

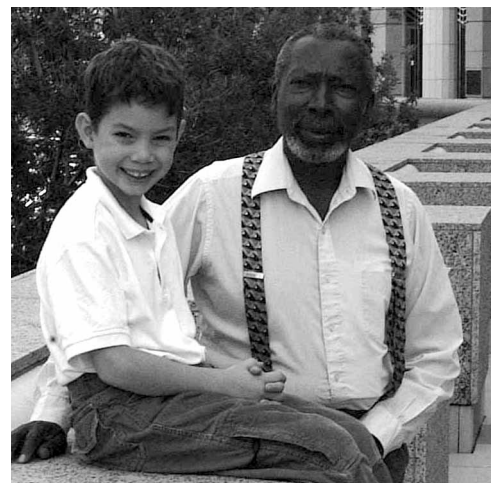
Arizona Juvenile Courts
Working to Improve Outcomes
for Abused and Neglected Children

Children's Action Alliance

and

Arizona Supreme Court
Administrative Office of the Courts
Dependent Children's Services Division

September 2004





Removing an abused or neglected child from her parents' home and placing the child by court order in the custody of CPS is perhaps one of the most powerful uses of our court's authority. When this does occur, parents are entitled to a judicial system that is fair, swift and ensures due process. The judicial system must balance the rights of the parents against the safety and well-being of the child.

Arizona courts play a significant role in providing oversight and assuring accountability of our Child Protective Services (CPS) System, which is mandated to protect abused and neglected children, provide permanent homes if reunification with the family is not appropriate, and assure the well-being of children in the state’s care.

In Arizona, the juvenile court hears cases involving abused and neglected children. The court processes for these cases are called dependency proceedings because children that ultimately need the protection of the court are deemed “dependent children.” Arizona’s juvenile court has experienced dramatic changes in its dependency case oversight and decision-making role in the past decade. This paper outlines the court’s role in dependency cases, recent changes in court responsibilities, progress made to improve the court oversight role, and planned initiatives to strengthen the operation of the juvenile court as it works to protect children and assure their long-term well-being.

The Oversight Role of the Juvenile Court¹

Federal and state laws impose a special obligation on the juvenile court to oversee case progress when CPS² files a dependency petition on behalf of an abused or neglected child. Juvenile Court oversight of these cases includes two essential responsibilities:

1. Determining whether the state (CPS) fulfills its duty regarding the safety, well-being and permanency for children under its care, and
2. Determining whether the parent(s) are cooperating with their commitments developed in a court approved case plan.

Unlike most other court involvement in cases, the juvenile court’s oversight in dependency cases is usually not just a one-time decision-making process; it is an ongoing oversight responsibility until the dependency case is closed. This ongoing oversight is needed because special circumstances apply:

- Court involvement in dependency cases occurs simultaneously with CPS efforts to assist the family;
- Law assigns to the juvenile court a series of interrelated and complex decisions that shape the course of CPS intervention and determine the future of the child and family; and
- Because of the multitude of persons dealing with the child and

family, there is increased potential for delay and error.

Dependency cases deal with ongoing and changing situations over an extended period of time. The court must focus on CPS casework and parental behavior. The judge does not simply make a one-time decision concerning the care, custody, and placement of a child, but rather makes a series of decisions over time. In effect, step-by-step the judge must determine how best to assure the safe upbringing of the child, assess changes in parental behavior and ensure that the child is eventually placed in a safe and permanent home. These are decisions governing the lives and futures of the children and their parents.

The length, scope, and continuous nature of these determinations involves the court in the lives of the parties and the operations of CPS to a degree unlike other court cases. All decisions in a dependency case are interrelated. In dependency cases, the judge sets and repeatedly adjusts the direction for CPS intervention on behalf of each abused and neglected child. Regular juvenile court review of each case refines and redefines agency involvement and has a distinct impact on the course of the case.

Court Reforms in Arizona

In July 1995, the Supreme Court's Administrative Office of the Courts (AOC) contracted with the National Center for Juvenile Justice (NCJJ) to conduct an assessment of the Arizona juvenile court system's handling of dependency cases.

