



DEBT COLLECTION REFORM IMPLEMENTATION TOOLKIT



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OVERVIEW

This toolkit will help courts implement already-enacted debt collection case rule or statute-based reforms. This guide is not meant to be a comprehensive discussion of debt collection reform, nor is it intended to help jurisdictions who are at the stage of statutory or rule-based reform. Rather, this toolkit offers practical and actionable suggestions to help jurisdictions incorporate consumer debt court-based reforms into existing court business practice.

To ensure reforms address challenges in consumer debt cases, courts must develop practices for implementation. But implementation can be challenging, particularly in the state court context, where different courts may have different business practices and case processing requirements. Courts must also remain neutral arbiters, and court staff often lack capacity to add additional efforts to their workloads.

The implementation practices outlined in this toolkit will address key court values by creating better access for all parties in debt collection cases and increasing procedural fairness. The use of the implementation strategies in this guide may also result in long-term reductions of consumer debt caseload and increased process efficiency.

WHAT REFORMS CAN THIS TOOLKIT HELP WITH?

This Toolkit addresses ideas for implementing the following types of rule and statutory reforms:

Type of Reform	Description of Reform	Purpose of Reform/Why Implementation is Critical
Filing Requirements and Documentation of Debt	Requires plaintiffs in debt collection cases to provide the court with information about the debt at the time of filing, including proof of validity of the debt and proof of ownership of the debt by the plaintiff. In some jurisdictions, plaintiffs must also attach a copy of the contract or proof of debt.	If courts do not enforce filing and verification requirements, courts and parties will continue to lack essential information about the debt at issue, leading to flawed or incomplete decisions and limiting defendants' ability to participate in the case.
Pre-Default Documentation	Requires that plaintiffs provide additional information or that courts do an enhanced review when a default judgment is sought.	Without a process to ensure review of default requests and information required, courts run the risk of making default decisions based on limited information.
Prohibitions on Suing on Time-Barred Debt	Prohibits plaintiffs from bringing cases when collection of debt is barred by statutes of limitations.	Without a process to eliminate filings where collection is time-barred, defendants may have erroneous judgments issued against them and court docket space will be taken up with improper cases.
Enhanced Service Requirements	Creates enhanced requirements to prove service, such as demonstrating to the court how a defendant address was verified or requiring photo proof of personal service.	Without good service, defendants will not be able to fully participate in a case, limiting due process and decreasing trust in the court.

This Toolkit does not address how jurisdictions might approach rule and statutory reform. For more information about the debt collection policy reforms described above and how to begin statutory or rule-based reform in your jurisdiction, check out these resources:

- [Pew Charitable Trusts, To Reform Debt Collection Litigation, Courts Need Better Data, October 25, 2022](#)
- [Pew Charitable Trusts, How Debt Collectors Are Transforming the Business of State Courts, May 6, 2020](#)
- [Paula Hannaford-Agor and Brittany Kauffman, Preventing Whack-a-Mole Management of Consumer Debt Cases: A Proposal for a Coherent and Cohesive Approach for State Courts, 2020](#)
- [Conference of Chief Justices and Conference of State Court Administrators, Resolution 4: In Support of Rules Regarding Default Judgments in Debt Collection Cases, August 22, 2018](#)
- [National Center for State Courts, Call to Action: Achieving Civil Justice for All, 2016](#)



Or check out these Tiny Chats on Debt Collection Case Reform!

[Tiny Chat 11: Debt Collection Cases](#)

[Tiny Chat 37: Debt Collection Cases Best Practices](#)

PROMISING PRACTICES FOR IMPLEMENTATION



1. MAKE CHANGES TO COURT DATA PRACTICES OR CASE MANAGEMENT SYSTEMS TO IDENTIFY AND TRACK DEBT COLLECTION CASES

If cases are not clearly designated as debt collection cases in a case management system or if the case management system has no ability to track particular actions or specifics about the case, it may be difficult for judicial officers and court staff to ensure that statute or rule changes are being followed.

