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**Where to find more  
Information**

Montana Legal Services

<http://www.mtlsa.org/>  
1-800-666-6899

Madison County District Court

406-843-4230  
100 Wallace St.  
P.O. Box 185  
Virginia City, MT 59755

Montana Divorce Information

[http://courts.mt.gov/library/topic/end\\_marriage.mcp](http://courts.mt.gov/library/topic/end_marriage.mcp)

In case of emergency  
always call 911

*Ennis Police Department  
Ennis, MT*



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*Child Custody  
And Parenting  
Plans in Montana  
Myths –vs– Facts*

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*Ennis Police Department*

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328 W. Main Street  
P.O. Box 147  
Ennis, MT 59729

Phone: 406-682-4287  
Fax: 406-848-0601  
E-mail: [police@ennispolice.com](mailto:police@ennispolice.com)

## *Divorce in Montana*

Regarding divorce in Montana, there are many myths told and retold. In fact, divorce is called dissolution in Montana. Alimony is called maintenance and custody is now called parenting. Parents do have rights, but the question remains as to how those rights are enforced. One prominent “Divorce Myth” we come across is the belief that the police or sheriff will immediately step in to resolve parenting disputes. Resolving parenting conflicts is generally a duty of the courts, not law enforcement. Law enforcement officers will protect the peace, but are not private judges. We hear stories of parents who call the police if the other parent was late returning a child, only to be told that it is a “civil matter” and that they should call a lawyer. Some manage to convince an officer to do a “civil standby” where the officer is present, but the officer cannot forcibly retrieve the child without special order or permission from the court. Let’s attempt to clear up this prevalent myth that law enforcement will promptly get involved to end parenting conflicts.

## *Parenting Plans*

In Montana, parental rights are formally and specifically laid out in a Parenting Plan ordered by a district court. Fit and proper parents will be given parenting time as outlined in a Parenting Plan. The parent who has the children the majority of the time will be named primary residential parent in a Parenting Plan. Successful Parenting Plans are ones in which the parents show respect to each other and when the parents’ primary goal is the best interests of their children. Children should never be chess pawns of dueling parents in the game of life.

When a Parenting Plan is not in place as ordered by a district court (or equivalent court in another state), law enforcement will not usually get involved and enforce parental rights. When a parenting plan is not in place, either parent can file a petition in district court to hear the matter and order a binding Parenting Plan. If the parents are married to each other, the petition would be for legal separation or dissolution. If the parents are not married to each other, the petition is filed is called a Petition for Parenting Proceeding. In any event, a proposed parenting plan is filed with the petition. Seeking legal advice from an attorney is strongly encouraged. Montana Legal Services provides free family law services to people in need and who meet their need qualifications. If a parenting plan is ordered by the district court and one parent is violating the plan, then the non-violating party can file a motion requesting hearing on whether the one party is in contempt or file a motion requesting an order enforcing a Parenting Plan, but weeks may pass before the court actually hears the matter. Oftentimes though as required in parenting plans, mediation is required prior to file such motions with the district court. Mediation is a safe place to discuss and resolve disputes before a third person called a mediator who attempts to resolve everyone’s concerns and bring the parties together in mutual agreement. Please remember that the courts are busy and that the process of obtaining a Parenting Plan will take time, patience, and even certain financial resources.

In Montana, it is a criminal violation to purposely interfere with one’s parenting time under a Parenting Plan ordered by the district court. This means that is a crime when a Parenting Plan in place ordered by the court and someone attempts to prevent or frustrate one’s efforts to exercise their parenting time under the Parenting Plan. For this reason, parents should always carry with them the current Parenting Plan that is ordered by the court. A certified copy of this Parenting Plan is preferred by law enforcement so there is no doubt regarding its validity. Parents need to follow their Parenting Plans, however these plans are meant to be flexible. Parents who modify the specific terms of their Parenting Plans should have the district judge sign off on these changes in an Amended Parenting Plan. Although, if only one parent desires changes, there must be good cause to do this and the district court judge must agree that there are substantial changes in the lives of the parties and that the best interests of the child or children are met in changing the Parenting Plan. In certain situations, law enforcement officers may very well enforce parenting time in a Parenting Plan by directing parents to follow court orders, and they may even issue criminal citations for those violating the law.

## *What will Law Enforcement do?*

Generally speaking, law enforcement will only get involved in parenting disputes to preserve the peace and prevent physical harm. Please don’t expect law officers to be private judges and bring immediate action in resolving your parenting disputes. Law enforcement officers should not be used by you to harass anyone, as this is a crime. Disputes over parenting are properly resolved in the courts and/or mediation. However, please know that you could face criminal charges for violating a Parenting Plan, so this should be taken seriously. Show respect to the other parent of your child or children and show respect to your children, and all such disputes that arise may be worked out in a peaceful and civil manner.

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