In December 1996, the NCJJ reported that:

- Children removed from their home for abuse or neglect often stayed in the CPS system for three to five years. This was considered too long a time and was an area of considerable concern for the court and the various segments of CPS. NCJJ recommended that more focused oversight by the juvenile court on issues related to family reunification and permanency was needed.
- Many children were "aging out" of the system. This was harmful for children as they were leaving foster care at age 18 without a family to call their own. NCJJ recommended that more active and timely court oversight was needed to move cases toward permanency.
- Families often appeared before numerous judges or other judicial officers throughout the duration of their court involvement. NCJJ recommended that judicial case assignment procedures be in place, ideally, "one judge-one family," to provide consistency in case oversight and decision-making.
- There was often more than a month of lag time from a child's removal from her home by CPS to a substantive juvenile court hearing; during this time lag, frequently no parental contact was allowed. NCJJ recommended that initial court hearings be conducted earlier and with dedicated time to adequately

address a range of issues including placement options, visitation, early initiation of services, notification of parties and any court orders that may be required.

These findings and recommendations provided the basis for the Arizona Court Improvement Program. Initially known as the "model court project" and piloted in Pima County's juvenile court (Tucson and surrounding communities), the program's goals were to design a dependency court process that resulted in active judicial oversight, timely case processing, and shorter temporary placement for children. As a result of the success of the Pima County's Model Court Project, state legislation was introduced and passed in 1998 to implement new laws governing dependency case timelines and processing. Major changes included:

- Expediting initial dependency proceedings by requiring a preliminary protective court hearing (PPH) for all children removed from their homes by CPS within 5 to 7 days of removal;
- Requiring a Pre-Hearing Conference to attempt to reach an agreement about the placement of the child, services to be provided, and parent visitation with the child.
- Establishing that the child's health and safety are paramount concerns.
- Placing emphasis on prompt delivery of services for dependent children and their families by requiring CPS to submit, no later than the day before the PPH, a

written report to the court including reasons the child was removed from her home, any services provided to prevent removal, the types of services needed to facilitate the return of the child home, proposed visitation and proposed case plan.

- Reducing mandated timelines for dependency findings by the court.
- Specifying timeframes for court ordered permanent plans for the child.
- Appropriating funds to CPS, the Attorney General's Office, the courts and others to help implement the expedited court processes.

In 2002, another evaluation by NCJJ determined that the 1998 law changes dramatically altered the role of Arizona's juvenile court in dependency matters and were positive steps for children and their families. Through expanded court oversight, improved information, tighter timelines, and more frequent proceedings, courts in Arizona began to keep a closer eye on cases involving dependent children.³

Additional changes to the dependency court process resulted from the fall 2003 Special Session of the Arizona State Legislature. Major changes affecting the courts include:

- Clarifying that the courts shall make protecting the child from abuse or neglect the court's primary consideration and first priority.
- Establishing "in-home intervention" as an alternative to a formal dependency process. The court can stay the determination of dependency if the court believes the children can remain safely in the home and the parent(s) agree to participate in remediating services. The court may intervene and reinstate the dependency process if the parents fail to follow

through with the service plan. The court's order must include a specific time for completion not to exceed one year without approval of the court.

- Expanding the open hearing pilot program to all counties in the state through December 31, 2005. Additionally, the law provides that court proceeding records are open to the public, but specific exceptions are made. An evaluation of the pilot project is required. (Previously during the 2003 regular legislative session, the law was amended to allow any party who is the subject of a CPS investigation to request that a dependency hearing or trial be open to the public and required the juvenile court to notify them of that right.)
- Permitting jury trials in termination of parental rights actions upon the parent's request. (This provision is repealed on January 1, 2007.)
- Requiring the court to provide five days notice of case review hearings to shelter care facilities or receiving foster homes.

