties waive any right to request a trial.

20 12. That all the requirements set out in the summary dissolution statutes  
21 have been met.

22 **CONCLUSIONS OF LAW**

23 1. The Court has jurisdiction over this cause.

24 2. The marriage of the parties is irretrievably broken.

25 3. The division of assets and debts of the parties as set forth in Exhibit A  
26 is equitable and should be approved.

27 4. The parenting plan proposed by the parties and attached to the petition  
as Exhibit B is in the best interests of the child(ren) and should be approved.

5. The child support and medical support order attached as Exhibit C to  
the petition is a valid order for the child and medical support of the child(ren) of

the parties.

6. The parties waive any right to maintenance and upon entry of this final decree irrevocably waive their respective rights to appeal or move for a trial on the terms of the dissolution of the marriage.

**FROM THE FOREGOING FINDINGS AND CONCLUSIONS, THE COURT ENTERS THE FOLLOWING DECREE:**

1. The marriage of the parties is dissolved.
2. The former name of the wife is restored as requested to \_\_\_\_\_

\_\_\_\_\_.

3. The assets and debts of the parties shall be distributed between them equitably in accordance with Exhibit A to the petition. Both parties shall promptly sign all documents reasonably necessary to accomplish this distribution of assets and debts.

4. The Court hereby adopts Exhibit B as the Final Parenting Plan governing the parties and minor children, and Exhibit B is hereby incorporated as part of this Final Decree by reference as if fully restated herein.

5. The Court acknowledges that a valid Child Support and Medical Support Order has been entered and is attached as Exhibit C to the petition.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

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4 **(USE THIS FORM ONLY IF YOU WISH TO STOP THE PROCEEDING**  
5 **BEFORE THE JUDGE HAS SIGNED THE FINAL DECREE)**  
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11 MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY

12 IN RE THE MARRIAGE OF

13 \_\_\_\_\_, Cause No. \_\_\_\_\_

14 Wife,

15 and

16 \_\_\_\_\_,

17 Husband.

18 **NOTICE TO REVOKE PETITION FOR SUMMARY DISSOLUTION**

19 I, \_\_\_\_\_, hereby request the Court to revoke the  
20 Petition for Summary Dissolution of Marriage because:

- 21 1. \_\_\_ I have decided to return to my spouse and continue the marriage.  
22 2. \_\_\_ I want to change to the regular dissolution procedure.  
23 3. \_\_\_ The wife is pregnant.

24 I certify that a copy of this Notice was mailed to my spouse at the following  
25 address, \_\_\_\_\_ first-class mail,  
26 postage-prepaid, on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

27 DATED THIS \_\_\_ day of \_\_\_\_\_, 20\_\_.

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**SUMMARY DISSOLUTION EXHIBIT B**

**FINAL PARENTING PLAN**

**1. IDENTIFICATION OF THE PARTIES**

- a. Mother's Name: \_\_\_\_\_  
Address: \_\_\_\_\_
- b. Father's Name: \_\_\_\_\_  
Address: \_\_\_\_\_

**2. IDENTIFICATION OF THE CHILD(REN)**

This parenting plan applies to the following minor child(ren) of the parties:

- Name (first and last): \_\_\_\_\_ Date of Birth: / /
- State of residence for last six months: \_\_\_\_\_
- Name (first and last): \_\_\_\_\_ Date of Birth: / /
- State of residence for last six months: \_\_\_\_\_
- Name (first and last): \_\_\_\_\_ Date of Birth: / /
- State of residence for last six months: \_\_\_\_\_
- Name (first and last): \_\_\_\_\_ Date of Birth: / /
- State of residence for last six months: \_\_\_\_\_
- Name (first and last): \_\_\_\_\_ Date of Birth: / /
- State of residence for last six months: \_\_\_\_\_

If needed, attach additional sheets as Exhibit \_\_\_\_\_.

