

DISTRICT COURT

STATE OF MONTANA

JOINT DISSOLUTION PACKAGE

MINOR CHILDREN

With or Without Property

Control Number MT-006-D

This packet contains the following:

1. Information about Dissolution of Marriage
2. Form List
3. Form Explanations
4. Instructions and Steps
5. Checklist
6. Access to Law Summary

**You and your spouse must agree to all terms of the dissolution to use this packet.
All forms to be filed with the Court must be printed on Bond paper.**

INFORMATION ABOUT DISSOLUTION OF MARRIAGE

1. **WHO CAN USE THESE FORMS:** You may use this joint package for dissolution of marriage only when all of the following facts are true;
 - (a) Your marriage is irretrievably broken and there is no reasonable prospect of reconciliation; and,
 - (b) There are minor children of said marriage.
 - (c) You and your spouse agree to all of the terms of the dissolution.

2. **THE BASICS:** In a typical dissolution of marriage, there are a few basic requirements that must be met before you can obtain a judgment of dissolution of marriage. Those requirements are below:
 - (a) The residency requirements must be met.
 - (b) The court must find that the marriage is irretrievably broken.
 - (c) The court must find that the conciliation provisions of the Montana Conciliation Law and of 40-4-107 either do not apply or have been met; and
 - (d) To the extent it has jurisdiction to do so, the court has considered, approved, or made provision for parenting, the support of any child entitled to support, the maintenance of either spouse, and the disposition of property.

3. **RESIDENCY REQUIREMENTS:** Montana law requires that the proper place of trial for an action for dissolution of marriage is the county in which the Petitioner has resided during the 90 days preceding the commencement of the action.

4. **GROUND FOR DISSOLUTION OF MARRIAGE:** Montana law permits a judgment of dissolution of marriage based upon the irretrievable breakdown of the marriage with no reasonable likelihood of reconciliation.

5. **LEGAL SEPARATION:** Montana law permits a judgment of separation to be granted based upon irretrievable breakdown of the marriage.

This package does not contain forms for a legal separation.

6. **MONTANA CONCILIATION LAW** – Montana has established conciliation procedures to protect the rights of children and to promote the public welfare by

preserving, promoting, and protecting family life and the institution of matrimony and to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies. Whenever any controversy exists between the spouses which may, unless a reconciliation is achieved, result in the dissolution or annulment of the marriage or in the disruption of the household and there is any minor child of the spouses or of either of them whose welfare might be affected thereby, the conciliation court shall have jurisdiction over the controversy and over the parties thereto and all persons having any relation to the controversy for the purpose of preserving the marriage by effecting a reconciliation between the parties or for amicable settlement of the controversy between the spouses so as to avoid further litigation over the issue involved..

7. **WAITING PERIOD:** At least twenty days must elapse from the date of service of the Petition upon the Respondent before the final hearing may be held.

8. **ALIMONY/SUPPORT:** Since this is an agreed upon dissolution proceeding, you and your spouse will decide issues of alimony. The forms assume that no alimony will be paid and is waived but you may add provisions for alimony if you desire. In a contested case, the courts may award alimony to either spouse only if it finds that the spouse seeking maintenance:
 - (a) Lacks sufficient property to provide for his reasonable needs; and
 - (b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, and after considering all relevant facts including:

- (a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
- (b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
- (c) The standard of living established during the marriage;
- (d) The duration of the marriage;
- (e) The age and the physical and emotional condition of the spouse seeking maintenance; and
- (f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

9. DISTRIBUTION OF PROPERTY: Since this is an agreed upon dissolution proceeding, the parties will agreed to all terms of the distribution of property. In a contested case, the court, without regard to marital misconduct, shall make an equitable distribution between the parties of the property and assets belonging to either or both, however and whenever acquired and whether the title thereto is in the name of the husband or wife or both. In making apportionment, the court shall consider:

- (a) The duration of the marriage and prior marriage of either party;
- (b) The age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties;
- (c) Custodial provisions;
- (d) Whether the apportionment is in lieu of or in addition to maintenance;
- (e) The opportunity of each for future acquisition of capital assets and income; and,
- (f) The contribution or dissipation of value of the respective estates and the contribution of a spouse as a homemaker or to the family unit.

In dividing property acquired prior to the marriage; property acquired by gift, bequest, devise, or descent; property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent; the increased value of property acquired prior to marriage; and property acquired by a spouse after a decree of legal separation, the court shall consider those contributions of the other spouse to the marriage, including:

- (a) The nonmonetary contribution of a homemaker;
- (b) The extent to which such contributions have facilitated the maintenance of this property; and
- (c) Whether or not the property division serves as an alternative to maintenance arrangements.