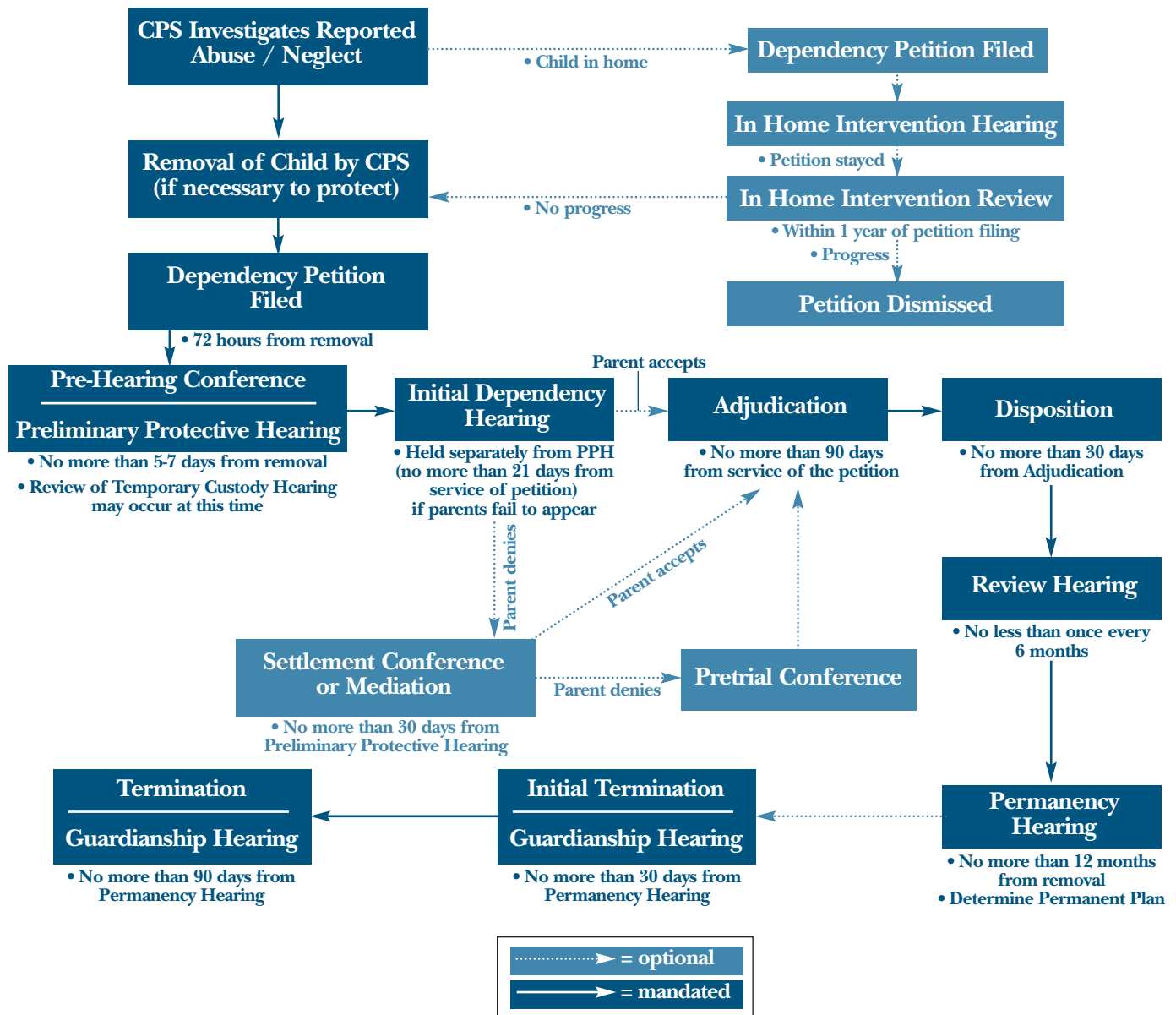
During the 2003 Special Legislative Session and continuing through the 2004 Regular Session, the state legislature funded additional resources for CPS to help meet the needs of abused and neglected children and their families. However, the legislature did not address the fiscal and resource impacts to the juvenile courts with these additional mandates. The courts are now feeling the crunch of these "unfunded mandates."

CURRENT

How The Arizona Dependency Court Process Works

The court process begins when court protection of the child in her home or removal of the child from her home is necessary; however, the extent of court involvement varies by individual case. Some cases may begin and end at an initial court hearing while others last for years. Cases requiring lengthy CPS and court involvement include those where legal action is needed to permanently protect a child from abusive parents. In these cases, termination of parental rights by the court may be required as well as court approval of the adoption of the child or guardianship placement with another family. There are also some children who are not placed in permanent homes, and court oversight continues until the child reaches the age of 18.

The following chart provides an overview of court hearing processes. The court's involvement begins with the petition filing.



- A “day” does not include weekends and holidays
- Under some circumstances, more than one hearing may occur on the same date (e.g., If parent appears at the Preliminary Protective Hearing, accepts service and agrees with the facts stated in the dependency petition, the Preliminary Protective, Initial Dependency and Adjudication Hearings will likely occur on same date.)

Arizona Dependency Process - Hearing Overview

The following chart provides a more specific overview of Arizona’s court hearing process for dependent children and their families including type of hearing, time period required for the hearing and the purpose of the hearing.

