

**INSTRUCTIONS**  
**Petition to Amend Parenting Plan & Child Support**  
***Confederated Salish & Kootenai Tribal Court***

**THE FOLLOWING INFORMATION IS NOT LEGAL ADVICE AND CANNOT  
REPLACE THE ADVICE OF A LAWYER OR ADVOCATE.**

**These instructions provide legal information and resources only.** Legal advice depends on the specific circumstances of each situation. The information contained in this document is not guaranteed to be up to date. The information cannot replace the advice of an attorney or advocate licensed to practice law. **If you choose to represent yourself, you are bound by the same rules and procedures as an attorney or advocate.**

Instructions have been developed to assist you with processing the **Verified Motion to Amend Parenting Plan** case. Read the instructions first to determine which forms you may need, based on your personal circumstances, as it may not be necessary to complete all forms listed below.

## **GENERAL INFORMATION**

- ◆ **For additional information**, please review CSKT Laws Codified (2013) and other applicable laws and ordinances at <https://csktribes.org/judicial/cskt-laws-codified>.
- ◆ **Tribal Court Forms** can be found at <http://csktcourt.org> by clicking on the “FORMS & FILINGS” tab.
- ◆ **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at [www.lawlibrary.mt.gov](http://www.lawlibrary.mt.gov). Or you can contact a Reference Librarian at 1-406-444-3636 or by email at [mtlawlibrary@mt.gov](mailto:mtlawlibrary@mt.gov).
- ◆ **CSKT Tribal Defender’s Office Civil Division** offers legal assistance to Tribal members in certain civil matters. To find out if you qualify, call (406) 275-2897. <https://csktribes.org/judicial/tribal-defenders>
- ◆ **Montana Legal Services Association (MLSA)** gives free legal help to low-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899.
  
- ◆ **NOTE:** You must have an existing court ordered Parenting Plan.
- ◆ Both parties may be required to schedule mediation to attempt to resolve issues regarding the parenting plan.
- ◆ Parties can amend a Parenting Plan by agreement (stipulation) at any time. If both parties agree, a written agreement (stipulation) can be filed with the Court with an Amended Parenting Plan. If this applies to you, please see the [TCF 0015] **Stipulation to Amend Parenting Plan**.
- ◆ If a party is seeking to relocate with a child to a residence that will substantially change the geographical ties between a child and the other party, please refer to the requirements in **Notice of Intent to Move [TCF 0056]**.

- ◆ Either party can ask the Court to amend the Parenting Plan, if the modification is in the best interest of the children.
- ◆ When modifying parenting time, please consider whether **child support** also needs to be modified. If child support needs to be modified, then request the modification in the Motion to Amend Parenting Plan and contact **Tribal Child Support Enforcement Program (TCSEP)** to modify child support consistent with the Tribal Child Support Guidelines and Schedule as recommended by TCSEP.
- ◆ If the Court finds that the motion is substantially frivolous, groundless or vexatious, the Court may require the party who filed the motion to pay the reasonable attorney fees and costs of the other party.

## COMMON TERMS

- ⇒ **Petitioner:** A petitioner is someone who files an action in court. The parent that filed the original Petition for divorce or parenting plan is Petitioner. The Court does not refer to Co-Petitioner or Joint-Petitioner.
- ⇒ **Respondent:** A Respondent is someone who has been filed against in court. The party that was filed against or identified as such in the first action for divorce or parenting plan is the Respondent.
- ⇒ **Stipulation:** A written agreement prepared by the parties.
- ⇒ **Parenting Plan:** This term includes both parenting time and decision-making responsibilities regarding the children. The Court no longer refers to “custody and visitation” but uses parenting time and decision-making responsibilities instead.
- ⇒ **Hearing Date:** The date that Petitioner and Respondent must appear in Court.
- ⇒ **Mediation:** A confidential process whereby a trained, neutral third-party assists the disputing parties to reach their own solution.
- ⇒ **Moving Party:** The Moving Party is the party who wants to amend the current parenting plan.
- ⇒ **Non-moving Party:** The Non-moving Party is the party who does not file forms to amend the current parenting plan.

