

Divorce When Spouse's Don't Agree Instructions (Proposed) Exhibit B: Parenting Plan (With Children)

After the divorce trial, the judge signs their Findings of Fact, Conclusions of Law, and Order for Judgment. Once dated and signed, the clerk of court issues a Judgment, which officially ends the marriage.

These are the instructions for the (Proposed) Exhibit B: Parenting Plan. Exhibit B 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.

The judge may require one or both parties to provide a proposed Exhibit B: Parenting Plan for the judge to review!

If you're assigned to provide a proposed Exhibit B, you may find this form helpful.

****Pay attention to the judge's instructions or order regarding the deadline to serve and file your proposed documents.**

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

The Exhibit B: Parenting Plan must reflect what the judge found to be true and ordered at trial.

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

If everything from the trial isn't included on this form and/or doesn't reflect what the judge found or ordered at trial, you need to create your own Exhibit B: Parenting Plan.

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

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

ND Legal Self Help Forms aren't official 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 this instruction sheet when you serve or file the completed form.

Before you start, make sure you have your notes from the trial to complete this form. Your notes should include everything the judge found to be true and everything the judge ordered.

If your notes are missing information from the trial, contact the Clerk of Court to ask how to get a copy of the recording.

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.

If this form doesn't reflect everything the judge found to be true and ordered at the trial, you can't use this form. However, you may use this form as a template to create your own document.

Complete Exhibit B: Parenting Plan

Exhibit B: Parenting Plan as ordered by the judge, 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:

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

- Top of the Form (Caption):** Fill in the caption exactly as you filled in the caption on Proposed Findings of Fact, Conclusions of Law, and Order for Judgment and Judgment.
- Paragraph 1:** This paragraph states Exhibit B is part of the Findings and Judgment.
- Paragraph 2:** Fill in the following information of all child(ren) this Parenting Plan applies to as ordered by the judge:
 - 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 next to the statement the judge ordered. If the judge ordered someone other than the Plaintiff or Defendant to have legal residency for school purposes, list the name of the person who is ordered 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.**
 - **Residential responsibility** (also known as custody) is a parent’s responsibility to provide a home for the child.
 - **Parenting time** (also known as visitation) is the time when the child is to be in the care of a parent.
 - a. Residential Responsibility.**

If the judge ordered the first statement (parties shall have equal residential responsibility), put a checkmark in the box next to that statement and write the schedule for each parent as ordered by the judge.

If the judge ordered the second statement (Plaintiff shall have primary residential responsibility), put a checkmark in the box next to that statement and write the schedule for Defendant's parenting time as ordered by the judge.

If the judge ordered the third statement (Defendant shall have primary residential responsibility), put a checkmark in the box next to that and write the schedule for Plaintiff's parenting time as ordered by the judge.

b. Alternate Schedules.

If the judge ordered an alternate schedule for parenting time, write the schedule by each section and explain in detail as the judge ordered.

If the judge didn't order an alternate schedule, write *"No Alternate Schedule"* on the first line of each section.

- **Summer Time.** Fill in the definition of summer time as ordered by the judge. If an alternative schedule was ordered, fill in that schedule. Otherwise, write *"No Alternate Schedule."*
- **School Release Days.** Fill in the definition of school release days as ordered by the judge. If an alternative schedule was ordered, fill in that schedule. Otherwise, write *"No Alternate Schedule."*
- **Summer Time/School Release Days.** This states that summer time and school release dates taking precedence over summer activities. If the judge didn't order this, you can't use this form.
- **Vacation with Parents.** Fill in the schedule as ordered by the judge.

c. Schedule for Holidays and Other Special Days. Fill in the Holidays and Special Days schedule as ordered by the judge. If ordered by the judge, include all specifics and when each holiday and special day is scheduled for Plaintiff and Defendant.

- If ordered by the judge, in the space provided after the Holidays and Special Days schedule, write the beginning times and ending times for the holiday/special day. If the judge ordered the holiday/special day will include the weekend if it falls during a weekend or on a Friday or a Monday, write that here. If there are any other special arrangements that were ordered by the judge with regard to holidays/special days, write them here.

d. Children's Activities During Parenting Time. Fill in details as ordered by the judge.