These might include:

- Using one case name or case type for all debt collection cases.
- Flagging cases with debt buyer plaintiffs if your jurisdiction has laws specific to debt buyers.
- Creating specific indicators about whether debt verification and ownership and service requirements were met.
- Developing automated referrals to mediation or diversion when appropriate.



2. CREATE CHECKLISTS TO ENSURE DEBT DOCUMENTATION REQUIREMENTS ARE MET

Checklists are an important tool to track and assess filing requirements. Checklists can help judicial officers assess initial pleadings in debt collection cases and review requests for default judgment. Checklists can also help litigants, both plaintiffs and defendants, understand requirements at various stages of debt collection litigation.

PARTY DIRECTED CHECKLISTS

Some courts provide a checklist for a party to complete before filing a complaint or seeking a civil default judgment. The checklist may be informational for the party or must be filed with the court.

Using party directed checklists can help plaintiffs understand the requirements when filing cases or requesting defaults.



Implementation Tip

Consider including the following information in party directed checklists:

- If pre-filing notice is required, was it provided? When?
- Is proof of ownership and other necessary detail about the debt attached to the complaint?
- Is the debt time-barred? When was the debt accrued?
- For default checklists: Was service completed? When? How? Who was served? What proof of service was provided to the court?

Check-out some real-world examples of party directed checklists [here](#).

Or use our guided interview to build your own!

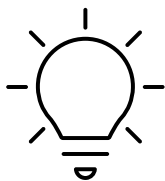
COURT DIRECTED CHECKLISTS

Checklists can also serve as an important tool for judicial officers and court staff as they seek to ensure that verification, other pre-filing, and default requirements have been met. The use of checklists creates uniformity in review of court filings and helps minimize workload on court staff. Checklists also increase transparency as parties understand how pleadings are assessed and why pleadings or default requests have been rejected.



Implementation Tip: Think carefully about who uses the checklist

In addition to court workforce and workload concerns, courts may have concerns about asking frontline staff to screen filings for sufficiency. This work might be better done by a judicial officer. If the judicial officer has concerns about the sufficiency of the complaint, the judicial officer can dismiss the complaint and provide reasoning in a written order to ensure the plaintiff understands the problems with the filing.



Implementation Tip: Create clear processes for addressing defects identified by checklists

Courts must also think carefully about what to do if a checklist shows that a filing or a case is missing information or is deficient in some way. Without a process to address errors or deficiencies identified through checklists, courts risk the same problems that consumer debt collection case reforms were designed to address. This [New York checklist](#) is a good illustration of how to include next steps for defective filings in a checklist.



CHECKLISTS IN PRACTICE

Examples of court directed checklists:

- [La Crosse County Circuit Court \(Wisconsin\) Sufficiency of Consumer Credit Complaint Checklist](#): Used to determine that debt collection complaints meet statutory requirements. Must be completed and signed by a judge.
- [New York State Courts Defect Checklist](#): Used by the court when a default judgment is requested. Includes information about possible corrections and the process for what the court and a party must do if the filing is insufficient.
- [Sixth District Court \(Idaho\) Default Worksheet](#): Used to determine whether default requirements have been met.

Examples of party directed checklists:

- [Collin County, 219th District Court \(Texas\) Certificate for Default Judgment](#): Must accompany all requests for default judgments.
- [Maricopa County Superior Court \(Arizona\) Civil Default Checklist for Default Judgment](#): Must be completed and included with all default requests.
- [San Diego Superior Court \(California\) Judgment Checklist—Default by Court \(Civil\)](#): Not required but serves as a guide for plaintiffs.



KEY QUESTIONS FOR DEVELOPING CHECKLISTS

- What is the purpose of the checklist?
- What information should be included in the checklist?
- Who will be responsible for periodically reviewing and updating the checklist to ensure accuracy?
- Who will be responsible for completing the checklist? Court staff, judicial officers, litigants?
- For public-facing checklists, how will they be made available?
- How will you ensure that the checklist is usable for the intended audience by using plain language, including visual and design elements to aid in comprehension, offering versions translated into common languages, and ensuring compliance with accessibility standards?
- At what stage of the case should the checklist be completed? Should you create multiple checklists for different stages of the case (e.g., pre-filing, service, default judgment)?
- Does your court process require you to treat the checklist as a form that will need public comment? Does it depend on who fills out the checklist and whether it is mandatory?
- What happens if a checklist shows that a filing or case has incomplete information?