9. PARENTING TIME/PLAN: In every dissolution proceeding that involves a child, each parent or both parents jointly shall submit to the court, in good faith, a proposed final plan for parenting the child, which may include the allocation of parenting functions. A final parenting plan must be incorporated into any final decree, including cases of dissolution by default. Parenting functions means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child, which may include:

- (a) Maintaining a loving, stable, consistent, and nurturing relationship with the child;
- (b) Attending to the daily needs of the child, such as feeding, physical care, development, and grooming, supervision, spiritual growth and development, health care, day care, and engaging in other activities that are appropriate to the developmental level of the child and that are

- within the social and economic circumstances of the particular family;
- (c) Attending to adequate education for the child, including remedial or other education essential to the best interest of the child;
 - (d) Ensuring the interactions and interrelationship of the child with the child's parents and siblings and with any other person who significantly affects the child's best interest; and
 - (e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances.

Based on the best interest of the child, a final parenting plan may include, at a minimum, provisions for:

- (a) Designation of a parent as custodian of the child, solely for the purposes of all other state and federal statutes that require a designation or determination of custody, but the designation may not affect either parent's rights and responsibilities under the parenting plan;
- (b) Designation of the legal residence of both parents and the child;
- (c) A residential schedule specifying the periods of time during which the child will reside with each parent, including provisions for holidays, birthdays of family members, vacations, and other special occasions;
- (d) Finances to provide for the child's needs;
- (e) Any other factors affecting the physical and emotional health and well-being of the child;
- (f) Periodic review of the parenting plan when requested by either parent or the child or when circumstances arise that are foreseen by the parents as triggering a need for review, such as attainment by the child of a certain age or if a change in the child's residence is necessitated;
- (g) Sanctions that will apply if a parent fails to follow the terms of the parenting plan, including contempt of court;
- (h) Allocation of parental decision-making authority regarding the child's:
 - (i) Education;
 - (ii) Spiritual development; and
 - (iii) Health care and physical growth;
- (j) The method by which future disputes concerning the child will be resolved between the parents, other than court action; and
- (k) The unique circumstances of the child or the family situation that the parents agree will facilitate a meaningful, ongoing relationship between the child and parents.

11. CHILD SUPPORT: In a proceeding for dissolution of marriage, the court shall order either or both parents to pay an amount reasonable or necessary for the child's

support, without regard to marital misconduct. The court shall consider all relevant factors, including:

- (f) The financial resources of the child;
- (g) The financial resources of the parents;
- (h) The standard of living that the child would have enjoyed had the marriage not been dissolved;
- (i) The physical and emotional condition of the child and the child's educational and medical needs;
- (j) The age of the child;
- (k) The cost of day care for the child;
- (l) Any parenting plan that is ordered or decided upon; and
- (m) The needs of any person, other than the child, whom either parent is legally obligated to support.

Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the uniform child support guidelines. The guidelines must be used in all cases, including default cases and those in which the parties have entered into an agreement regarding the support amount. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the court finds by clear and convincing evidence that the application of the guidelines is unjust to the child or to any of the parties or that it is inappropriate in that particular case. If the court finds that the guideline amount is unjust or inappropriate, it shall state its reasons for that finding. Similar reasons must also be stated in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines. Each decree establishing a child support obligation must also include a medical support order.

12. **EFFECT OF DIVORCE ON CHILDREN PROGRAM:** In a proceeding for dissolution of marriage involving a minor child, a court shall inform the parties, excluding the minor child, of available educational programs concerning the effects of dissolution of marriage on children and, if the court finds that it would be in the best interest of the minor child, shall order the parties to attend a court-sanctioned program. The program may be divided into sessions. The program must be educational in nature and may not be designed for individual therapy.
13. **NAME CHANGE:** Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order the wife's maiden name or a former name restored.
14. **PRELIMINARY/ FINAL DISCLOSURE:** Within sixty (60) days of service of a petition for dissolution or separation, each party shall serve upon the

other a preliminary declaration of disclosure setting forth the identity of all assets and liabilities, along with income and expenses. A final declaration of disclosure, setting forth all assets, liabilities, income and expenses must also be served upon the other party before or at the time the parties enter into an agreement regarding property or support, or no later than forty-five (45) days before the first trial date. Such declarations shall be under penalty of perjury. In addition, the court may set aside all or part of the judgment should it discover, within five (5) years from date of entry, that a party has committed perjury in the final declaration.

For more information, see the Montana Dissolution of Marriage Law Summary.