- e. **Timeliness.** Fill in the details as ordered by the judge.
- f. **Missing Parenting Time.** Fill in the details as ordered by the judge.
- g. **Notification.** Fill in the details as ordered by the judge.
- h. **Restrictions on Contact with the Child(ren).** Put a checkmark in the box next to the statement the judge ordered.
 - Fill in the details if the judge ordered restrictions with conditions.
- Paragraph 5. Limitations on Residential Responsibility and Parenting Time Modifications.** This states the judge ordered modifications to parenting time are governed under specific sections of the North Dakota Century Code.
- Paragraph 6. Decision Making Responsibility.** Complete all parts of Paragraph 6 (a through g) as ordered by the judge.
 - a. **Emergency Medical Decisions.** This states the judge has authorized each parent to make emergency health care decisions when in that parent's care. If the judge didn't order this provision, **Stop!** You can't use this form.
 - b. **Day-to-Day Decisions.** This states the judge has authorized each parent to make day-to-day decisions regarding care and control of the child(ren) when in that parent's care. If the judge didn't order this provision, **Stop!** You can't use this form.
 - c. **Daycare/Afterschool Provider.** Put a checkmark in the box next to the option or options to the judge ordered and fill out any blanks associated with the checkmark .
 - d. **Education Decisions.** Put a checkmark in the box next to the option to which the judge ordered.
 - e. **Non-Emergency Health Care Decisions.** Put a checkmark in the box next to the option to which the judge ordered.
 - f. **Spiritual Development Decisions.** Put a checkmark in the box next to option to which you and your spouse agree.
 - g. **Both parents must consent.** Fill in the information the judge ordered.

- Paragraph 7. Information Sharing and Access.**
 - a – i.** Read carefully. If the judge didn't order all of these provisions, **Stop!** You can't use this form.
 - j.** Fill out the details as ordered by the judge.
 - k.** Fill out the details as ordered by the judge.
 - l.** Fill out the details as ordered by the judge.
- Paragraph 8. Communication Between Parents.** Read carefully. If the judge didn't order this provision, **Stop!** You can't use this form.
- Paragraph 9. Children's Clothing and Personal Items.** Put a checkmark in the box next to any option or options the judge ordered. Put a checkmark in the **"Other"** box, if needed, and fill out the details as ordered by the judge.
- Paragraph 10. Transportation and Exchange Arrangements Considering the Safety of the Child(ren).** The Parenting Plan must include arrangements for transportation and exchange of the minor child(ren). Put a checkmark in the box next to the option or options to which the judge ordered. If an option requires additional information, fill in the information as ordered by the judge. Put a checkmark in the **"Other"** box, if needed, and explain other details as ordered by the judge,
- Paragraph 11. Procedure for Review and Adjustment to Parenting Plan.** Read carefully. If the judge didn't order this provision, **Stop!** You can't use this form.
- Paragraph 12. Changes to Residence of the Children.** Read carefully. If the judge didn't order this provision, **Stop!** You can't use this form.
- Paragraph 13. Dispute Resolution.** Complete all 4 parts of Paragraph 13 as ordered by the judge. The Parenting Plan must include methods for resolving disputes.
 - a.** Put a checkmark in the box next to the option the judge ordered. **Don't** checkmark more than one option.
 - b.** Put a checkmark in the box next to the judge ordered. **Don't** checkmark more than one option.
 - c.** Put a checkmark in the box next to the option, or options, the judge ordered. If the option requires details, fill in the details as ordered by the judge.

- d.** Read carefully. If you the judge didn't order all of these provisions, **Stop!** You can't use this form.
- Paragraph 14. Compliance.** Read carefully. If the judge didn't order this provision, **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.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

PLAINTIFF,

Case No. _____

vs

Exhibit B: Parenting Plan

DEFENDANT.

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 above-entitled action for divorce:

<u>Initials:</u>	<u>Birth Year:</u>	<u>Age:</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. **LEGAL RESIDENCE: The legal residence of the minor children 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 child(ren) that** (*choose one of the three options in Paragraph 5a below; Paragraph 5a continues on next page*):

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. Defendant 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: _____

Primary residential responsibility shall be with the Defendant. 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 5a is the default “normal” schedule **except** as described below. The alternate schedules will be as follows (*if you don’t have an alternate schedule, write “No Alternative Schedule” on the first line of each section*):

Summer Time*: Summer time is defined as: _____

The Summer Time alternate schedule is: _____

School Release Days*: School release days are defined as: _____

The School Release Days alternate schedule is: _____

***Summer Time/School Release Days** with the other parent take precedence over summer activities, such as sports, when Parenting Time cannot be reasonably scheduled around such events.

Vacation with Parents: Each parent shall have vacation with the child(ren) as follows: _____

- c. **Schedule for Holidays and Other Special Days:** The parenting schedule for holidays and other special days applies to the residential responsibility in Paragraph 5a. The parenting schedule for the child(ren) for holidays and other special days is:

	With the Plaintiff <i>(Odd, Even, Every Year, or Regular Parenting Time)</i>	With the Defendant <i>(Odd, Even, Every Year, or Regular Parenting Time)</i>
New Year's Day		
Martin Luther King Day		
President's Day		
Spring Break		
Easter		
Mother's Day		

