



201-2 Marital Status/Joint Custody

Supersedes:	TANF 201-2 07/01/03)
References:	ARM 37.78.102, .103 and .208
Overview:	<p><u>GENERAL RULE</u>—An application on behalf of a minor child must include certain relatives living with the minor child. These family members related to the minor child by blood, adoption or marriage to the child’s natural/adoptive parent, are considered to be a filing unit. The income, resources, and nonfinancial criteria of these relatives are evaluated in the determination of eligibility and/or benefit payment (grant).</p> <p>Minor children who usually live with a custodial caretaker relative and are visiting their other parent (or other caretaker relative) for a temporary visit are not considered to be living with the second parent or caretaker relative. They are ‘temporarily absent’ from their custodial parent, and could be eligible in the custodial parent’s household.</p>
MARTIAL STATUS	Marital status only needs to be verified if questionable. A marriage license, divorce decree, separation agreement or other documentation which establishes the relationship could be used as verification.
COMMON LAW MARRIAGE	<p>In Montana, a man and a woman who have not gone through a formal marriage ceremony may enter into a legally binding common law marriage.</p> <p>For a common law marriage to exist, 3 elements must be present:</p> <ol style="list-style-type: none"> 1. Consent and agreement - the man and woman must have mutually agreed and consented to enter into a marriage relationship, 2. Competency - both were legally competent to enter into a marriage, and 3. Cohabitation and holding themselves out as married.
JOINT CUSTODY 50/50 CUSTODY	<p>A "joint custody" agreement legally provides that both parents function as 50/50 CUSTODY providers of maintenance, physical care, and guidance for the child(ren). The custody arrangements only needs to be investigated when a question exists about who is the primary custodial parent (e.g., a divorce decree or parenting plan indicates joint custody, a complaint is received by one of the parents, the applicant or participant indicates that they share the child(ren), etc.)</p> <p>Once the custodial parent designation is made, it remains in place until relinquished/changed by the custodial parent. This designation may be relinquished through any of the following actions:</p> <ol style="list-style-type: none"> 1. by the court; 2. by written agreement with another specified relative (who could be the

	<p>other parent), who has assumed the care of the child; or</p> <p>3. by the Department through verification the child no longer resides with the initially designated relative.</p> <p>If custody is shared equally by the child's parents, the filing unit must include both parents, their respective spouses and children. Everyone must meet all nonfinancial and financial criteria. Under these circumstances, because of the expanded filing unit, eligibility may not exist.</p>
Date Revised	July 1, 2004