



MONTANA
ADMINISTRATIVE
REGISTER

BOARD OF PSYCHOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2026-151.1

Summary

Rule updates to parenting plan rules following red tape relief initiative review and updating fees

Hearing Date and Time

Monday, March 30, 2026, at 9:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the agency's rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: <https://mt-gov.zoom.us/j/82809923177>

Meeting ID: 828 0992 3177; Password: 5549922517

Dial by Telephone: +1 646 558 8656

Meeting ID: 828 0992 3177; Password: 5549922517

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, April 3, 2026, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, March 23, 2026, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

General Reasonable Necessity Statement

It is reasonably necessary to review the board's rules in support of the Governor's Red Tape Relief Initiative. This review focuses on updating rules to current standards and procedures, and eliminating unnecessary, redundant, and overburdensome regulations and those duplicated in statute. Other changes replace out-of-date terminology for current language and processes, and amend rules for accuracy, consistency, simplicity, better organization, streamlining, and ease of use for customers and staff. Most of these parenting plan evaluation rules have not been amended since their adoption in 2001.

Involved practitioners and members of the Family Law Section of the Montana State Bar Association were contacted for input on the current processes surrounding parenting plan evaluations. While the substantive content of these rules is not being altered, their input and recommendations were considered in the proposed rule changes.

It is reasonably necessary to amend the authority and implementation citations to accurately reflect all statutes implemented through the rules and provide accurate and complete sources of the board's rulemaking authority. Rule titles are amended when necessary to accurately and clearly describe a rule's content.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.189.401 FEE SCHEDULE

- (1) The department will collect the following fees, none of which are refundable:

(a) Psychologist application fee	\$ 338 <u>310</u>
(b) Psychologist active license renewal fee	450 <u>280</u>
(c) Psychologist supervision proposal approval	25
(d) Psychologist temporary permit application fee	100
(e) Behavior analyst application fee	450 <u>310</u>
(f) Behavior analyst initial supervision fee, per behavior technician, student intern, or assistant behavior analyst supervised	25
(g) Assistant behavior analyst application fee	250
(h) Behavior analyst active license renewal fee	338 <u>280</u>
(i) Assistant behavior analyst active license renewal fee	150
- (2) Additional standardized fees are specified in ARM 24.101.403.

Authorizing statute(s): 37-1-134, 37-17-202, 37-17-406, MCA

Implementing statute(s): 37-1-134, 37-1-141, 37-17-302, 37-17-403, 37-17-406, MCA

Reasonable Necessity Statement

It is reasonably necessary to amend this rule to comply with the provisions of 37-1-134, MCA, and ensure that the board's fees related to each license will provide the amount of money needed for the operation of the board's services. The board is also required to comply with 17-2-302 and 17-2-303, MCA, by not allowing the board's cash balance to exceed twice the annual appropriation amount. Therefore, the board proposes these amendments to reduce application and renewal fees for psychologists and behavioral analysts.

24.189.801 ORIENTING GUIDELINES

- (1) ~~The purpose of parenting~~ Parenting plan evaluation regulations is to rules protect both ~~the public, who are the consumers and providers~~ of psychological services, and ~~the psychologists, who are the providers of services~~. These regulations intend to help insure provider competency ~~of the provider~~ and consistency of the ~~procedures in child custody proceedings pursuant to~~ per Title 40, chapter 4, MCA; ~~termination of marriage, child custody, support.~~

- (2) ~~The purpose of a parenting~~ Parenting plan evaluation is to ~~evaluations help~~ determine ~~to the extent possible,~~ what is in the best interests of the child. The "fit" between each parent and the child or children is the central issue, not the psychological diagnosis of each parent or of each child. If a parent or child shows any relevant mental, cognitive, physical, or other disorder, the implications of that disorder for the best interest of the child must be addressed.
- (3) Two different parents showing very similar personalities and parenting styles might affect two different children in essentially different ways. It cannot be assumed that qualities generally admired by the population at large are necessarily those that make the better parent, or are in the best interests of the child. For example, factors such as which parent has the most money, the most friends, the largest house, is the most religious, the most physically active, has the most education, is home the most, lacks a history of psychological diagnosis or treatment, and so on, may bear on the issue at hand, but are not the determining factors in and of themselves. How each factor supports the child's needs and well being, or detracts from the child's needs and well being, is a primary consideration. The intention of a parenting plan evaluation is to make a parenting recommendation that will support the child's development along the healthiest lines possible.