Hearing	Time Period	Purpose
In-Home Intervention Hearing	Prior to the Initial Dependency Hearing	The court shall determine whether to stay the adjudication of a dependency petition and allow the child to remain in the home under the supervision of the court to ensure parental compliance with CPS services.
In-Home Intervention Review	Prior to one year from the filing of the dependency petition	The court shall review the parent’s progress to determine whether to proceed with the dependency petition or dismiss the case.
Pre-Hearing Conference (PHC)	5-7 days post removal	To facilitate the resolution of issues in a non-adversarial manner concerning custody, placement, visitation and the provision of services to the child and family.
Preliminary Protective Hearing (PPH)	5-7 days post removal	The court shall determine whether continued temporary custody of the child is necessary and shall enter appropriate orders as to custody, placement, visitation and the provision of services to the child and family.
Review of Temporary Custody (RTC)	At PPH	If requested by the parent, guardian or Indian custodian at the preliminary protective hearing, the court shall determine whether temporary custody is clearly necessary to prevent abuse or neglect.
Initial Dependency Hearing (IDH)	21 days from service of petition (may occur as early as PPH)	The court shall determine whether service has been completed and whether the parent, guardian or Indian custodian admits, denies or does not contest the allegations contained in the dependency petition.
Settlement Conference (SET) or Mediation	Prior to contested Adjudication Hearing	The parties shall meet with the court (for mediation, with a mediator) to identify and resolve issues in a non-adversarial manner. In order to facilitate the meeting, counsel shall meet with their clients prior to the conference.
Pre-Trial Conference (PTC)	Prior to contested Adjudication Hearing	Held with the court to determine whether the parties are prepared and intend to proceed to trial or whether resolution of remaining issues in a non-adversarial manner is possible and to address any issues raised by the parties. Counsel shall meet with their clients prior to the conference.
Dependency Adjudication Hearing (ADJ)	90 days from service of the petition (may occur as early as PPH/IDH)	The court shall conduct the adjudication hearing for the purpose of determining whether the petitioner has met the burden of proving the child dependent.
Disposition Hearing (DIS)	30 days from ADJ (may occur at ADJ) <i>[The Dependency Adjudication Hearing and the Dispositional Hearing are oftentimes combined.]</i>	The court shall conduct a disposition hearing to determine the appropriate placement of a child who has been adjudicated dependent and shall review the permanent case plan which has been established for the child.
Provision of Reunification Services Hearing	Motion for this hearing filed at least 10 days prior to DIS <i>[This hearing requirement is usually met during the adjudication or dispositional hearing.]</i>	Services to the child and the parent designed to facilitate the reunification of the family are not required if the court, after this hearing, finds the existence of certain aggravating circumstances, as set forth by law.

Hearing	Time Period	Purpose
Periodic Review Hearing (REV)	6 months from DIS and every 6 months until dependency dismissed	The court shall review the progress of the parties in achieving the case plan goals and determine whether the child continues to be dependent.
Permanency Hearing (PER)	12 months from removal	The court shall determine the future permanent legal status for the child and shall enter such orders as may be necessary to accomplish the plan within a specific time frame.
Initial Guardianship Hearing (IGU)	30 days from PER	The court shall determine whether service has been completed, whether notice of the hearing has been provided to those persons identified pursuant to Rule 61 (B) and the parent or Indian custodian and the child's tribe and whether the parent, guardian or Indian custodian admits, denies or does not contest the allegations contained in the motion for guardianship.
Guardianship Adjudication Hearing (GUA)	90 days from PER (may occur as early as IGU)	The court shall determine whether the prospective guardian is a fit and proper person to become the permanent guardian of the child and whether guardianship is in the best interests of the child.
Initial Termination Hearing (ITE)	30 days from PER	The court shall determine whether service has been completed and whether the parent, guardian or Indian custodian admits, denies or does not contest the allegations contained in the motion or petition for termination of parental rights.
Termination Hearing (TER)	90 days from PER (may occur as early as ITE)	The court shall determine whether the moving party or petitioner has met the burden of proving grounds upon which to terminate parental rights and whether termination is in the best interests of the child. A jury trial shall be held on the request of the parent.