FORMS LIST

The forms included in this package are:

1. How to File a Joint Petition in Montana with Children **(MT-830D)**
2. Joint Petition for Dissolution **(MT-817D)**
3. Parenting Plan **(MT-818D)**
4. Final Declaration of Disclosure of Assets, Debts, Income and Expenses **(MT-819D)**
5. Child Support Guidelines Financial Affidavit **(MT-820D)**
6. Notice of Filing Child Support Guidelines Financial Affidavit **(MT-821D)**
7. Notice and Acknowledgement to Child Support Enforcement Division **(MT-822D)**
8. Request for Hearing and Order **(MT-823D)**
9. Consent to Entry of Decree **(MT-824D)**
10. Findings of Fact, Conclusions of Law, and Final Decree of Dissolution **(MT-825D)**
11. Notice of Entry of Decree **(MT-826D)**
12. Vital Statistics Form **(MT-829D)**

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **How to File a Joint Petition in Montana with Children (MT-830D)** - This is an instruction document to help aid in the completion of the divorce procedure in the state of Montana.

2. **Joint Petition for Dissolution (MT-817D)** – The Petition for Dissolution of Marriage is the document through which you and your spouse are asking the court to grant the dissolution of marriage along with any other relief requested.

3. **Parenting Plan (MT-818D)** – This form is used by the parties to detail where the children will live, how much time the children will spend with each parent, and how decisions will be made about the children.

4. **Final Declaration of Disclosure of Assets, Debts, Income and Expenses (MT-819D)** – This form is used to provide final information regarding a party’s assets, debts, income and expenses to the Court. This document must be filed with the Court.

5. **Child Support Guidelines Financial Affidavit (MT-820D)** – This form is used to provide the Court with all relevant information regarding the parties’ financial condition as well as information regarding the minor children of the marriage.

6. **Notice of Filing Child Support Guidelines Financial Affidavit (MT-821D)** – This form is used to provide your spouse with notice that you have filed a Child Support Guidelines Financial Affidavit with the Court. A copy of the Financial Affidavit must be served on your spouse along with the Notice.

7. **Notice and Acknowledgement to Child Support Enforcement Division (MT-822D)** – This form is used to provide notice to the Montana Child Support Enforcement Division that you and your spouse have filed for dissolution of marriage and/or parenting plan. If you are already receiving services from CSED or if you receive public assistance under TANF, you are required to file this form.

8. **Request for Hearing and Order (MT-823D)** – This form is used by the parties to request that the Court schedule a hearing for the purpose of obtaining a final dissolution of marriage decree.
9. **Consent to Entry of Decree (MT-824D)** – This form is used by a party to the dissolution action to inform the Court that all outstanding issues have been resolved by the parties; the party waives his or her right to appear at the final hearing and consents to the entry of a final decree of dissolution of marriage.
10. **Findings of Fact, Conclusions of Law, and Final Decree of Dissolution (MT-825D)** – This document grants the dissolution of marriage and any other relief requested.
11. **Notice of Entry of Decree (MT-826D)** – This document is used to provide notice to the Respondent that a Decree of Dissolution of Marriage has been entered.
12. **Vital Statistics Form (MT-829D)** - This document is used as a certificate of divorce.

Steps to No-Fault Dissolution of Marriage

- STEP 1:** The parties should jointly complete the following forms:
- *Joint Petition for Dissolution (MT-817D)*
 - *Parenting Plan (MT-818D)*
 - *Final Declaration of Disclosure of Assets, Debts, Income and Expenses (MT-819D)*
 - *Child Support Guidelines Financial Affidavit (MT-820D)*
 - *Notice of Filing Child Support Guidelines Financial Affidavit (MT-821D)*
 - *Notice and Acknowledgment to CSED (MT-822D)* (if necessary)
- STEP 2:** The parties should next exchange completed *Final Declaration of Disclosure of Assets, Debts, Income and Expenses (MT-819D)*.
- STEP 3:** After completing the above listed forms, they should then be filed with the Clerk of Court. A filing fee must be paid at this time.
- STEP 4:** If you receive public assistance under Temporary Assistance to Needy Families (TANF) or if you are already receiving services from the Child Support Enforcement Division (CSED), you must notify CSED and the Attorney General of the dissolution action by filing the *Notice and Acknowledgment to CSED (MT-822D)*. Both CSED and the Attorney General must send an “*Acknowledgment of Service*” back to you before the dissolution may be entered by the Court. After you receive the acknowledgment back from both offices, make copies of each and file the originals with the Clerk.
- STEP 5:** The *Request for Hearing and Order (MT-823D)* must next be completed and filed with the Court. If only one of the parties to the dissolution will be attending the final hearing, you should also complete and file the *Consent to Entry of Decree (MT-824D)*.
- STEP 6:** The parties should jointly complete the *Findings of Fact, Conclusions of Law, and Final Decree of Dissolution (MT-825D)*. Once completed, this document should also be filed with the Clerk.
- STEP 7:** Once the Clerk has assigned a final hearing date, bring copies of all documents previously filed with the Clerk to the final hearing. Be prepared to answer any questions the Judge may have regarding your *Petition (MT-817D)* and *Decree (MT-825D)*.

