

INSTRUCTIONS
Verified Motion to Enforce Parenting Plan
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 Enforce a 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://cskctcourt.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. Or you can contact a Reference Librarian at 1-406-444-3636 or by email at 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.

- ◆ You must have an existing court ordered Parenting Plan to show that one party is not in compliance with the Parenting Plan.
- ◆ Both parties may be required to schedule mediation to attempt to resolve issues regarding the parenting plan.
- ◆ The Court may order various sanctions against the non-complying party, such as requiring that parenting time for the aggrieved parent or child be made up, and any other orders to meet the best interests of the children.

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 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.
- ⇒ **Service of Process:** The official means by which a party is notified that a document has been filed against him/her and provided a copy of the document and a description of the person’s rights and obligations as a party to the case.
- ⇒ **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 enforce the current parenting plan.
- ⇒ **Non-moving Party:** The Non-moving Party is the party who does not file forms to enforce the current parenting plan.
- ⇒ **Request for Show Cause Hearing:** Party asks the Court in the Motion to Enforce to set a show cause hearing for the other parent to appear and explain to the court why they have failed to follow the court-ordered Parenting Plan.
- ⇒ **Order to Show Cause:** The Judge will fill out and the Court will issue an Order to Show Cause. This order schedules a hearing on your Motion to Enforce Parenting Plan and tells the other party that they must show up and tell the Court why they should not be held in contempt.
- ⇒ **Contempt:** Contempt is a finding by a Court that a party has failed to follow a court order. In your case, you are asking that the other party be held in contempt for failing to follow your court-ordered Parenting Plan.
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If you do not understand this information, please contact an attorney or advocate.

FEES

A filing fee may be required when filing a **Verified Motion to Enforce 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 0017] DR-Parenting Plan-Enforce-Verified MOTION
- [TCF 0019] DR-Parenting Plan-Enforce-RESPONSE
- [TCF 0007] DR-Parenting Plan-Pre-trial Statement

STEPS TO FILING YOUR CASE

Step 1: Complete Forms

Selecting these instructions indicates that you are planning on filing a **Verified Motion to Enforce 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 other 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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- [TCF 0017] **Verified Motion to Enforce Parenting Plan and Request for Contempt**
 - 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 current parenting plan and order.

NOTE: Possible sanctions that may be imposed by the Court. The possible sanctions to be imposed by the Court may include but **are not limited** to one or more of the following:

1. An order imposing additional terms and conditions on parenting time consistent with the Court’s previous order; except that the court shall separate the issues of child support and parenting time and shall not condition child support upon parenting time.
2. An order modifying the previous order to meet the best interests of the child.
3. An order requiring either or both parties to attend a parental education program at the expense of the non-complying party.

4. An order requiring the parties to participate in family counseling, at the expense of the non-complying party.
5. An order requiring the party who violated the parenting time order to post bond or security to insure future compliance.
6. An order requiring that make up parenting time be provided for the aggrieved party or child under the following conditions:
 - a. That such parenting time is of the same type and duration of parenting time as that which was denied, including but not limited to parenting time during weekends, on holidays, and on weekdays and during the summer.
 - b. That such parenting time is made-up within six months after the non-compliance occurs, unless the period of time or holiday cannot be made up within six months in which case the parenting time shall be made up within one year after non-compliance occurs.
 - c. That such parenting time takes place at the time and in the manner chosen by the aggrieved party if it is in the best interest of the child.
7. An order finding the non-complying party in contempt of court and imposing a fine.
8. Any other orders that the Court finds to promote the best interests of the child involved.
9. In the event the party responding to this action, is found to not be in violation of the parenting time order, the Court may order the party who filed the motion to pay the court costs, attorney fees, and expenses incurred by the other party.

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.

- File your original Motion with the Clerk and pay the filing fee.

Step 3: Serve Completed Motion to the Other 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: Serve the Other Party the Motion and Order to Show Cause

Because you are requesting sanctions, the Motion and the Order to Show Cause that was issued by the judge must be served on the other party. Contact the Court regarding this process.

Step 5: 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 0020] Response to Motion to Enforce Parenting Plan**
 - Complete all sections of this form and make sure all issues are addressed.
 - You must file the original copies with the Court and mail copies to Moving Party.

Step 5: Order to Show Cause Hearing

- The Court may set the case for a Show Cause Hearing at which time both parties will have the opportunity to appear and make statements to the Court.
 - 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.