3. CREATE ENHANCED COURT FORMS FOR DEBT COLLECTION CASES

Forms are both a way to ensure that courts communicate with parties about requirements and expectations as well as to ensure that courts receive the information needed about a case and the debt involved.¹

Debt collection specific forms help courts ensure uniform adherence to rule and statute reform in debt collection cases.

Some examples of information required on forms includes:

- Verification of pre-filing notice
- Age of debt
- Proof of ownership of debt
- Certification that a debt is not time-barred

Requiring use of these forms ensures that courts collect necessary and required information in debt collection cases and helps inform both plaintiffs and defendants about requirements.



KEY QUESTIONS FOR CONSUMER DEBT CASE FORMS

- What is the form promulgation process in your jurisdiction? How long does it take, who will you need to work with and consult, and who controls the process?
- What information does the court hope to obtain through new forms?
- Are forms the best way for the court to collect this information?
- Who should be at the table to help design new forms?
- How will you ensure that forms adhere to best practices around usability and access (plain language, translation, design, etc.)?

The National Center for State Courts has information about form design and plain language available on its [Forms Camp](#) and [Plain Language](#) webpages.

¹ Note that not all plaintiffs may use court-promulgated forms. This will need to be an area of consideration for jurisdictions that are considering forms as an option. One solution is to use a checklist to ensure the court has all necessary information when a case is filed with a form that is not the court-promulgated form.



COURT FORMS IN PRACTICE

- **Illinois** has created an [Affidavit](#) for debt-buyer plaintiffs that requires information about the debt, charge-off date, and debt ownership.
- **Maryland's** [Complaint](#) contains information about military service, principal and interest, amount of the debt, and proof of ownership of debt.



4. BUILD IN JUDICIAL REVIEW BEFORE ISSUING DEFAULTS

Judicial review may be particularly helpful in jurisdictions where certain information is required before a default, but also may be important in states without existing statutes or rules about defaults to ensure that the court has all information needed to make a decision about the case. This review can be done through checklists, as discussed above, or it can be done via court hearing if a judicial officer has additional questions about pleadings or service or sufficiency of fact.

When reviewing default judgment requests consider:

- Whether there is evidence that defendants were properly served.
- Whether a military service affidavit is complete.
- Whether the statute of limitations has expired.
- Whether the court has received proof and any required documentation that the debt was owed as claimed.
- Whether the court has a clear understanding about the chain of ownership of the debt and all assignment dates if the plaintiff is not the original owner of the debt.
- Whether the court has information about the original amount of the debt, an itemization of charges and fees claimed to be owed, amounts of any payments, and the amount of interest charged.



JUDICIAL REVIEW IN PRACTICE

The Court of Common Pleas in Lancaster County, Pennsylvania reviews court filings for sufficiency before allowing a case to move to default. If the filing is not sufficient, the court issues a case management order or a non-compliance order reflecting the deficiency. A sample of Lancaster County's Order is available [here](#).

5. IMPROVE SERVICE REQUIREMENTS

Although many changes to service requirements involve statute or rule change, courts can also engage in changes to their business practices to improve service.

Examples include:

- **Provide backup reminders** about important dates and information about the case via mail or text message. In New York, the court mails a physical notice of a hearing or request for default judgment to the defendant.²
- **Flag returned mail.** New York also tracks whether mail sent by the court to defendants is returned, and flags this in a case management system to alert the judicial officer who is reviewing service or default requests that there is a potential problem with the defendant's address of record.³ The judicial officer can then determine whether they believe the defendant was properly served or whether more inquiry on service needs to happen.
- **Develop self-help materials and summons attachments** to help people understand what steps they need to take when they are served with a consumer debt complaint. This includes information about court-sponsored mediation programs, how to respond to the complaint, clear information about deadlines, legal aid resources, and the consequences of not responding to a complaint.⁴ The Illinois Cook County Circuit Court requires that plaintiffs include information in service packets about diversion programs in English, Spanish & Polish.⁵

A recent Pew study about service showed that when defendants understood how to respond to civil complaints, particularly debt collection complaints, they responded in a timely and appropriate way.⁶

² NY CPLR § 306-D (2022).

