

Domestic Relations: Addressing Backlog and New Filings



A Pandemic Resource from NCSC

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As articulated in the [Children, Family, and Elders Overview](#) document, several factors point to an almost certain backlog and a difficulty for courts to stay on top of new filings. Here is what you need to know about expected impacts of the 2020 Pandemic on Domestic Relations, Parenting-Time, Child Support and Domestic Violence, what courts can do to address backlog and examples of courts that innovated processes to manage cases effectively.

Some of the court solutions listed below can be implemented immediately; others require planning.

Expected Impacts on the Pandemic on Domestic Relations, Parenting-Time (Custody/Visitation), Child Support and Domestic Violence

- **Divorce and Dissolution:** COVID-19 related restrictions and disruptions are expected to increase the dissolution of filings and motions related to parenting time.
- **Child Support:** The economic crisis left in the wake of the COVID-19 pandemic has led to increased levels of unemployment and an increasing number of people not able to meet their child support obligations. In court, this translates to increased claims, motions to modify, and motions to collect.
- **Orders of Protection:** Courts will also have to deal with a mountain of deferred hearings due to COVID-19 restrictions, as well as an expected increase in domestic violence claims resulting from stay at home restrictions and limited community services.

Proven Case Management Methods

Courts that can demonstrate efficiency to funding bodies apply the core tenets of [Caseflow Management: The Heart of Court Management in the New Millennium](#) (2004). Courts must adhere to these principles if they are to survive the current crisis. Refer to the [Children, Family, and Elders Overview](#) document for additional guidance.

- Chapter III, *Family and Probate Cases* (pp 42-56), provides specific case management advice for divorce, protection orders, and coordination of related cases like child support.
- Courts should establish a court-wide case management order, much like [Colorado Rules of Civil Procedure 16.2](#). Stating that "family members stand in a special relationship to one another and to the court system," Rule 16.2 provides clear guidance of each process and timeframe, closely overseen by the court.
- The detailed [administrative order in McHenry County, IL](#), regarding the entry of final judgments and parenting allocation judgments describes the temporary "fast track" process for obtaining a final judgment in uncontested family law cases without a court appearance.

Case Management Innovations from Courts Across the Country

Thin-Out Caseloads by Quickly Resolving "Simple" Cases (Triage)

Alaska and other courts across the country screen for "Early Resolution Cases" based on the pleadings and court records using these objective factors:

- length of marriage: ____ years
- length of separation: ____ years
- significant property and/or debt: yes/no
- age(s) of child(ren): ____
- existing arrangement re: decision making and parenting time: ____

If there is a history of domestic violence or current allegations or if relocation issues are present, the case will be handled conventionally. Some 80% of domestic relations filings can be managed through simplified processes, allowing more complicated cases to route to ADR processes or judicial hearings as needed. [See the Evaluation here.](#)

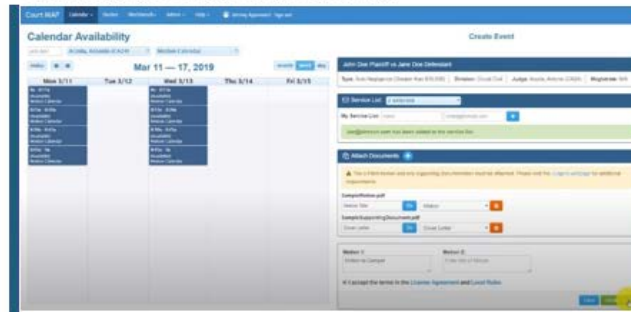
Allow Family Court Users to Schedule Their Own Hearings

The 11th Judicial Circuit of Florida (Miami-Dade) uses courtMAP, an online management system that provides scheduling, automatic hearing notifications/reminders, and allows judges to create and send orders electronically. courtMAP will enable parties to self-schedule case events and send in documentation. This platform reduces the burden on court staff to set hearings, upload documents, and send notices. Other scheduling innovations include using text to remind parties of hearings and scheduling hearings during off-hours. These measures facilitate party attendance so that time is not lost with re-settings.

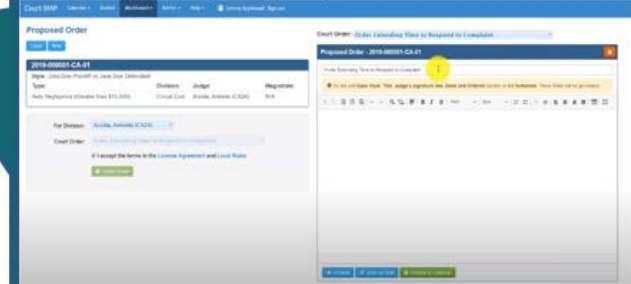
Florida 11th Judicial Circuit courtMAP system
 The link to the platform access page is [here](#).



