

Motion for Default Divorce Judgment

Instructions for Form 9: Exhibit B: Parenting Plan

(Form MP9: Exhibit B: Parenting Plan is part of the Motion for Default Divorce Judgment and is used **only** if there are minor children of the marriage. [Review the instructions for the packet of forms.](#))

ND Legal Self Help Center Staff and Court employees **can't** help you fill out forms. If you're unsure how to proceed, consult a lawyer.

ND Legal Self Help Center forms **aren't** official court forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

Don't include these instruction sheets when you serve or file the completed form.

The Exhibit B: Parenting Plan one of a set of required documents that make up a written Motion for Default Divorce Judgment.

The **MP9: Exhibit B: Parenting Plan** is part of your proposed Findings and proposed Judgment. Exhibit B **must** be filed with the (Proposed) Findings of Fact, Conclusions of Law, and Order for Judgment and (Proposed) Judgment and the other documents listed on **page 8**.

Important!! The Exhibit B: Parenting Plan in a divorce depends on the unique circumstances of your marriage. It's impossible for a form to reflect every possible finding or order during a divorce.

This (Proposed) Exhibit B: Parenting Plan form is designed for common, uncomplicated divorces. This form won't work as is for every divorce.

You may use this form as a template to create your own document.

If the section of the form asks for a dollar amount and there is none, type or write \$0.00 in the space.

Follow and Carefully Read All Instructions! There are boxes (☐) before each step. Check each box as you finish the step. Don't go on to the next step **until** the previous step is completed.

You may use this form as a template to create your own document.

You, the Plaintiff, Complete Exhibit B: Parenting Plan

Exhibit B: Parenting Plan reflects the full parenting rights and responsibilities of the spouses. North Dakota law requires the parenting plan to include, at minimum, the following 7 provisions:

- Decision making responsibility for day to day decisions and major decisions such as education, health care and spiritual development.
- Information sharing and access, including telephone and electronic access.
- Legal residence of each child for school attendance.
- Residential responsibility, parenting time, and parenting schedule for holidays, days off from school, birthdays, vacation planning, weekends, weekdays, and summers.
- Transportation and exchange of the child, considering the safety of the parties.
- Procedure for review and adjustment of the plan.
- Methods for resolving disputes.

Best Interests of the Child ([N.D.C.C. Section 14-09-06.2](#))

The judge or judicial referee in your divorce case uses the 13 “Best Interests of the Child” factors to decide residential responsibility (custody), parenting time (visitation), and everything else involved in the parenting plan. Best interests look at the child’s needs and who will best meet the child’s needs.

Review the 13 “Best Interests of the Child” factors at [N.D.C.C. Section 14-09-06.2](#) before completing this form. If the judge or judicial referee questions your parenting plan and schedules a hearing, you need to be prepared to argue how each factor applies to your parenting plan.

Definitions

Decision making responsibility – the responsibility to make decisions concerning the child. The term may refer to decisions on all issues or on specific issues, but not child support issues.

Parental rights and responsibilities – all the rights and responsibilities a parent has concerning the parent’s child.

Parenting plan – a written plan describing each parent's rights and responsibilities. A parenting plan is required for every divorce case involving minor children.

Parenting schedule – the schedule of when the child is in the care of each parent.

Parenting time – (*also called visitation*) the time when the child is to be in the care of a parent.

Primary residential responsibility – a parent with more than fifty percent of the residential responsibility.

Residential responsibility – *(also called custody)* a parent's responsibility to provide a home for the child.

- ☐ **Top of the Form (Caption):** Fill in the caption exactly as you filled in the caption on the Summons.
- ☐ **Paragraph 1:** Read carefully.
- ☐ **Paragraph 2:** Fill in the following information of all child(ren) this Parenting Plan applies to:
 - Initials of the minor child(ren);
 - Birth Year of the minor child(ren); and
 - Age of the minor child(ren).
- ☐ **Paragraph 3: Legal Residence.** Put a checkmark ☒ in the box indicating the legal residence of the minor child(ren) for school attendance. If you check “Other,” list the name of the person you want to have legal residency of the child(ren).
 - **Legal residence** is the place at which a person has been physically present, that the person regards as home, and to where, whenever absent, the person intends to return.

Paragraph 4: Residential Responsibility and Parenting Time.

- ☐ **a. Residential Responsibility.**
 - Put a check (✓) in the box next to **equal residential responsibility** if you believe it’s in the best interests of the child(ren) for the parents to share residential responsibility 50% of the time.
 - On the first set of lines, show your residential responsibility schedule.
 - On the second set of lines, show Defendant’s residential responsibility schedule.