**3. OBJECTIVES OF THE PARENTING PLAN**

- a. To protect the best interest(s) of the minor child(ren);
- b. To provide for the physical care of the minor child(ren);
- c. To maintain the child(ren)'s emotional stability and minimize the child(ren)'s exposure to parental conflict;
- d. To provide for the minor child(ren)'s changing needs as they grow and mature, in a way that minimizes the need for future amendment to the final parenting plan;

- e. To set forth the authority and responsibilities of each parent with respect to the minor child(ren);
- f. To encourage the parents, when appropriate under 40-4-234, to meet their responsibilities to their minor children through agreements in the parenting plan rather than through judicial intervention.

**4. RESIDENTIAL SCHEDULE FOR THE CHILD(REN)**

The provisions set forth below in Paragraphs 4(a)-(i) are one way to write your residential schedule. This schedule is designed to provide for the child(ren)'s changing needs as they grow and mature. It specifies the periods of time during which the child(ren) will reside with each parent, including holidays, vacations, and other special occasions. If you choose not to use the provisions provided, you may write your own schedule in Paragraph 4(j) below.

a. Pre-School Schedule (Choose One):

- There are no child(ren) under school age.
- There are child(ren) under school age, but the school schedule set forth in 4(b) below shall apply to the child(ren) regardless of their age(s).
- Prior to enrollment in school, the child(ren) shall reside primarily with the  Mother /  Father, except for the following days and times when the other parent shall have parenting time with the child(ren):

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or

- Describe the residential schedule for the minor child(ren) prior to their enrollment in school: \_\_\_\_\_.

b. School Schedule (Choose One):

- Upon enrollment in school, the child(ren) shall reside with the
- Mother /  Father, except for the following days and times when the other parent shall have parenting time with the child(ren):

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or

- Describe the residential schedule for the minor child(ren): \_\_\_\_\_.

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c. Holiday and Special Occasion Schedule

No holiday and special occasion schedule shall apply. The school year or pre-school schedule set forth above shall apply.

or

The following schedule shall apply for the holidays and special occasions listed below:

With Mother  
(Specify Odd/ Even/Every Year)  
Year)

With Father  
(Specify Odd/ Even/Every Year)

**Holiday/Special Occasion**

- New Year's Day
- Martin Luther King Day\*
- Presidents' Day\*
- Easter
- Mother's Day
- Memorial Day\*
- Father's Day
- July 4th
- Labor Day\*
- Halloween
- Veterans' Day\*
- Thanksgiving
- Christmas Eve
- Christmas Day
- Mother's Birthday
- Father's Birthday
- Child(ren)'s Birthday(s)

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Choose All That Apply:

- Unless otherwise noted below, holidays/special occasions shall begin at \_\_\_\_ a.m. and end at \_\_\_\_\_ p.m.
- Holidays which fall on a Friday or a Monday and which are traditionally considered three day holidays (as noted by an asterisk (\*) above)
- shall not/[ ] shall include the Saturday and Sunday immediately preceding or following the holiday.

[ ] Thanksgiving shall begin on (day and time) \_\_\_\_\_  
and shall extend until (day and time) \_\_\_\_\_.

- Christmas Eve shall begin on (day and time) \_\_\_\_\_ and shall extend until (day and time) \_\_\_\_\_.
- Christmas Day shall begin on (day and time) \_\_\_\_\_ and shall extend until (day and time) \_\_\_\_\_.
- The child(ren)'s school attendance shall take priority over the holiday and special day schedule. The child(ren) shall not miss school because of the holiday or special occasion schedule.

d. Winter Vacation (Choose One):

- No winter vacation schedule shall apply. The school year or pre-school schedule set forth above shall apply.

or

- (i) The parent exercising parenting time with the child(ren) on Christmas Eve (as outlined above) shall have the following additional parenting time with the child(ren) over winter vacation:  
\_\_\_\_\_  
\_\_\_\_\_.