Arizona Juvenile Court Dependency Statistics: CPS involved cases⁴

Below is a statistical comparison between FY 2003 and FY 2004 regarding time frames for selected court actions, and the number of petitions and children coming before Arizona juvenile courts because of involvement with CPS. While the average length of stay for children under court jurisdiction who have left the system has decreased, the number of dependency petitions increased by 21 percent and the total number of dependent children under the court's supervision in FY 2004 increased 18 percent.

Area of Interest		FY 2003 7/1/02 – 6/30/03		FY 2004 7/1/03 – 6/30/04	
Average number of days to the court's first finding of dependency in a case		53 Days		53 Days	
Percent of petitions in which the Preliminary Protective Hearing was held within the required 5 – 7 days from the child(ren)'s removal from the home		83%		77%	
Percent of petitions for which the Permanency Hearing was held within 12 months of the child(ren)'s removal from the home		77%		73%	
Number of children with open dependency petitions		11,837 children		13,911 children	
Average length of stay under court jurisdiction		773 days		683 days	
Average number of business days from motion for Termination/Guardianship to ruling on motion.		Termination	Guardianship	Termination	Guardianship
		69 days	50 days	56 days	36 days
Number of juveniles involved in a dependency matter who also have either current or historical delinquent activity		1,407 children		2,105 children	
Total number of petitions filed		2,700 petitions		3,264 petitions	
Number of children and dependency petitions		# Children	# Petitions	# Children	# Petitions
	Open at start of period	7,227	4,652	8,290	5,197
	Filed during period	4,559	2,700	5,590	3,264
	Closed during period	3,496	2,155	3,937	2,373
	Open at end of period	8,290	5,197	9,943	6,088

Working Toward Continual Court Improvement

Role of the Administrative Office of the Courts

The Court Improvement Program is part of the Arizona Administrative Office of the Courts' (AOC) Dependent Children's Services Division. The Court Improvement Program provides training, technical assistance, operational reviews and data collection for each of the juvenile courts in Arizona's 15 counties.⁵ The division is also responsible for the implementation of new legislation and changes in rules of procedure that affect the dependency court.

Training

The Court Improvement Program provides and coordinates training throughout the state for judges, clerks and attorneys. In 1999, the Chief Justice of Arizona's Supreme Court signed Administrative Order 99-8 mandating that judges, who rotate on to the juvenile court bench and have a dependency calendar, attend the annual dependency judges' training. This training provides judges with the information and tools they will need to hear and effectively decide dependency cases. In addition, a one-day advanced training is offered each year to all new and experienced judges. Additional training have been provided on topics such as jury trials, behavioral health, dependency processes in other states, and mediation.

Nationally, there is great concern over the quality of attorney representation for parents and children as they encounter and move through the juvenile court system. The federal Child Abuse Prevention and Treatment Act (CAPTA) guideline requires that all attorneys representing children be trained on the dependency process prior to appointment. The Court Improvement Program now makes training available to all attorneys representing parties in the dependency process as well as guardians ad litem (GAL).

In addition, regular training is also provided to court clerks to assure court documents include information required by state and federal law.

Operational Reviews – How are the County Juvenile Courts Doing in Meeting the Needs of Dependent Children?

Three years ago, the Court Improvement Program began conducting operational reviews of each county's dependency court. These reviews consist of observing dependency hearings, reviewing case files, and interviewing judges and other interested parties to provide feedback to each county on how to improve their dependency court process.

The first round of operational reviews was completed in 2003, and through this process the AOC identified some themes. The issues and actions to improve operations include:

- The Court Clerk's Office staff were often reluctant to work dependency court hearings because they were not familiar with the dependency process or terminology. This was a finding mainly in the 13 smaller counties where dependency cases represent a small percentage of the cases heard. In response, the Court Improvement Program provided specialized training for clerks of the court.
- Data input was inconsistent and in some cases inaccurate due to high staff turnover and (in smaller counties) the infrequency of dependency cases. Additional training and quality assurance reports were implemented to help assure accurate data input.

Upon completion of the first operational reviews and based on lessons learned, a new more thorough operational review tool was developed for the second round of evaluations begun in 2004.

Keeping Track of Dependency Cases in Court

All of the dependency courts in Arizona capture data through the Juvenile On-Line Tracking System (JOLTS). Other AOC programs of the dependency courts, the Foster Care Review Board and the Court Appointed Special Advocate programs, capture data on the Dependent Children's Automated Tracking System (DCATS). Data entry into JOLTS is challenging as it is comprehensive and difficult to use; data entry staff turnover is also a significant problem that causes delays in data entry.