Authorizing statute(s): 37-1-131, 37-1-136, MCA

Implementing statute(s): 37-1-131, 37-1-136, ~~37-17-202~~, MCA

Reasonable Necessity Statement

This amendment is reasonably necessary to improve the clarity, organization, and readability of this rule. The changes are nonsubstantive and do not alter the meaning or scope of the rule. The amendments are intended solely to make the rule more user-friendly and easier to understand and apply.

24.189.804 ROLE OF THE PSYCHOLOGIST

- (1) ~~In a parenting plan evaluation, the~~ The psychologist shall must maintain an unbiased, impartial role. ~~The client is the child, in conducting a parenting plan evaluation and make recommendations must be made which are in the best psychological interests of the child as the client.~~ The psychologist shall must:
 - (a) clarify with all parties, attorneys, and the court the nature of the psychologist's role as an objective evaluator-;

- ~~(a)(b)~~ The psychologist shall act as an impartial evaluator of the parties, assessing relevant information, and informing and advising the court and other parties of the relevant factors pertaining to the parenting issue-;
- ~~(b)(c)~~ The psychologist shall remain impartial, regardless of ~~whether the~~ who retains the psychologist is retained by the court or by a party to the proceeding, and regardless of whom or who is responsible for payment-;
- ~~(c)(d)~~ If circumstances prevent the psychologist from performing in an impartial role, the psychologist shall attempt to withdraw from the case if circumstances prevent the psychologist from performing impartially. (See ARM 24.189.807). If unable to withdraw, the psychologist must disclose any factors that may bias the psychologist's findings or compromise the psychologist's objectivity;
- ~~(d)~~ If the psychologist is not able to withdraw, the psychologist must reveal any factors that may bias the psychologist's findings and/or compromise the psychologist's objectivity-
- ~~(e)~~ Communication communicate with parents or attorneys ~~must be conducted~~ in such a manner as to avoid bias. ~~The psychologist must~~ and exercise discretion ~~in~~ when informing parties or their attorneys of significant information ~~that is gathered during the course of the evaluation-;~~ and
- ~~(f)~~ The psychologist shall not communicate essential information to one party's attorney without also communicating the information to the other party's attorney, and to the guardian ad litem, if one is appointed.

Authorizing statute(s): 37-1-131, 37-1-136, MCA

Implementing statute(s): 37-1-131, 37-1-136-37-17-202, MCA

Reasonable Necessity Statement

This amendment is reasonably necessary to improve the clarity, organization, and readability of this rule. The changes are nonsubstantive and do not alter the meaning or scope of the rule. The amendments are intended solely to make the rule more user-friendly and easier to understand and apply.

24.189.807 DUAL RELATIONSHIPS

- (1) ~~The psychologist shall~~ When performing parenting plan evaluations, psychologists must avoid dual relationships and other situations which might produce that may create a conflict of interest by when performing parenting plan evaluations.;
 - (a) ~~The psychologist shall not conduct a~~ conducting parenting plan evaluation evaluations in a case in which cases where the psychologist has served or can reasonably anticipate serving in a therapeutic role for the child or the child's immediate family, or has had other significant involvement, ~~e.g., social, personal, business, or professional,~~ that may compromise the psychologist's objectivity.;
 - (b) ~~The psychologist may not accept any of the~~ accepting anyone involved participants in the parenting plan evaluation as therapy clients, either during or after the evaluation.;
 - (c) ~~The psychologist who is asked to testify regarding a therapy client who is involved in a parenting plan case shall be~~ being aware of the limitations, and possible biases, inherent in such a role and the possible potential impact on the an ongoing therapeutic relationship when asked to testify regarding a therapy client involved in a parenting plan case. If required to testify, the psychologist ~~may not give an expert opinion regarding parenting plan issues and shall~~ must limit the psychologist's testimony to factual issues and not provide expert opinion on parenting plan issues.

Authorizing statute(s): 37-1-131, 37-1-136, MCA

Implementing statute(s): 37-1-131, 37-1-136-37-17-202, MCA

Reasonable Necessity Statement

This amendment is reasonably necessary to improve the clarity, organization, and readability of this rule. The changes are nonsubstantive and do not alter the meaning or scope of the rule. The amendments are intended solely to make the rule more user-friendly and easier to understand and apply.