- (ii) The parent exercising parenting time with the child(ren) on Christmas Day (as outlined above) shall have the following additional parenting time with the child(ren) over winter vacation:  
\_\_\_\_\_  
\_\_\_\_\_.

or

- Describe the residential schedule for the child(ren)'s winter vacation:  
\_\_\_\_\_  
\_\_\_\_\_.

e. Summer Vacation (Choose One):

- No summer vacation schedule shall apply. The school year or pre-school schedule set forth above shall apply.

or

- The child(ren) shall reside with the  Mother /  Father during summer vacations, except for the following days and times when the child(ren) shall be with the other parent:  
\_\_\_\_\_  
\_\_\_\_\_.

or

- Describe the residential schedule for the child(ren)'s summer vacation:  
\_\_\_\_\_  
\_\_\_\_\_.

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f. Spring Break (Choose One):  
 No Spring Break schedule shall apply. The school year or pre-school schedule set forth above shall apply.  
or  
 The child(ren) shall reside with the  Mother /  Father during Spring Break, except for the following days and times when the child(ren) shall be with the other parent: \_\_\_\_\_  
\_\_\_\_\_

or  
 Describe the residential schedule for the child(ren)'s Spring Break:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

g. Other Vacations with Parents  
Describe the schedules for any other vacations with the parents:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

h. Priorities under the Residential Schedule  
If the residential schedule outlined above results in a conflict where the child(ren) are scheduled to be with both parents at the same time, the conflict shall be resolved by priority being given as follows:  
 Rank the order of priority, with 1 being the highest priority  
\_\_\_\_ Preschool and School Schedule  
\_\_\_\_ Holidays/Special Occasions  
\_\_\_\_ Winter/Summer/Spring Break Vacations  
\_\_\_\_ Other Vacations with Parents  
or  
 Other: \_\_\_\_\_  
\_\_\_\_\_

i. Supervised and Limited Visitation (Choose One):  
 The residential schedule listed above is not subject to any additional restrictions or limitations on parenting time.  
or

(i) The  Mother's/  Father's parenting time shall be supervised or limited because he/she has exhibited the following behavior which is not in the best interest(s) of the minor child(ren):

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(ii) It is in the best interest(s) of the minor child(ren) that the  Mother's/ Father's parenting time be subject to the following conditions:

How Often/ For How Long: \_\_\_\_\_

Where: \_\_\_\_\_

Supervised by Whom: \_\_\_\_\_

(iii) The supervised and limited visitation conditions shall take priority over any other terms of the residential schedule above.

(iv) If the  Mother / Father has completed the following and has followed through with any and all recommendations by the evaluator, treatment counselor, and/or other professional recommendations, the  Mother/ Father agrees to consider a modification to allow less restricted visitation after \_\_\_\_\_ months of supervised and limited visitation. (Check All That Apply):

Alcohol/drug evaluation

Substance abuse treatment

Psychological evaluation

Anger management counseling

Parenting classes

Other: \_\_\_\_\_

Other: \_\_\_\_\_

j. Other: \_\_\_\_\_

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## 5. DESIGNATION OF CUSTODIAN

For the purpose of all other state and federal statutes which require a designation or determination of custody, the  Mother / Father shall be designated the custodian. However, this designation shall not affect either parent's rights and responsibilities under this parenting plan.

**6. TRANSPORTATION ARRANGEMENTS (Choose All That Apply):**

Transportation arrangements for the child(ren) between parents shall be as follows: \_\_\_\_\_  
\_\_\_\_\_

Unless both parents agree upon a different meeting place, the exchange of the child(ren) shall be at: \_\_\_\_\_  
\_\_\_\_\_

Transportation costs shall be distributed as follows: \_\_\_\_\_  
\_\_\_\_\_

If the  Mother / Father is more than \_\_\_\_\_ minutes late to pick the child(ren) up for a visit, that visit shall be canceled.

**7. TELEPHONE CONTACT (Choose One):**

While the child(ren) reside with one parent, the other parent shall be permitted to speak with the child(ren) at reasonable times.