(This space left intentionally blank.)

***Following are some examples of equal residential responsibility stated in Nolo's Essential Guide to Divorce, by Emily Daskow, June 2016.**

Fourteen Overnights:

(Split time between parents and alternate schedule each week as follows:)

Parent A/Week One: Sunday evening to Wednesday morning;

Parent B/Week One: Wednesday afternoon to Sunday evening;

Parent A/Week Two: Sunday evening to Wednesday morning;

Parent B/Week Two: Wednesday afternoon to Sunday evening.

Fourteen Overnights:

(Split midweeks and every other weekend as follows:)

Parent A: Monday evening to Wednesday evening each week, and every other weekend from Friday evening to Monday morning;

Parent B: Wednesday evening to Friday morning each week, and every other weekend from Friday evening to Monday morning.

- Put a check (✓) in the box next to **Primary residential responsibility shall be with Plaintiff** if you believe it's in the best interests of the child(ren) for you to have primary residential responsibility.
 - In the first paragraph, put a check (✓) in the box showing whether you propose parenting time for Defendant be reserved, unsupervised, or supervised. If you propose supervised, explain how it will be supervised.
 - In the second paragraph, put a check (✓) in the box showing whether you propose parenting time for Defendant be unsupervised or supervised. Select and put a check (✓) in the box showing your proposed times for Defendant's parenting time. If you propose other, explain the details.

Don't fill out the second paragraph if you choose "no parenting time ordered".
- Put a check (✓) in the box next to **Primary Responsibility shall be with Defendant** if you believe it's in the best interests of the child(ren) for Defendant to have primary residential responsibility.
 - Select and put a check (✓) in the box(es) for your proposed parenting time. If you propose other, explain the details.

☐ **b. Alternate Schedules.**

- If you're proposing an alternate schedule, indicate the schedule by each section and explain in detail.
- If you're not proposing an alternate schedule, write *"No Alternate Schedule"* on the first line of each section.

Examples of alternate schedules include (but aren't limited to):

Summertime – "According to the public school calendar;" "From June 1 – August 15;" etc.

School Release Days – "Days as defined by the public school calendar;" "non-holiday school breaks;" etc.

Vacation with Parents – "two consecutive weeks in the summer time;" "two non-consecutive weeks at any time;" "to be scheduled during normal parenting time;" "only upon 30 days written notice;" etc.

- **Holidays.** Write the beginning times and ending times for the holidays. If the holidays will include the weekend if it falls during a weekend or on a Friday or a Monday, write that here.
- **Days off from school.** Fill in the definition of days off from school. If you're proposing an alternative schedule, fill in that schedule.
- **Birthdays.** Put a check (✓) in the box indicating whether you want to alternate the child(ren)'s birthday and explain the details. If you put a check (✓) in the box indicating **Other**, explain the details.
- **Plaintiff's Birthday:** If you're proposing you always have your birthday with the child(ren), explain the beginning and end times.
- **Defendant's Birthday:** If you're proposing Defendant always have his birthday with the child(ren), explain the beginning and end times.
- **Summers.** Fill in the definition of summer time you're proposing and fill in that schedule.
- **Vacation and Vacation Planning.** Fill in your proposed schedule.
- **Other.** If you're proposing a different alternate schedule, fill in the details.

☐ **c. Missing Parenting Time.** Fill in the your proposed details.

- Examples include (but aren't limited to) "missed parenting time isn't made up;" "missed parenting time is made up the following week;" "a missed holiday is made up;" or "a missed holiday isn't made up;" etc.

☐ **Paragraph 5. Limitations on Residential Responsibility and Parenting Time Modifications.**

This states that modifications to parenting time are governed under specific sections of the North Dakota Century Code. If you don't want to propose this, **Stop!** You can't use this form.

☐ **Paragraph 6. Decision Making Responsibility.** This is your proposal for decision making responsibility. Complete all parts of Paragraph 6 (a through g).

☐ **a. Emergency Medical Decisions.** Read Carefully. If you don't want to propose this, **Stop!** You can't use this form.

☐ **b. Day-to-Day Decisions.** Read carefully. If you don't want to propose this, **Stop!** You can't use this form.

☐ **c. Daycare/Afterschool Provider.** Put a check (✓) in the box next to the option or options you're proposing. If an option requires additional information, fill in the details.

☐ **d. Education Decisions.** Put a check (✓) in the box next to the option you're proposing.

☐ **e. Non-Emergency Health Care Decisions.** Put a check (✓) in the box next to the option you're proposing.

☐ **f. Spiritual Development Decisions.** Put a check (✓) in the box next to the option you're proposing.