***If you do not understand this information, please contact an attorney or advocate.***

## FEES

A filing fee is required when filing a **Motion to Amend Parenting Plan**. Please check with the <http://csktcourt.org> by clicking on the “FEE SCHEDULE” tab to determine what the current fee schedule is for filing Petitions. If you cannot afford the filing fees, you may ask the Tribal Court Clerk to apply for a Fee Waiver [TCF 0008] and the Court will determine if you qualify.

## FORMS

Please note that the forms referenced in these Instructions are available at <http://csktcourt.org> by clicking on the “FORMS & FILINGS” tab.

- [TCF 0013] DR-Parenting Plan-Amend-Verified MOTION
- [TCF 0006] DR-PROPOSED PARENTING PLAN
- [TCF 0009] DR-Request for Hearing
- [TCF 0015] DR Parenting Plan-Amend-STIPULATION re-Amending Parenting Plan
- [TCF 0014] DR-Parenting Plan-Amend-RESPONSE
- [TCF 0007] DR-Parenting Plan-PRETRIAL STATEMENT
- [TCF 0056] DR-Notice of Intent to Move
- [TCF 0010] DR-Verified Motion for Interim Parenting Plan
- [TCF 0011] DR-Response to Motion for Interim Parenting Plan

## STEPS TO FILING YOUR CASE

Selecting these instructions indicates that you are planning on filing a **Motion to Amend Parenting Plan**. Make sure that you make at least two (2) copies of all the forms you file with the Court for your own records. **Keep a copy of each form for your own records and make a copy to provide to the non-moving party.**

The following caption needs to be completed on all forms filed:

IN THE TRIBAL COURT OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION, PABLO, MONTANA

<input type="checkbox"/> In re the Marriage of: <input type="checkbox"/> In re the Parenting concerning: _____, Petitioner(s): _____ and Respondent(s): _____	Cause No. _____  <i>Insert Name of Form</i>
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**Complete the steps identified below under OPTION 1 or OPTION 2 depending on if you plan to file a stipulation or a motion.**

**OPTION 1: STIPULATION TO AMEND PARENTING PLAN. You have an existing order and both parties agree that parenting time should be changed.**

### **Step 1: Complete Forms**

- [TCF 0015] Stipulation Regarding Amending Parenting Plan
  - Complete all sections of this form.
  - If the modification to parenting time results in a **modification to child support** indicate such in the Stipulation and contact TCSEP to request a modification of child support consistent with the Tribal Child Support Guidelines and Schedule as recommended by TCSEP.
  
- [TCF 0006] Propose Parenting Plan
  - Complete all sections of this form, as appropriate.
  - Include the Parenting Plan when you file the Stipulation.

### **Step 2: File Papers with the Court**

Provide the Court with the documents completed as described in **Step 1** above and pay the filing fee, if applicable.

### **Step 3: Court Review of Stipulation.**

The Court will review the matter and determine whether the Stipulation will be approved or not.

- If it is approved, then no hearing will be required and following the review of the Stipulation, you will receive a signed copy of the **Order Re: Amending Parenting Plan** with the **Amended Parenting Plan**.
- If you are requesting a modification of child support, the Court review the recommendation from TCSEP to determine the adequacy of child support order negotiated by the parties as well as the financial affidavits. If child support is modified, you will also receive an updated Child Support Order.

**OPTION 2: MOTION TO AMEND PARENTING PLAN. If you have an existing order and both parties do not agree that parenting time should be modified or**

**Step 1: Complete Forms**

- [TCF 0013] **Verified Motion to Amend Parenting Plan**
  - Moving Party must **complete all applicable sections on the form.**
  - Moving Party must sign this form in the presence of a Court Clerk or Notary Public.
  - Attach a copy of the parenting time order or schedule.
  