Scheduling to a Motion Calendar



Submitting an Agreed/Proposed Order



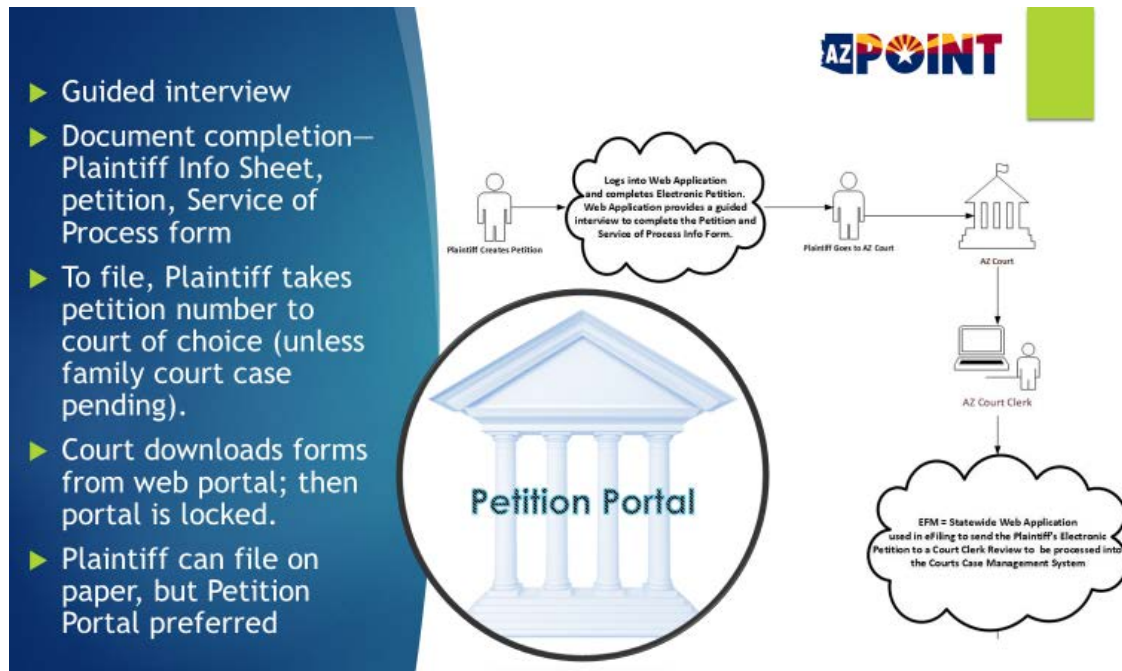
Use Data to Closely Monitor Your Caseload

Pima County, Arizona has developed a prototype data dashboard in their Family Court proceedings that helps monitor case progression. Previously, Pima sent notices for dismissal when parties failed to proceed. The new Pima dashboard pulls from the case management database so that the court can monitor cases nearing timeframes and ensure compliance with hearings, mediations, and parenting classes. Court staff communicates with parties to keep cases on track.