☐ **g. Both parents must consent.** Fill in the information you're proposing.

☐ **Paragraph 7. Information Sharing and Access.**

☐ **a – i.** Read carefully. If you don't want to propose any one of these, **Stop!** You can't use this form.

☐ **j.** Fill out your proposal for phone contact.

☐ **k.** Fill out your proposal for electronic access to the children.

☐ **Paragraph 8. Communication Between Parents.** Read carefully. If you don't want to propose this provision, **Stop!** You can't use this form.

- ☐ **Paragraph 9. Transportation and Exchange Arrangements.** The Parenting Plan must include arrangements for transportation and exchange of the minor child(ren). Put a check (✓) in the box next to the option or options you're proposing. If an option requires additional information, fill in the details. Put a check (✓) in the **Other** box, if needed, and explain other details you're proposing.
- ☐ **Paragraph 10. Review and Adjustment to Parenting Plan.** Read carefully. If you don't agree with these provisions, **Stop!** You can't use this form.
 - ☐ a. Read carefully
 - ☐ b. Put a check (✓) in the box(es) next to all that apply. If you check "Other", explain.
 - ☐ c – e. Read carefully.
- ☐ **Paragraph 11. Out of State Relocation of Resident of the Child(ren).** Read carefully. If you don't want to propose this, **Stop!** You can't use this form.
- ☐ **Paragraph 12. Dispute Resolution.** Complete all 4 parts of your proposal for Paragraph 12.
 - ☐ a. Put a check (✓) in the box next to the option you're proposing. If you select Other, explain the details. **Don't check more than one option.**
 - ☐ b. Put a check (✓) in the box next to the option you're proposing. If you select Other, explain the details. **Don't check more than one option.**
 - ☐ c. Put a check (✓) in the box next to the option you're proposing. If you select Other, explain the details. **Don't check more than one option.**
 - ☐ d. Read carefully. If you don't want to propose this, **Stop!** You can't use this form.
- ☐ **Paragraph 13. Compliance.** Read carefully. If you don't want to propose this, **Stop!** You can't use this form.
- ☐ **Signature: Stop!** Don't sign or put the case number in this section. This section is for the judge's use.

What do I do next?

- ☐ Set aside the completed Exhibit B: Parenting Plan. (You make copies later.)
- ☐ Complete the next form in the set. (The Confidential Inform Form is the next form. Make sure to use the correct form (with children).

- ☐ Once you've completed all of the forms listed on **page 8** you serve the Exhibit B: Parenting Plan
- ☐ The originals are filed with the court in **Step Seven**. Make sure to also file the Declaration of Service by Mail.

For divorces (With Children), the following forms are required:

- MP1: Notice of Motion for Default Divorce Judgment;
- MP2: Motion for Default Divorce Judgment;
- MP3: Brief in Support of Default Divorce Judgment;
- MP4: Declaration of Default, Identification and Active Military Status;
- MP5a: Declaration of Proof for Default Divorce Judgment (*With Children*);
- MP6a: Proposed Findings of fact, Conclusions of Law, and Order for Default Divorce Judgment (*With Children*);
- MP7a: Proposed Judgment (*With Children*);
- MP8: Exhibit A: Confidential Division of Property & Debts & Values
 - Summary Real Estate Disposition Judgment (*if needed*);
- MP9: Exhibit B: Parenting Plan;
- **MP10a: Confidential Information Form (*With Children*)**; and
- MP11a: Declaration of Service by Mail.

For divorces (No Children), the following forms are required:

- MP1: Notice of Motion for Default Divorce Judgment;
- MP2: Motion for Default Divorce Judgment;
- MP3: Brief in Support of Default Divorce Judgment;
- MP4: Declaration of Default, Identification and Active Military Status;
- MP5b: Declaration of Proof for Default Divorce Judgment (*No Children*);
- MP6b: Proposed Findings of Fact, Conclusions of Law, and Order for Default Divorce Judgment
- MP7b: Proposed Judgment (*No Children*);
- MP8: Exhibit A: Confidential Division of Property & Debts & Values;
 - Summary Real Estate Disposition Judgment (*if needed*);
- **MP10b: Confidential Information Form (*No Children*)**; and
- MP11b: Declaration of Service by Mail.

Don't include these instruction sheets when you serve or file the completed form.

State of North Dakota

In District Court

County of _____

_____ Judicial District

Plaintiff,
vs

Defendant.

)
)
)
)
)
)

Case No. _____

Exhibit B: Parenting Plan

1. This Exhibit B: Parenting Plan is the Parenting Plan in the above entitled action for divorce. Exhibit B is incorporated by reference into the Findings of Fact, Conclusions of Law and Order for Judgment. Exhibit B is incorporated by reference into the Judgment.