24.189.810 COMPETENCY

- (1) ~~Psychologists performing parenting plan evaluations in Montana shall be licensed to practice in the state of Montana or meet the requirements for consultation in 37-17-104, MCA.~~
- (2)(1) Psychologists may only perform parenting plan evaluations if they have acquired specialized training, education, and experience in the areas of psychological assessment of children and adults, child and family development, child and family psychopathology, and the impact of divorce on families. They shall acquire current knowledge regarding diverse populations, especially as it relates to child-rearing issues. To perform parenting plan evaluations in Montana, psychologists must:
- (a) hold a current Montana license in good standing; or
 - (b) meet the consultation requirements in 37-17-104, MCA; and
 - (c) have specialized training, education, and experience in:
 - (i) psychological assessment of children and adults;
 - (ii) child and family development;
 - (iii) child and family psychopathology;
 - (iv) the impact of divorce on families; and
 - (v) current diverse populations as relating to child-rearing.
- (3)(2) Psychologists shall use must:
- (a) utilize multiple methods of data collection methods in a parenting plan evaluation;
 - (4)(b) ~~Psychologists shall understand, clarify, and utilize the concept of the "best interests of the child" guideline as set forth in per Title 40, chapter 4, MCA;~~
 - (5)(c) ~~Psychologists shall maintain current knowledge of legal standards regarding parenting plans, divorce, and laws regarding abuse, neglect, and family domestic violence;~~ Psychologists shall also
 - (d) understand the civil rights of parties involved in legal proceedings in which they participate, and manage their professional conduct in a manner that does perform professionally so as to not diminish or threaten those rights;
 - (6)(e) ~~Psychologists shall not render diagnoses or form an expert opinion opinions about any party not personally evaluated; and~~
 - (f) ~~may not make parenting plan recommendations only when both parents and children have not been personally evaluated by the psychologist. In situations where~~ When all parties cannot be evaluated, psychologists shall must limit

recommendations and opinions to ~~individuals~~ only those evaluated and shall avoid making recommendations regarding placement and visitation.

Authorizing statute(s): 37-1-131, 37-1-136, ~~37-17-202~~, MCA

Implementing statute(s): 37-1-131, 37-1-136, ~~37-17-202~~, MCA

Reasonable Necessity Statement

This amendment is reasonably necessary to improve the clarity, organization, and readability of this rule. The changes are nonsubstantive and do not alter the meaning or scope of the rule. The amendments are intended solely to make the rule more user-friendly and easier to understand and apply.

24.189.813 LIMITS OF CONFIDENTIALITY

- (1) Psychologists ~~shall~~ must inform all participants, including parents, children when feasible, other family members, and third party contacts such as teachers, physicians, and child care providers, ~~as to the limits of expected confidentiality limits which can be expected with regard to~~ regarding any information they may provide to the psychologist ~~over the course of~~ during the evaluation, including: - This includes the limits of confidentiality
 - (a) limits applicable to the general practice of psychology, such as a duty to warn in instances of possible imminent danger to a participant or to others, ~~or~~;
 - (b) legal obligations to report suspected child or elder abuse; ~~and~~
 - (c) ~~also~~ exceptions to confidentiality stemming from the specific requirements of a parenting plan evaluation, including:
 - (a)(i) the ~~potential~~ need to disclose information provided by any participant to other participants, ~~in order to~~ obtain accounts of circumstances pertinent to the issues ~~being~~ evaluated;
 - (b)(ii) the expectation of disclosure of relevant information provided by individual participants to the involved attorneys ~~involved in the case~~, to the court, and to the guardian ad litem, if one ~~has been~~ is appointed; and
 - (c)(iii) the likely disclosure of the psychologist's findings, professional opinions, and recommendations regarding the resolution of contested matters

which fall within the scope of the evaluation to parents, their attorneys, the court, and any other party, such as a guardian ad litem.