³ *Id.*

⁴ For practical information about how to create self-help materials, *see*, Grace Spulak, Lonni Summers, National Center for State Courts, Best Practices for Creating Legal Self-Help Materials, March 2023, *available at* https://www.ncsc.org/data/assets/pdf_file/0029/88652/Best-Practices-for-Creating-Legal-Self-Help-Materials.pdf (last accessed June 7, 2023).

⁵ *See*, Cook County Cir. Ct. G.A.O. 2020-09 (eff. April 21, 2021), *available at* <https://nationalcenterforstatecourts.box.com/s/x80bfsvmw1zwxhcqclfel965kce0nza> (last accessed May 23, 2023).

⁶ Pew Charitable Trusts, Why Civil Courts Should Improve Defendant Notification, March 3, 2023, *available at* <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2023/03/why-civil-courts-should-improve-defendant-notification> (last accessed June 7, 2023).



KEY QUESTIONS ABOUT SERVICE PRACTICES

- What steps, if any, does your jurisdiction take to confirm that a defendant received notice once a plaintiff indicates that the defendant has been served? Are there additional steps that your jurisdiction could take?
- Does your court mail notices or other documents directly to defendants? If no, would this be a helpful practice?
- Can you provide information to parties directly about hearings via mail, email, or text message?
- What information do defendants need to respond to a consumer debt complaint in a timely and accurate way? How might this information be provided to defendants? As summons attachments? Via court website?



6. IDENTIFY WAYS TO RESOLVE CASES OUTSIDE OF COURT

Initiatives like mediation and diversion programs, if done well, have the potential to result in better case outcomes. They can allow parties to resolve the case outside of the courtroom, resulting in better agreements for both parties and reducing court time needed to address these cases.

MEDIATION AND ONLINE DISPUTE RESOLUTION

Pre-hearing or pre-filing mediation, either in person or through online platforms, can help parties in consumer debt collection cases develop agreements and payment plans that meet the needs of both parties.

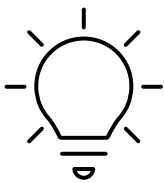




MEDIATION AND ODR IN PRACTICE

The **Maryland Alternative Dispute Resolution** program provides in-person and remote mediation services in small claims cases.⁷

Hamilton County, TN has an online dispute resolution (ODR) program⁸ focused on medical debt. The program is free and voluntary and has support from court champions, creditors, and defendant champions. It also allows parties to participate before a court case has been filed, which reduces the burden on the court and the risk of defaults for defendants.⁹



Implementation Tip: Make sure that mediation and settlement programs do not perpetuate the lack of bargaining power that defendants often have in debt collection cases.

The Cook County Circuit Court in Illinois entered a [General Order](#) permitting self-represented litigants (SRLs) in debt collection cases to have a legal aid or pro bono attorney review a settlement agreement with them before the court enters it.

⁷ Maryland Alternative Dispute Resolution Program, 2023, <https://mdcourts.gov/district/adr/home> (last accessed June 7, 2023).

⁸ For general information on Online Dispute Resolution, *see*, National Center for State Courts, ODR, <https://www.ncsc.org/odr> (last accessed June 16, 2023).

⁹ New Online Dispute Resolution Platform Offers Hope to those with Medical Debt, May 18, 2021, available at <https://www.tncourts.gov/news/2021/05/18/new-online-dispute-resolution-platform-offers-hope-those-medical-debt> (last accessed August 23, 2023).