While the child(ren) reside with one parent, the other parent shall be permitted to speak with the child(ren) at the following times only: \_\_\_\_\_  
\_\_\_\_\_

**8. CO-PARENTING GUIDELINES (Choose All That Apply):**

Each parent shall promote a healthy, beneficial relationship between the child(ren) and the other parent and shall not demean or speak out negatively in any manner that would damage the relationship between either parent and the child(ren).

Each parent shall notify the other parent at least \_\_\_\_\_ days in advance when a particular parenting time shall not be exercised. The missed time shall not be substituted unless mutually agreed to by both parents. The parents are expected to fairly modify visitation when family necessities, illnesses, or other commitments reasonably so require. The requesting parent shall act in good faith and give as much notice as circumstances permit.

Each parent shall supply the appropriate child(ren)'s clothing with them for their scheduled time with the other parent. These clothes are to be considered the child(ren)'s clothes and shall be returned with the child(ren).

Each parent shall provide separate clothes for the child(ren) at their own residence, unless mutually agreed to by both parents. In the cold months of the

year, both parents are required to have adequate boots, gloves, hats, and jackets for the child(ren), unless mutually agreed to by both parents.

If a parent plans a special activity that requires clothing and/or equipment that would normally not be with the child(ren), it is that parent's responsibility to check and see if the child(ren) have such clothing and/or equipment with the other parent, to ask that the clothing and/or equipment travels with the child(ren), and to ensure that the clothing and/or equipment returns the same with the child(ren).

Each parent shall be responsible for ensuring that the child(ren) attend regularly scheduled activities, including but not limited to sports and extra-curricular activities, while the child(ren) are with that parent.

Neither parent shall permit the child(ren) to be subjected to (Choose All That Apply):

Persons abusing alcohol or using illegal drugs within 24 hours of contact with the child(ren). This includes the abuse of alcohol or the use of illegal drugs by the parent.

Smoking environment.

Use of profane language.

Removal of the child(ren) from Montana, except as authorized by the Court or mutually agreed to by both parents.

Other: \_\_\_\_\_.

Other: \_\_\_\_\_.

Any violation of these terms will result in the immediate termination of that parent's contact with the child(ren).

Relationships between the child(ren) and relatives and family friends on both sides of the family shall be protected and encouraged. The parents shall have their child(ren) maintain ties with both the maternal and paternal relatives. In Montana, grandparents have a legal right to request a court to order reasonable visitation with their grandchild(ren), if it is in the best interest(s) of the child(ren). Usually the child(ren) will visit with the paternal relatives during times the child(ren) are with their father and with the maternal relatives during times they are with their mother.

## **9. DECISION-MAKING**

### **a. Day-to-Day Decisions**

Each parent shall be authorized to make decisions regarding the day-to-day care and control of the child(ren) while the child(ren) are residing with that parent, unless or except as provided below (Choose All That Apply):

Sole decision making shall be granted to the  Mother/ Father for the following reasons: \_\_\_\_\_

\_\_\_\_\_



Major decisions concerning the child(ren)'s education shall be made by  the Mother/ the Father/ both parents jointly.

Major decisions concerning the non-emergency health care of the child(ren) shall be made by  the Mother/ the Father/ both parents jointly.

Major decisions concerning the spiritual development of the child(ren) shall be made by  the Mother/ the Father/ both parents jointly.

The consent of both parents shall be required before any minor child(ren) shall be permitted to (Choose All That Apply):

Get a tattoo

Pierce any body part

Marry

Enlist in the armed services

Other: \_\_\_\_\_.

Other: \_\_\_\_\_.

Other: \_\_\_\_\_.

Other: \_\_\_\_\_.

b. Emergency Decisions

Regardless of the allocation of decision making in this parenting plan, each parent shall be authorized to make emergency decisions affecting the health or safety of the child(ren).