(2) Psychologists ~~shall~~ must:

- (a) obtain written waivers of confidentiality from the parents ~~who are~~ participating in the evaluation, ~~encompassing that encompass~~ all information disclosures ~~of information~~ to other persons, including other participants in the evaluation, attorneys, and the court;
- ~~(3)(b)~~ Psychologists ~~shall~~ take reasonable precautions in ~~their~~ handling of children's disclosures of abuse, neglect, or any other circumstances, ~~when such disclosure that~~ may place the child at increased risk of physical or emotional harm. Psychologists shall also and recognize the right of any person accused of misconduct to respond to ~~such~~ allegations while placing the highest priority on the child's safety and well-being ~~of the child~~;
- ~~(4)(c)~~ Psychologists recognize that disclosures of statements by abused spouses may pose special risks to the safety and well-being of persons ~~who claim~~ claiming to be victims of domestic abuse. Prior to disclosure of such allegations to an alleged perpetrator or to other persons who may support, collude with, or otherwise increase the risk of abuse, the psychologist ~~shall~~ must inform the alleged victim that the disclosure will take place. ~~If and, if~~ appropriate, provide information ~~will be provided as to~~ on available community resources for protection, planning, ~~and~~ personal assistance, and counseling for ~~victims of domestic abuse~~ victims; and
- ~~(5)(d)~~ Psychologists ~~shall~~ not agree to requests by ~~participants in a parenting plan~~ evaluation ~~that participants to conceal~~ information shared with the psychologist ~~be concealed. When such requests are made, the psychologist shall and instead must~~ clarify the requirements of the evaluation ~~as regards~~ regarding confidentiality, and may advise the participant to consult with the participant's attorney before proceeding with the evaluation. The psychologist must ultimately respect the right of any participant to withhold information from the evaluation. Whether the refusal to provide information should itself be made known to others, must be decided by the psychologist based on the relevance of such refusal to the issues before the court in the particular case at hand; and
- ~~(6)(e)~~ Psychologists recognize the possibility that the need to disclose information obtained in the evaluation may limit the validity of data acquired during the evaluation by inhibiting the free and complete disclosure of information by participants.

Authorizing statute(s): 37-1-131, 37-1-136, ~~37-17-202~~, MCA

Implementing statute(s): 37-1-131, 37-1-136, ~~37-17-202~~, MCA

Reasonable Necessity Statement

This amendment is reasonably necessary to improve the clarity, organization, and readability of this rule. The changes are nonsubstantive and do not alter the meaning or scope of the rule. The amendments are intended solely to make the rule more user-friendly and easier to understand and apply.

24.189.817 DISCLOSURE AND INFORMED CONSENT

- (1) Psychologists ~~shall~~ must obtain informed consents from parents involved in parenting plan evaluations and, to the extent feasible, inform children of significant aspects of the evaluation, prior to conducting interviews, testing, or other data-gathering procedures. Disclosure of information to the parents ~~shall~~ must include a thorough explanation of all major aspects of the evaluation, including:
 - (a) a general review of the purpose, nature, methods, scope, and limitations of a parenting plan evaluation, and the potential impact of the evaluation on the outcome of litigation;
 - (b) clarification as to who has requested the evaluation and who will receive verbal or written feedback as to the results and recommendations;
 - (c) the nature of data to be collected and potential uses to which that data will be put, including data from psychological testing and structured interview protocols;
 - (d) the methods of assessing and collecting fees for professional services, including specification of who will be financially responsible for the evaluation, expectations as to timing of payments, and policies related to the collection of unpaid fees; and;
 - (e) the nature and limits of confidentiality, both as generally applicable to psychological services and as required by the nature of the evaluation. (See ARM 24.189.813).
- (2) Psychologists ~~shall~~ must inform the parents of the above elements and offer each parent ~~the them an~~ an opportunity to discuss the ~~proposed~~ evaluation with an attorney before proceeding.

Authorizing statute(s): 37-1-131, 37-1-136, MCA

Implementing statute(s): 37-1-131, 37-1-136-37-17-202, MCA

Reasonable Necessity Statement

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24.189.820 DATA COLLECTION AND USE OF DATA

- (1) ~~The psychologist shall use~~ Psychologists must utilize generally accepted standards for the data collection and use of data as follows:
 - ~~(2)(a)~~ In evaluating alternative hypotheses, psychologists ~~shall~~ must include data from several different sources and ~~of several different types~~, such as interviews, testing, observations of interactions, questionnaires, and record reviews. ~~The psychologist shall and~~ be prepared to specify the reasons for collecting each kind of data and ~~how it relates~~ the relation to the child's best interests.
 - ~~(3)(b)~~ ~~As data are collected, the psychologist~~ Psychologists must keep comprehensive and detailed records of all data collected.
 - ~~(c)~~ All Psychologists must save all raw data, which might include test forms, handwritten notes, scribbles in margins, records of telephone conversations, observations of parent-child interaction, observations of parent-parent interaction, consultations with other professionals, any audio or video tapes made, and so on, must be saved and made make it available for review, if necessary as required by law.
 - ~~(4)(d)~~ ~~Data that are not objective should not be treated as though they are. The psychologist shall~~ Psychologists must not treat subjective data as objective and must attempt to corroborate or rule out allegations ~~that either parent has behaviors that affect the~~ of parental behavior affecting a child detrimentally.
 - ~~(e)~~ ~~If the psychologist is not able~~ Psychologists must disclose when unable to form a clear opinion based on objective data or data verified by multiple sources, ~~the psychologist should state this fact. If and, if~~ appropriate, ~~the psychologist may offer a method by which~~ recommend methods to gather further data, along any dimension might be gathered, for example,

