

# PETITION FOR A WRIT OF HABEAS CORPUS FORM

## MONTANA SUPREME COURT

A Petition for a Writ of Habeas Corpus tells the Court you are being incarcerated illegally or you will be incarcerated illegally.

### INSTRUCTIONS

Please read and follow carefully, or your documents will be returned to you by the Clerk's Office.

1. You must put your name, under which you were convicted, on the first line.
2. Put your inmate ID or AO number on the second line.
3. Put the name of the correctional facility where you are presently incarcerated on the third line. You must be presently incarcerated in a facility to be eligible for habeas corpus relief.
4. On the fourth and fifth lines put the address for the facility where you are presently incarcerated.
5. Do not put anything below the name of the court. The court will fill in the case number for you.
6. Put your name as PETITIONER on the left-hand side.
7. Put your facility's Warden or Captain's name as RESPONDENT in the space on the bottom of the left-hand side, even if you are alleging the parole board is illegally denying you parole.

Montana State Prison	Warden Jim Salmonsén
Crossroads Correctional Center, Shelby	Warden Pete Blutworth
Montana Women's Prison	Warden Jennie Hansen
Cascade Co. Regional Prison, Great Falls	Cmdr. Dan O'Fallon
Dawson Co. Detention/Corr. Facility	Warden Tom Green
Missoula Assessment and Sanction Center	Captain Jason Kowalski

8. Next, answer the questions about your present incarceration.
9. Complete the Verification and Certificate of Mailing (Service) pages. You must send a photocopy of your petition to either the Attorney General or the County Attorney. If you are in a State institution, send the copy to the Attorney General's Office. If you have been recently sentenced and are awaiting transport to a State institution or facility, such as MSP, CCC, or MASC, send a photocopy to the Attorney General. If you are in a county facility, send a photocopy to the County Attorney where the facility is located.
10. Along with this petition, you need to submit payment for a filing fee **or** a motion to proceed without payment of the filing fee. The form for the motion is included.
11. Make sure to sign the originals and to mail them to:  
Clerk of Supreme Court  
P. O. Box 203003  
Helena MT 59620-3003
12. Mail a photocopy of the petition to the Attorney General or County Attorney as noted above in Instruction number 9., and listed in the Certificate of Mailing (Service) on page 5. Make sure to retain a copy for your records, too.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Inmate ID or AO#

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

**IN THE SUPREME COURT OF THE STATE OF MONTANA**

No. \_\_\_\_\_  
*[to be assigned by Clerk of Supreme Court]*

<p>_____, Petitioner, v. _____, Respondent.</p>	<p><b>MOTION TO PROCEED WITHOUT PAYING THE FILING FEE</b></p>
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I move the Court to allow me to proceed without paying the filing fee in this cause. I am incarcerated and because of my financial condition, I am unable to pay the filing fee. I realize that the Clerk of Supreme Court does not require a copy of the trust accounting. I believe I am entitled to legal redress.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
*[Signature]*

\_\_\_\_\_  
*[Print Name]*

\_\_\_\_\_  
Inmate Name

\_\_\_\_\_  
Inmate ID or AO#

\_\_\_\_\_  
Facility of Incarceration

\_\_\_\_\_  
Address of Facility

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

**IN THE SUPREME COURT OF THE STATE OF MONTANA**

No. \_\_\_\_\_  
*[The Clerk of Court will assign a number]*

\_\_\_\_\_  
**NAME**

**PETITIONER,**

**v.**

**Petition for Writ of  
Habeas Corpus**

\_\_\_\_\_  
**NAME OF WARDEN/FACILITY ADMINISTRATOR,**

**RESPONDENT.**

I, \_\_\_\_\_, am representing myself, and I  
*[Name of Inmate]*  
believe that I am entitled to a Writ of Habeas Corpus under § 46-22-101, MCA, for one  
or more of the following reasons:

*[Check the applicable box]:*

The Department of Corrections has incorrectly calculated my sentence which  
illegally extends my parole eligibility or discharge date.

The Parole Board should have granted me a parole AND the Board violated my  
Due Process rights in denying me a parole.

I am entitled to more credit for jail time served than I received.

- My sentence is illegal because:
  - I was sentenced after April 28, 1999, and I received a sentence of more than 5 years to the Department of Corrections, none of which was suspended.
  - My sentence violates my right to be free from double jeopardy.
  - The length of my sentence is longer than the law allows.
  - I am entitled to good time that is not credited against my sentence.
  - I am being held in jail and I believe my bail is excessive.
  - Other reason incarceration is illegal.

Describe in detail why you are entitled to habeas corpus relief. Be specific. If possible, provide citations to legal authority. Attach any documents that help you explain why the Court should grant your petition. A copy of any judgments, orders or other documents that support your argument must be provided.

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As relief, I request the following:

- my immediate release from prison.
- reduction of my sentence or that this Court remand this cause to the district court directing the court to resentence me to a lesser sentence.
- that the Department of Corrections recalculate my sentence as this Court directs.
- Other relief. Explain:

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### VERIFICATION

STATE OF MONTANA                     )  
    : ss.  
 County of \_\_\_\_\_                 )

I believe I am being incarcerated illegally. I certify that the contents of this petition are true and accurate to the best of my knowledge.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Inmate Signature

\_\_\_\_\_  
Printed Name

**CERTIFICATE OF MAILING (SERVICE)**

I hereby certify that on \_\_\_\_\_, 20\_\_\_\_, I have mailed the Petition for a Writ of Habeas Corpus, as noted by a check mark (√), to the following attorney by placing a copy in the United States Mail, postage prepaid:

State of Montana (see INSTRUCTIONS #9)

Office of the Attorney General

P. O. Box 201401

Helena, MT 59620-1401

or

\_\_\_\_\_ County Attorney (see INSTRUCTIONS #9)  
[Write name of County]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print name]