2. The Parenting Plan applies to the following child(ren) in this action for divorce:

Initials: Birth Year: Age:

3. **Legal Residence:** The legal residence of the minor child(ren) for school attendance shall be (*choose one*):

- ☐ The Plaintiff's place of residence.
☐ The Defendant's place of residence.
☐ Other: _____.

4. **Residential Responsibility And Parenting Time:**

- a. **It is in the best interests of the minor children that** (*choose one of the three options in Paragraph 4a below; Paragraph 4a continues on next pages*):

☐ **The Plaintiff and Defendant shall have equal residential responsibility of the minor child(ren).** Equal residential responsibility means each parent must have the child(ren) 50% of the time. With that in mind (*describe the schedule for each parent; see instructions for examples*):

The Plaintiff shall have residential responsibility of the minor child(ren) as follows:

The Defendant shall have residential responsibility of the minor child(ren) as follows:

☐ **Primary residential responsibility shall be with the Plaintiff.** The Defendant shall have parenting time as follows (*choose one*):

☐ No parenting time schedule is ordered. The issue of parenting time is reserved until the Defendant properly motions the court and establishes that parenting time with Defendant is in the best interests of the child(ren).

☐ Unsupervised.

☐ Supervised as follows: _____

The Defendant shall have (*choose same option as above*) ☐ unsupervised / ☐ supervised parenting time in the following Parenting Time Schedule (*select any that apply*):

☐ Wednesday evenings from 6:00 p.m. to 8:00 p.m.

☐ Every other weekend from Friday at _____, until Sunday at _____.

☐ Other: _____

☐ **Primary residential responsibility shall be with the Defendant.** The Plaintiff shall have parenting time in the following Parenting Time Schedule (*select any that apply*):

☐ Wednesday evenings from 6:00 p.m. to 8:00 p.m.

☐ Every other weekend from Friday at _____, until Sunday at _____.

☐ Other: _____

- b. Alternate Schedules:** The above Parenting Time schedule for Paragraph 4a is the default “normal” schedule **except** as described below. The alternate schedules shall be as follows *(if the issue of parenting time is reserved, or you don’t have an alternate schedule, write “No Alternate Schedule” on the first line of each alternate schedule)*:

Holidays: _____

Days off from school: _____

Birthdays: ☐ Alternating the child(ren)’s birthdays: _____

☐ Other: _____

Plaintiff’s Birthday: _____

Defendant’s Birthday: _____

Summers: _____

Vacations and Vacation Planning: _____

Other: _____

- c. If either parent misses their parenting time for any reason,** the parents will deal with

the missed parenting time as follows: _____

5. Limitations on Residential Responsibility and Parenting Time Modifications:

Modifications to residential responsibility and parenting time shall be governed by North Dakota Century Code Section 14-09-06.6 and North Dakota Century Code Chapter 14-14.1, the Uniform Child Custody Jurisdiction and Enforcement Act.

6. Decision Making Responsibility:

- a. Emergency Medical Decisions:** Each parent is authorized to make emergency health care decisions while the child(ren) is/are in that parent's care.
- b. Day-to-day Decisions:** Each parent is authorized to make decisions regarding the day-to-day care and control of the child(ren) while the child(ren) reside with that parent, except as provided in 6c, 6d, 6e, 6f, and 6g below.
- c. Daycare/Afterschool Provider** (*select any that apply*):
 - ☐ The child(ren)'s daycare/afterschool provider is _____.
 - ☐ The Plaintiff will designate the daycare/afterschool provider.
 - ☐ The Defendant will designate the daycare/afterschool provider.
 - ☐ When the parents reside in the same community, they will use the same daycare/afterschool provider.
 - ☐ Other: _____.
- d. Education Decisions** will be made by (*choose one*):
 - ☐ The Plaintiff
 - ☐ The Defendant
 - ☐ The Plaintiff and Defendant jointly
- e. Non-Emergency Health Care Decisions** will be made by (*choose one*):
 - ☐ The Plaintiff
 - ☐ The Defendant
 - ☐ The Plaintiff and Defendant jointly

f. **Spiritual Development Decisions** will be made by (*choose one*):

- ☐ The Plaintiff
- ☐ The Defendant
- ☐ The Plaintiff and Defendant jointly

g. **Both parents must consent** before any minor child will be permitted to _____

7. Information Sharing And Access:

- a. Both parents may have access to educational, medical, dental, religious, insurance and school records. Both parents have the right and shall notify and authorize the daycare, the school, and the children's doctors and other professionals to communicate directly with and outside the presence of the other parent. Each parent shall be listed as the child(ren)'s parent and as an emergency contact with the daycare, the school, and all health professionals unless directed by court order to the contrary.
- b. Both parents have the right to attend school conferences. This right does not require any school to hold a separate conference with each parent. Each parent shall keep the other parent informed of the name and address of the school the child(ren) attend.
- c. Each parent must communicate with the other parent with regard to grade reports, extra-curricular activities, and any other notices from the daycare, the school, and related entitles regarding the child(ren). Both parents must notify the child(ren)'s daycare and school(s) of the split households and advise to send copies of the child(ren)'s school documents, notices, and related information to each parent.