STEP 8: After the Judge has signed the *Decree (MT-825D)*, bring the *Decree (MT-825D)* and *Parenting Plan (MT-818D)* to the Clerk of Court for filing along with the *Vital Statistics (MT-829D)* form.

STEP 9: Finally, complete the *Notice of Entry of Decree (MT-826D)* and make two copies. The original should be filed with the Clerk of Court. A copy of the *Notice of Entry of Decree (MT-826D)* should then be mailed to your spouse, along with a copy of the *Decree (MT-825D)* and *Parenting Plan (MT-818D)*. You should also keep a copy for your own records.

Notes: When presenting Pleadings to the Clerk make sure you have at least 4 copies for the Clerk. The Clerk will return the copies to you that the Court does not need.

This is a package involving property and/or assets of the marriage.

This package is a guide and you should complete all forms based upon your situation, making any necessary revisions.

CHECKLIST

- The parties jointly complete the following forms:
 - *Joint Petition for Dissolution (MT-817D)*
 - *Parenting Plan (MT-818D)*
 - *Final Declaration of Disclosure of Assets, Debts, Income and Expenses (MT-819D)*
 - *Child Support Guidelines Financial Affidavit (MT-820D)*
 - *Notice of Filing Child Support Guidelines Financial Affidavit (MT-821D)*
 - *Notice and Acknowledgment to CSED (MT-822D)* (if necessary)

- The parties' exchange completed *Final Declaration of Disclosure of Assets, Debts, Income and Expenses (MT-819D)*.

- Above listed forms filed with Clerk of Court. Filing fee paid.

- If receiving public assistance under Temporary Assistance to Needy Families (TANF) or services from the Child Support Enforcement Division (CSED), CSED and the Attorney General notified of dissolution action by filing *Notice and Acknowledgment to CSED (MT-822D)*. Both CSED and the Attorney General must send an "*Acknowledgment of Service*" before the dissolution may be entered by the Court. After receipt of acknowledgments from both offices, originals filed with the Clerk.

- Request for Hearing and Order (MT-823D)* completed and filed with the Court. If only one of the parties to dissolution will attend final hearing, *Consent to Entry of Decree (MT-824D)* completed and filed.

- The parties jointly complete *Findings of Fact, Conclusions of Law, and Final Decree of Dissolution (MT-825D)*. Once completed, filed with the Clerk.

- Once final hearing date assigned, bring copies of all documents previously filed to hearing. Be prepared to answer any questions the Judge may have regarding your *Petition (MT-817D)* and *Decree (MT-825D)*.

- After the Judge signs the *Decree (MT-825D)*, bring the *Decree (MT-825D)*

and *Parenting Plan (MT-818D)* to the Clerk of Court for filing along with the *Vital Statistics (MT-829D)* form.

- Notice of Entry of Decree (MT-826D)* completed and two copies made. Original filed with Clerk of Court. Copy of *Notice of Entry of Decree (MT-826D)* mailed to spouse, along with copy of *Decree (MT-825D)* and *Parenting Plan (MT-818D)*.

NOTE ABOUT COMPLETING THE FORMS

The forms in this packet contain “form fields” created using Microsoft Word. “Form fields” facilitate completion of the forms using your computer. They do not limit your ability to print the form “in blank” and complete with a typewriter or by hand.

If you do not see the gray shaded form fields, go to the View menu, click on Toolbars, and then select Forms. This will open the forms toolbar. Look for the button on the forms toolbar that resembles a shaded letter “a”. Click in this button and the form fields will be visible.

The forms are locked which means that the content of the forms cannot be changed. You can only fill in the information in the fields.

If you need to make any changes in the body of the form, it is necessary for you “unlock” or “unprotect” the form. **IF YOU INTEND TO MAKE CHANGES TO THE CONTENT, DO SO BEFORE YOU BEGIN TO FILL IN THE FIELDS. IF YOU UNLOCK THE DOCUMENT AFTER YOU HAVE BEGUN TO COMPLETE THE FIELDS, WHEN YOU RELOCK, ALL INFORMATION YOU ENTERED WILL BE LOST.** To unlock, click on “Tools” in the Menu bar and then select “unprotect document”. You may then be prompted to enter a password. If so, the password is “uslf”. That is uslf **in lower case letters without the quotation marks**. After you make the changes relock the document before you begin to complete the fields.

After any required changes and re-protecting the document, click on the first form field and enter the required information. You will be able to navigate through the document from form field to form field using your tab key. Tab to a form field and insert your data. If you experience problems, please let us know.

LAW SUMMARY

You may access the law summary for your State by using the link below:

<http://secure.uslegalforms.com/lawsummary/MT/MT-006-D.htm>

DISCLAIMER

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