~~recommending that such as a child meet with seeing a therapist over time;~~
~~that or a parent undergo undergoing drug and alcohol assessment, and so on.~~

- (5)(f) If issues affecting what is in the child's best interest arise and cannot be investigated due to the limited scope of the evaluation as imposed by the court or an agency, the psychologist ~~shall~~ must report those issues to the parents, their attorneys, and the court.
- (g) ~~If issues arise that the psychologist does not have~~ Psychologists without the expertise to investigate or form an opinion on; issues that may arise must involve another psychologist or specialist who does have having the required necessary expertise should be brought in to address that issue.

Authorizing statute(s): 37-1-131, 37-1-136, MCA

Implementing statute(s): 37-1-131, 37-1-136, ~~37-17-202~~, MCA

Reasonable Necessity Statement

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24.189.823 DOCUMENTATION

- (1) ~~When psychologists complete~~ Upon completion of a parenting plan evaluation, they shall ~~psychologists must~~ produce a written report of the findings and recommendations.
- (2) Psychologists ~~shall~~ must:
- (a) retain all items presented to them or a copy thereof that ~~are the psychologist used for consideration in formulating to formulate~~ a professional opinion (e.g., videos, photos, etc.) ~~as well as and~~ a copy of the final report;:
- ~~(3)(b) Psychologists shall maintain clear and complete records;:~~
- ~~(4)(c) Psychologists shall retain all releases of information signed by the parties;:~~

- ~~(5)(d)~~ Psychologists shall maintain adequate documentation of their contacts with clients and of the clinically significant information derived from these contacts;
- ~~(6)(e)~~ Psychologists shall create and maintain documentation of all data that form the basis for their conclusions, in the detail and quality that would be consistent with reasonable scrutiny in an adjudicative forum;
- ~~(7)(f)~~ Psychologists shall make clear, to all parties, that the report may be altered at any time by the psychologist until the final decision of the court is made;
- ~~(8)(g)~~ Psychologists shall make a reasonable effort to ensure that the court, attorneys, parents, and guardian ad litem, if any, receive the report at the same time;
- ~~(9)(h)~~ Psychologists shall recognize that all items in the case file, other than copies of tests, raw test data, and computer-generated interpretive reports may be brought into the courtroom; and
- ~~(10)(i)~~ Psychologists shall recognize that all parenting plan evaluations and reports are highly sensitive material and discretion is necessary.

Authorizing statute(s): 37-1-131, 37-1-136, MCA

Implementing statute(s): 37-1-131, 37-1-136-~~37-17-202~~, MCA

Reasonable Necessity Statement

This amendment is reasonably necessary to improve the clarity, organization, and readability of this rule. The changes are nonsubstantive and do not alter the meaning or scope of the rule. The amendments are intended solely to make the rule more user-friendly and easier to understand and apply.

Small Business Impact

Pursuant to 2-4-111(1), MCA, the small businesses that will likely be affected by the proposed parenting plan evaluation rule changes are all of the small businesses in Montana that employ licensed psychologists who perform parenting plan evaluations. The board has determined that the proposed rule changes will not create a significant and direct impact on these small businesses.

The Montana small businesses that will probably be affected by the proposed reductions in fees are small businesses that employ psychologists. The proposed reduction will allow the board to

gradually reduce its cash balance to meet the statutory requirements while ensuring adequate revenue to support board activities. The board estimates the fee reductions will affect about 450 licensees and applicants and result in a \$74,417 reduction in annual revenue.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Jennifer Stallkamp

Approval

Sarah Swanson, Commissioner

Approval

Bo Smelko, Chair, Board of Psychologists