- d. Each parent must inform the other as soon as reasonably possible of serious accidents or serious illness which require health care treatment, providing the time of the accident or illness and the name of the treating health care provider. If the child is taking medications, the parents must communicate regarding instructions, dosage, and related information.
- e. The parent who has medical insurance coverage on the children must supply to the other parent an insurance card and, as applicable, insurance forms and a list of insurer approved or HMO-qualified health care providers in the area where the other parent is residing.
- f. Both parents must notify the other parent in writing of any change in residence, telephone numbers, names and addresses of employers, changes in health insurance coverage for the child(ren), and changes in health insurance available through employer which could cover the child(ren).
- g. Communication between parents and child(ren) must be liberally permitted at reasonable hours and at the expense of the parent initiating contact.
- h. At all other times, the parent with whom the child(ren) is/are staying shall not refuse to allow contact or take any action in order to deny the other parent contact. Each parent shall facilitate the communication between the child and the other parent.
- i. Both parents shall allow reasonable access to the child by phone or other means.
- j. Telephone access to the child(ren) shall be as follows: _____

- k. Electronic access to the child(ren) shall be as follows: _____

8. Communication Between Parents: The parents shall communicate only in positive ways.

The parents shall not make and shall not allow others to make derogatory remarks about the other parent in the child(ren)'s presence.

9. Transportation and Exchange Arrangements (*select any that apply*):

☐ Pick up at _____

☐ Drop off at _____

☐ Alternative Pick up/Drop off at _____

☐ Any change in pick up or drop off location will be determined by: _____

☐ Other: _____

10. Review and Adjustment to Parenting Plan:

a. When family necessities, illnesses, or commitments reasonably require, the parents may review the Parenting Plan for adjustment.

b. Plaintiff and Defendant will review the Parenting Plan upon the following events (*select any that apply*):

☐ Plaintiff and Defendant may change this plan by agreement, but all changes must be in writing, signed, and dated by both.

☐ If either Plaintiff or Defendant intends to move more than _____ miles from their current residence.

☐ Upon a court finding of domestic violence by one or both parties.

☐ Prolonged lack of contact with the child(ren).

☐ Other: _____

c. The parent requesting modification shall act in good faith and give as much notice as circumstances permit.

- d. In the event the parents cannot agree, the parents shall use the dispute resolution provisions in Paragraph 12 of this Parenting Plan.
- e. The parent requesting permanent modification to the Parenting Plan shall reduce the modifications to writing and submit to the Court for approval.

11. Out Of State Relocation Of Residence Of The Child(ren): Out of state relocation of the residence of the child(ren) shall be governed by North Dakota Century Code Section 14-09-07.

12. Dispute Resolution:

- a. In the event Plaintiff and Defendant are unable to resolve their differences with regard to the Parenting Plan, disputes shall be submitted to (*choose one*):

☐ Counseling

☐ Mediation

☐ Other: _____

- b. The cost of this process will be allocated between Plaintiff and Defendant as follows (*choose one*):

☐ Plaintiff and Defendant shall each pay one-half.

☐ As determined in the dispute resolution process.

☐ Other: _____

- c. A parent will begin the dispute resolution process by notifying the other parent by (*select any that apply*):

☐ Written request.

☐ Certified mail.

☐ Other: _____

- d. In the dispute resolution process with regard to the Parenting Plan, preference will be given to carrying out this Parenting Plan. Unless an emergency exists, the parents shall use the designated process to resolve disputes, except those related to financial support. If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorneys' fees and financial sanctions to the other parent.

13. Compliance: Repeated, unjustified violations of these provisions may subject the offender to court sanctions, or, if continuous and serious, may result in modification of the Parenting Plan. One parent's failure to comply with a provision of the Parenting Plan does not affect the other parent's obligation to comply with the Parenting Plan. Violation of provisions of this plan with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense. Violation of this plan may subject a violator to arrest, fines, imprisonment or sanctions or other remedies available under the law.

(Judge of District Court)

Civil No. _____