The AOC is currently developing a new database system (JOLTSaz) for both delinquency and dependency cases using current technology to provide a more comprehensive, user-friendly system. Once the new JOLTSaz is in place, it will also incorporate the data elements of DCATS. The implementation of this new expanded data base is expected to be a national model for juvenile court automation systems.

2003 Law Changes Require Changes in the Juvenile Courts

The 2003 Special Session of the Arizona State Legislature resulted in legislation with an emergency clause affecting the majority of law

changes. The "emergency" clause meant that the laws were effective immediately upon signature of the Governor on December 18, 2003. Due to the court process issues involved in these law changes, the Court Improvement Program was charged with developing emergency juvenile court rules.

The Court Improvement Program gathered legal and CPS experts to draft the emergency court rules and on January 27, 2004, these new rules were signed by the Chief Justice. Following a public comment period, the emergency rules were approved on a permanent basis on June 8, 2004.

The Court Improvement Program has also worked with juvenile court judges to develop a Benchbook. The Benchbook offers standardized procedures for the court to follow in dependency proceedings including required language, forms and references to statutes. The information provided in the Benchbook is far more detailed than the rules and provides specific guidance to assure consistency and conformity in the proceedings.

A revision of the Benchbook is currently in process and will include the recent law changes. Completion of a revised edition of the Benchbook is expected in late 2004.



The National Perspective on Court Improvement

Supported by a grant from The Pew Charitable Trusts, the Pew Commission on Children in Foster Care examined two key aspects of the foster care system: federal child welfare financing and court oversight of child welfare cases. The Commission's report, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care*⁶ issued in June 2004, presented recommendations to improve outcomes for children in the foster care system.

Focusing on the improvement of court oversight of child welfare cases to facilitate better and more timely decisions related to children's safety, permanence, and well-being, the Pew Commission recommends:

- Adoption of court performance measures by every dependency court to ensure that they can track and analyze their caseloads, increase accountability for improved outcomes for children, and inform decisions about the allocation of court resources;
- Incentives and requirements for effective collaboration between courts and child welfare agencies on behalf of children in foster care;
- A strong voice for children and parents in court and effective representation by better trained attorneys and volunteer advocates;
- Leadership from Chief Justices and other state court leaders in organizing their court systems to better serve children, provide training for judges, and promote more effective standards for dependency courts, judges, and attorneys.

In Arizona, AOC and its Court Improvement Program have already addressed some of these issues. For example, the training of Arizona juvenile court judges and attorneys is a strength, and Arizona is ahead of many other states on

this issue. Arizona is also involved in a project to improve case flow management in the dependency court process wherein the courts would be better able to track and analyze their caseloads and make more informed decisions about the allocation of court resources. Additionally, collaborations between child welfare and the juvenile courts have been strengthened in the last few years, especially in light of the Court Improvement Program and the CPS Reform efforts in place.

Challenges remain, and the planned court initiatives presented below tackle some of the issues ahead.

Challenges for Today's Juvenile Court System

Dramatic growth has occurred in the number of children involved in the CPS system over the past year.