**10. ACCESS TO INFORMATION**

a. As required by Mont. Code Ann. § 40-4-225, both parents shall have access to all information relating to their child(ren) including, but not limited to, school records, counseling records, medical and dental records.

b. As required by Montana Code Annotated § 40-4-204(6)(a), both parents shall update each other and the Court with written notice of changes to the following information:

(i) Residential and mailing addresses;

(ii) Telephone number;

(iii) Social Security number;

(iv) Driver's license number;

(v) Name, address, and phone number of employers;

(vi) Health insurance coverage for the child(ren);

(vii) Health insurance available through either parent's employer which could cover the minor child(ren).



It is appropriate that the personal information of the  Mother/  Father shall remain confidential and shall not be provided to the other parent because:

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### **11. RESIDENTIAL CHANGES**

As required by Mont. Code Ann. § 40-4-217, if a parent's change in residence will significantly affect the other parent's contact with the child(ren), written notice shall be served personally or sent by certified mail to the other parent 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 within the 30-day period constitutes acceptance of the proposed revised residential schedule.

### **12. REVIEW OF PARENTING PLAN (Optional)**

The parents will review this parenting plan at the following times:

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### **13. DISPUTE RESOLUTION**

The following shall apply when disputes arise between the parents in carrying out or amending this parenting plan (Choose One):

- No alternative dispute resolution process, except court action, shall apply unless ordered at the discretion of the Court.
- No alternative dispute resolution process is appropriate. The following limiting factors exist, as provided in Mont. Code Ann. § 40-4-219(9) (Choose All That Apply):
- This is a case of physical abuse or threat of physical abuse by one parent against the other parent or the child(ren).
- A parent has been convicted of deliberate homicide, mitigated deliberate homicide, sexual assault, sexual intercourse without consent, deviate sexual conduct with an animal, incest, aggravated promotion of prostitution of a child, endangering the welfare of children, partner or family member assault, or sexual abuse of children.

or

- a. Disputes between the parents shall be submitted to mediation, counseling, or arbitration by: \_\_\_\_\_.
- b. The cost of this process shall be allocated between the parents as follows (Choose One):
  - Based on each parent's proportional share of income as determined from the child support worksheet.
  - As determined in the dispute resolution process.
  - Mother: \_\_\_\_\_ % , Father: \_\_\_\_\_ %.
- c. A parent will begin the dispute resolution process by notifying the other parent by written request sent by certified mail.
- d. In the dispute resolution process:
  - (i) Preference shall be given to carrying out this parenting plan.
  - (ii) Unless an emergency exists, the parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support.
  - (iii) A written record shall be prepared of any agreement or arbitration award reached in counseling or mediation, and a copy shall be provided to each parent.
  - (iv) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney's fees and financial sanctions to the other parent.
  - (v) The parents have the right of review from the dispute resolution process to the district court.

**14. OTHER PROVISIONS:**

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**WARNING: One parent's failure to comply with a provision of the parenting plan will not affect the other parent's obligation to comply with the parenting plan. Violation of any provision of this order with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under Mont. Code Ann. §§ 45-5-631 or 45-7-309. Violation of the Final Parenting Plan may subject a violator to arrest and a fine up to \$500 or imprisonment in the county jail.**

Declaration for Proposed Parenting Plan (Only complete the following section if this is a Proposed Parenting Plan. Do not date and sign if this is the Final Parenting Plan.)

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

\_\_\_\_\_  
[ ] Petitioner/[ ] Respondent Pro Se  
STATE OF MONTANA )  
: ss.  
COUNTY OF \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn on oath, says that he/she is the [ ] Petitioner/[ ] Respondent in the above-entitled proceeding; that he/she has read the foregoing Parenting Plan 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/[ ] Respondent Pro Se

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

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 \_\_\_\_\_

Order by the Court (Leave the following section blank. It will be completed by the Court if this document is adopted as the Final Parenting Plan.)

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

\_\_\_\_\_

DISTRICT COURT JUDGE

## **EXHIBIT C**

### **COPY OF CHILD SUPPORT AND MEDICAL SUPORT ORDER**

Attached is a certified copy of the administrative or court order establishing child support and medical support for our child(ren)