KEY QUESTIONS ABOUT BUILDING MEDIATION OR ODR PROGRAMS

- What resources does the court need to develop a mediation or ODR program?
- Can the program be provided at no cost?
- How can the court ensure that parties are engaged in the case so that they can direct people to mediation? (i.e., If there is not adequate service, people will not show up to mediation.)
- For ODR, how does the current court or mediation process map onto an online platform? Will the process need to be adjusted? Does ODR provide an opportunity to streamline or improve current practice?
- For ODR, how can information about resources be built into the platform to ensure that parties have information and know where to go for help?



DIVERSION PROGRAMS

In addition to providing mediation and settlement opportunities outside of the courtroom, diversion programs also connect people to resources to address root causes of the legal problem.¹⁰



DIVERSION PROGRAMS IN PRACTICE

The **Cook County Legal Aid for Housing and Debt** program offers a central legal hotline, free legal assistance, case management, and mediation for individuals with consumer debt issues.¹¹ The program is coordinated by the Chicago Bar Foundation, and is a collaboration between the courts, the Bar Foundation, and legal service providers.

Since the Cook County program started in November of 2020, it has helped more than 13,000 unrepresented debtors, as well as some unrepresented creditors, through both their legal hotline and mediation programs.

The **Consumer Credit Card Diversion programs in Lancaster County, Pennsylvania¹² and Luzerne County, Pennsylvania¹³** provide free credit counselors and court-supervised conciliation conferences to help parties resolve credit card collection lawsuits.

Check out this [Tiny Chat](#) with the Lancaster Court of Common Pleas' Diversion Program Coordinator to learn more!

¹⁰ For more information about eviction diversion programs, *see e.g.*, National Center for State Courts, Eviction Diversion Initiative Grant Program, <https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/eviction-diversion-diagnostic-tool/eviction-diversion-initiative-grant-program> (last accessed June 7, 2023).

¹¹ Cook County Legal Aid, 2023, <https://www.cookcountylegalaid.org/> (last accessed June 7, 2023).

¹² Consumer Credit Card Diversion Program, 2023, <https://www.court.lancastercountypa.gov/265/Consumer-Credit-Card-Diversion-Program> (last accessed June 7, 2023).

¹³ Consumer Credit Card Debt Collection Program, 2023, <https://www.luzernecounty.org/1100/Consumer-Credit-Card-Debt-Collection-Pro> (last accessed June 16, 2023).



KEY QUESTIONS ABOUT BUILDING DIVERSION PROGRAMS

- What services and resources should be part of the diversion program? Mediation, financial counseling, help with benefits and financial assistance, other social assistance such as access to health care?
- How can the program be provided at no cost?
- What partners does your jurisdiction need involved with the program to provide the diversion program services?



7. CONSIDER GENERAL HIGH-VOLUME DOCKET REFORMS

Although not specific to debt-collection cases, general best practices to help court users engage in high-volume docket case types can increase participation in debt collection cases.¹⁴

Strategies include:

- Eliminating mass calendaring
- Allowing remote participation



¹⁴ For strategies about using case streamlining practices and other high volume reforms into debt collection cases, *see*, National Center for State Courts, Key Steps and Tools to Implement Now to Ensure the Fair and Efficient Handling of Consumer Debt Actions, A Pandemic Resource from CCJ/COSCA, October 20, 2020, *available at* https://www.ncsc.org/data/assets/pdf_file/0032/55499/Ensure-Fair-and-Efficient-Handling-of-Consumer-Debt-Actions.pdf (last accessed June 16, 2023). For more information on high volume courts and caseflow management generally, *see*, National Center for State Courts, Tiny Chats: High Volume Courts, <https://vimeo.com/showcase/8099524> (last accessed August 23, 2023), National Center for State Courts, Caseflow Management, <https://www.ncsc.org/consulting-and-research/areas-of-expertise/court-management-and-performance/caseflow-management> (last accessed August 23, 2023).

CONCLUSION

Statutory and rule-based reforms in debt collection cases have the potential to help courts better manage these cases and increase parties' ability to participate and have fair and just outcomes. The implementation practices in this guide will help courts turn reforms into reality and create meaningful change for courts and litigants.