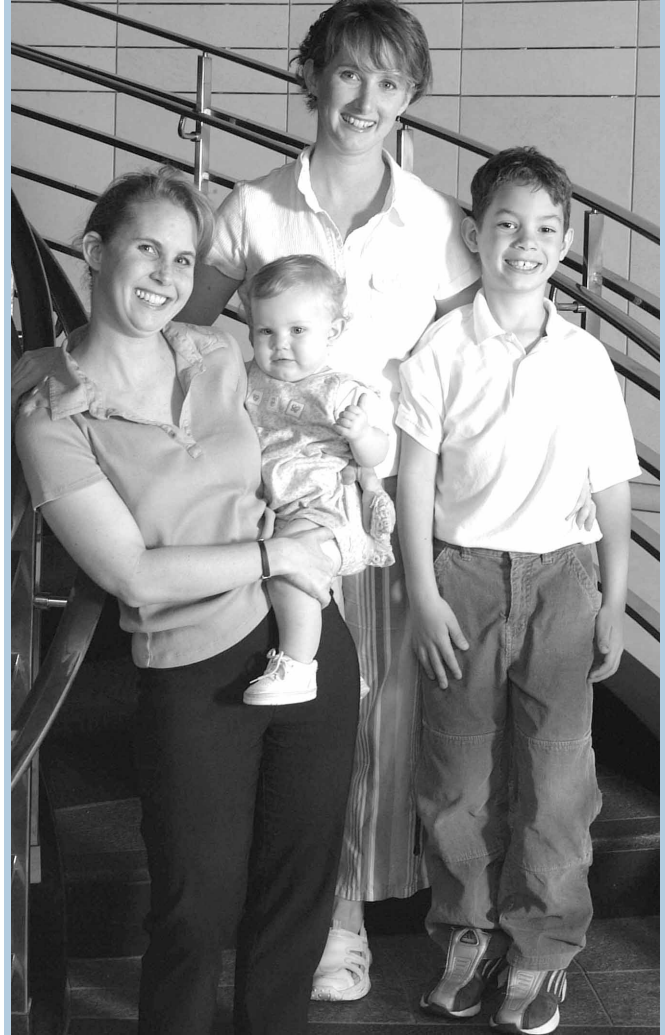
- The number of dependency petitions filed has grown by more than 21 percent.
- The number of children under the court's supervision increased by 18 percent.
- The number of children dually involved in both dependency and delinquency matters, either historically or simultaneously, has grown by nearly 50 percent.
- Arizona's population continues to grow, and this growth includes increases in the number of children potentially at risk of abuse and neglect.
- The recent statutory changes have introduced new requirements such as jury trials in termination matters and the filing of dependency petitions for the new "In-Home Intervention Program."

With this growth in caseload and new obligations, Arizona juvenile courts remain under increasing pressure to provide timely and quality oversight for abused and neglected children.

Arizona Court Initiatives

The AOC continues to work to improve the dependency court system and has identified the following goals for FY 2005:

- Continue training judges, attorneys, guardians ad litem, and court clerks statewide on dependency court and related issues.
- Develop and pilot caseflow management training for selected juvenile courts in Arizona to improve the court's ability to make better use of data from multiple sources to manage and monitor the processing of dependency dockets, and to track the movement of individual dependency cases throughout all phases of the process.
- Revise the juvenile court benchbook.
- Continue upgrading JOLTS to capture new legal mandates and develop the new generation JOLTSaz.
- Conduct the second round of operational reviews of each county's juvenile court to measure compliance with the statutes and rules and provide technical assistance, as needed.
- Help to evaluate each county's open court pilot project in coordination with DES and submit this information to the legislature.



Future Considerations

Resources for Arizona's juvenile courts have not kept pace with the needs. When enacting mandates regarding CPS and court functions, our federal and state legislative bodies must consider the fiscal and programmatic impacts on the juvenile court and determine whether such mandates, without additional resources, will reduce the court's ability to provide quality oversight. The current expected reforms for CPS and the child welfare system in Arizona will not be totally realized unless the courts have the resources to remain consistent with increasing demands. Our public policy makers at all levels of government must consider funding mechanisms that provide the needed court resources that will enhance the safety, well-being and permanency of children in the state's care.

Footnotes

1. Adapted from *RESOURCE GUIDELINES – Improving Court Practice in Child Abuse and Neglected Cases*, published by the National Council of Juvenile and Family Court Judges, Reno, Nevada, 1995.
2. CPS is represented by the Attorney General’s Office in dependency actions in the juvenile court.
3. The *Court Improvement Project: Five Years Later*, Report of the National Center for Juvenile Justice for the Arizona Supreme Court, Administrative Office of the Courts, Dependent Services Division, January 8, 2002.
4. Data extracted from JOLTS (Juvenile On-line Tracking System), the statewide juvenile data tracking system utilized by Arizona courts.
5. The division collects data through the Foster Care Review Board’s automation system as well as the statewide Juvenile On-Line Tracking System (JOLTS)
6. The report and all supporting materials can be found on the Commissions’s web site at www.pewfostercare.org.



CHILDREN'S ACTION ALLIANCE

Children's Action Alliance is a non-profit, non-partisan organization dedicated to promoting the well-being of all of Arizona's children and their families through research, policy development, media campaigns and advocacy.

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Under the direction of the Arizona Supreme Court's Chief Justice, the Administrative Office of the Courts (AOC) provides the necessary support for the supervision and administration of all state courts. The programs administered by the Dependent Children's Services Division are designed to ensure that the best interests of Arizona's dependent children are served by providing a system of information, advocacy and review.



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