	With the Plaintiff <i>(Odd, Even, Every Year, or Regular Parenting Time)</i>	With the Defendant <i>(Odd, Even, Every Year, or Regular Parenting Time)</i>
Father's Day		
Independence Day		
Labor Day		
Teacher's Break (Convention)		
Halloween		
Veteran's Day		
Thanksgiving Day		
Winter Break		
Christmas Eve Day		
Christmas Day		
Plaintiff's Birthday		
Defendant's Birthday		
Child's Birthday		

For the purposes of the Holidays and Other Special Days parenting schedule, a holiday includes *(indicate whether the holiday includes the entire weekend and the time of day/night during which holiday parenting time will occur)*: _____

d. Child(ren)'s Activities During Parenting Time: In order to promote the development of well-rounded healthy children, both parents will support the extracurricular activities of the child(ren). The parents will work together to ensure the child(ren)'s activities are not planned as to interfere with the relationship of either parent. The parents will inform each other of the child(ren)'s extracurricular activities by:

e. Timeliness: If a parent is more than _____ minutes late to pick up the child(ren) for a visit, that visit will be cancelled, **OR:** _____

f. If either parent misses their parenting time for any reason, the parents will deal with the missed parenting time as follows: _____

g. Except in extreme emergencies, each parent must notify the other parent that they will not be able to exercise their scheduled parenting time as follows:

h. Restrictions on Contact with the Child(ren) (choose one):

- There are no restrictions on contact with the child(ren).
- Until further order of the Court, the child(ren)'s time with the
(choose one) Plaintiff / Defendant is subject to the following conditions: _____

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; Paragraph 7c continues on next page):**
 - When the parents reside in the same community, they will use the same daycare/afterschool provider.
 - Each parent may decide to utilize the daycare/afterschool provider of their own choosing.
 - The Plaintiff will designate the daycare/afterschool provider.

- The Defendant will designate the daycare/afterschool provider.
- The child(ren)'s daycare/afterschool provider is _____.
- 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 shall have access to educational, medical, dental, religious, insurance, and other 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 entities 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 children 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 is 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: _____

- l. During long vacations the parent with whom the child is on vacation shall make the child available for contact 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. CHILDREN'S CLOTHING AND PERSONAL ITEMS (*select any that apply; Paragraph 10 continues on next page*):

- Each parent must supply the appropriate children's clothing with them for their scheduled time with the other parent.
- Each parent must supply appropriate clothing for the child(ren) to remain at that parent's home during parenting time.
- The clothing is considered the child(ren)'s clothes and must be returned clean, when reasonably possible, with the child(ren) by the other parent.

- The child(ren) must leave personal items at each parent’s home and must not remove those items from that home.
- The child(ren) must take personal items between each parent’s home, and it is the responsibility of each parent to ensure the personal items remain with the child(ren).
- In the cold months of the year, each parent shall ensure that the child(ren) have appropriate winter clothing to wear, regardless of parenting time.
- Other: _____
- Other: _____

10. TRANSPORTATION AND EXCHANGE ARRANGEMENTS CONSIDERING THE SAFETY OF THE CHILD(REN) (select any that apply):

- When Plaintiff and Defendant live in the same community, the responsibility of picking up and returning the child(ren) is shared with the (choose one) Plaintiff / Defendant picking up the child(ren) and (choose one) Plaintiff / Defendant dropping off the child(ren).
- The child(ren) shall be picked up and returned to the front entrance of the appropriate residence.
- The parent dropping off the child(ren) shall not leave the premises until the child(ren) are safely inside.
- Any change in pick up or drop off location will be determined by _____
- The person picking up or dropping off the child(ren) during times of parenting time has an obligation to be punctual, arriving at the agreed time and place, not substantially earlier or later.
- Other: _____
- Other: _____

11. PROCEDURE FOR REVIEW AND ADJUSTMENT TO PARENTING PLAN: If the parents want to make permanent changes to the Parenting Plan, those changes shall be reduced to writing and submitted to the Court for approval.

12. CHANGES TO RESIDENCE OF THE CHILD(REN):

- a. A parent with primary residential responsibility for a child may not change the primary residence of the child to another state except upon order of the Court or with the written consent of the other parent, if the other parent has been given parenting time by order of the Court.
- b. A parent with equal residential responsibility for a child may not change the residence of the child to another state except with the written consent of the other parent or upon order of the Court allowing the move and awarding that parent primary residential responsibility.
- c. A court order is not required if the other parent:
 - 1) Has not exercised parenting time for a period of one year; or
 - 2) Has moved to another state and is more than 50 miles (80.47 kilometers) from the residence of the parent with primary residential responsibility.

13. 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 all that apply):

Written request

Certified mail

Other: _____

d. In the dispute resolution process with regard to the parenting plan:

1) Preference will be given to carrying out this Parenting Plan.

2) 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.

3) A written record will be prepared of any agreement reached in counseling or mediation and of each arbitration award and will be provided to each parent.

4) 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.

14. 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. _____