- [TCF 0006] **Proposed Parenting Plan**
  - Moving Party must **complete all applicable sections on the form.**
  - Indicate if this is a full or partial parenting plan as agreed upon by the parties.
  - If this is a partial parenting plan you or the other party must complete–Pretrial Statement [TCF 0007].** The purpose of this form is for you or the other party to identify to the Court what issues have not been resolved.
  
- [TCF 0010] **Motion for Interim Parenting Plan**
  - Please **complete all sections on this form** if you intend to request the Court to adopt an Interim Parenting Plan pending the Court’s final decision and include a proposed **Interim Parenting Plan [TCF 0006]** if it is different than the Proposed Parenting Plan you file with the Petition.
  - Submit a **Request for Hearing [TCF 0009]** on the Motion for Interim Parenting Plan when you file the Motion with the Court.

**Step 2: File Papers with the Court**

Provide the Court with the documents completed as described in **Step 1** above and pay the filing fee, if applicable.

**Step 3: Serve Completed Motion to the Non-Moving Party**

- You must provide a copy of this Motion to all parties to the case when you submit the Motion to the Court.
  
- Complete the **Certificate of Service** portion on the Motion. The purpose of the Certificate of Service is to notify the Court when and how you provided copies of the Motion to all parties in the case. This is very important, because the Court must have knowledge that all parties involved are aware of the motion prior to any Court action being taken.

#### **Step 4: Non-Moving Party Files a Response**

The Non-Moving Party may file a response to the Motion. A filing fee may be required. The purpose of the response is for the Non-Moving Party to state in writing if they agree or disagree with the information identified in the Motion and mail a copy to the other parent. All fees paid are non-refundable.

- [TCF 0014] Response to Motion to Amend Parenting Plan**
  - Please complete all sections of this form and make sure all issues are addressed.
- [TCF 0006] Proposed Parenting Plan**
  - If necessary, please complete all sections of this form and make sure all issues are addressed. If any unique situations exist, identify them in the “Other Terms” section. The Parenting Plan should identify only those parties who will have court-ordered parenting time and decision-making responsibilities.
  - Please indicate if this is a full or partial parenting plan.
- The Non-Moving Party must file the original copies with the Court and mail copies to Moving Party.

#### **Step 5: Request a Final Hearing**

Once the time for the other parent to respond has expired, you can request a hearing to address your request to amend the parenting plan. You will complete and file these forms and submit to the Clerk of the Tribal Court:

- [TCF 0009] Request for Hearing**

The Court will notify you regarding the date of the scheduling conference where the Court will set a time for when the **Pre-Trial Statement for Parenting Plans [TCF 0007]** is due.

#### **Step 6: Scheduling Conference**

The Court may set a scheduling conference when a Request for Hearing is submitted. Then, after the scheduling conference, the Court will issue a Scheduling Order.

#### **Step 7: Court Review of Motion or Hearing**

- You will follow the timelines and requirements of the **Scheduling Order** issued by the Court.
- If the Court sets the case for a hearing, the Court may order the parties submit and exchange **Pretrial Statements [TCF 0007]** as explained in the **Scheduling Order** before the hearing and at the hearing both parties will have the opportunity to appear and address the Court.
- The Court may order the parties to seek mediation and report the results of the mediation back to the Court within a number of days of the Order.

- The Judge will review all documents filed, testimony and evidence presented at the hearing and enter an Order to grant allocation of parenting time, decision-making, child support, and other issues, if any.
- The Court will adopt a Parenting Plan that the Court considers fair and in the best interest of your child(ren).

**Preparing for the Hearing**

- Have available your stamped copies of the papers you filed with the Court.
- Dress like you were going to an important job interview.
- Be prepared to explain your position and answer any questions the judge might have.
- Address the Court and staff respectfully.

***If you do not understand this information, please contact an attorney or advocate.***