Pima Family Court Division Data Dashboard

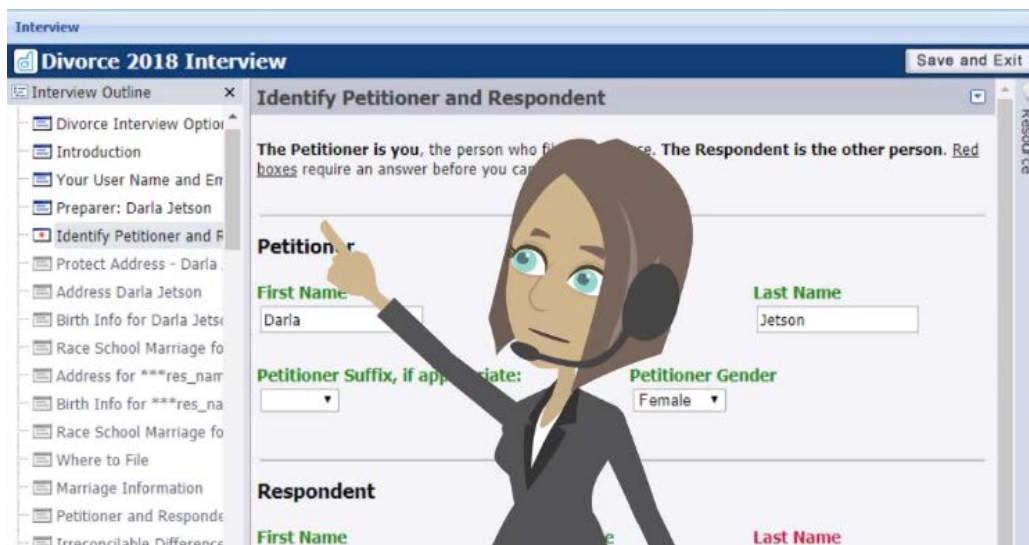


Use a portal for domestic violence cases and orders of protection (Arizona, Utah)
 Arizona uses the AZPOINT portal to walk users through forms for orders of protection and to provide notification of the same. The portal also directs users to victim advocates and has a “Safety” button on each screen. Once paperwork is received through the portal, the court can conduct telephonic or video evidentiary hearings as needed.



- ▶ Guided interview
- ▶ Document completion—Plaintiff Info Sheet, petition, Service of Process form
- ▶ To file, Plaintiff takes petition number to court of choice (unless family court case pending).
- ▶ Court downloads forms from web portal; then portal is locked.
- ▶ Plaintiff can file on paper, but Petition Portal preferred

Utah’s Online Court Assistance Program (OCAP) assists users with divorce and other court forms through a series of guided questions. Parties can save, make changes, and print final documents. The e-filed documents are automatically provided to the other parties.



Parenting Time, Responsibilities, and Visitation

Allocation of Parental Responsibilities and Parenting-Time (also known as Custody and Visitation) involves momentous decisions and requires considerable time to decide. Many courts are experiencing a surge of case filings as families address their changed circumstances through family court orders. In the short and long term, courts must consider triage, extrajudicial services, and ongoing planning.

Setting Expectations in Custody and Visitation Matters

- Statewide guidance from the Supreme Court or Administrative Office may establish broad policy and set parameters for more specific local directives. See, for example, the Michigan [FAQs About Custody and Parenting Time During the COVID-19 Outbreak](#); and [Custody and Visitation Recommendations](#) from the North Carolina Judicial Branch.
- The Ventura County, California [Administrative Order Re Mandatory Guidelines for Custody/Visitation Orders in Response to COVID-19](#) sets a clear directive to parties that prior orders remain in effect. It establishes the court's expectations regarding school closures, change of custody transfer locations, how visitation should be supervised (if required), and a host of other contingencies.
- [The Bucks County, PA family court emergency operations order](#) provides detailed guidance on reporting to the other party the actual or suspected presence of the COVID-19 virus in the household and its effect on an existing custody order.
- The [32nd Circuit of Alabama Administrative Order](#) on custody and visitation states emphasizes the presumption of maintaining prior court-ordered arrangements and that modification requires "admissible facts." The court also sets expectations that parents will follow CDC guidelines about self-quarantining and any state and local pandemic directives.

Mediation/ADR and Online Parenting-Time Dispute Resolution

As the [McHenry County IL standing order on mediation during the pandemic](#) notes, "Mediation can help recognize, foster and preserve the best interests of the children involved in divorce and family litigation." Many public and private mediators are successfully facilitating agreements remotely during the pandemic.

In response to the need to resolve parenting time disputes arising during the pandemic, The North Dakota Supreme Court instituted an [Expedited Parenting Time Mediation Program](#) providing for up to two hours of free mediation services to parents with an existing parenting time order.

Peoria County, Illinois and [Los Angeles County](#) are two progressive courts that have implemented automated assistance (e.g., Tyler's Modria product) for parenting-time. Parties in Peoria County have enthusiastically embraced the processes and the court is working to measure party satisfaction on an ongoing basis.

Welcome to the Family Resolution Center

This program allows everyone involved in a parenting plan to easily access the information in a convenient and timely manner.

CASE PARTICIPANTS

Use this program to create a parenting plan online.

You don't have to present your case to a judge and wait for a decision. Instead, work with the other parent to create a plan that works for you both.

If you can't find a solution online, you can still go through the traditional court process.

MEDIATORS

Use this service to:

- Expand your geographic reach
- Take on more cases
- Reduce administrative burdens

When mediating online, you can:

- Access all relevant case information
- Interact with case participants
- Create resolution plans
- And more!

COURT STAFF

This service is separate from the court.

Details about the case participants' negotiations are unavailable.

Other Ideas and Resources

Virtual Hearings are Here to Stay. Virtual hearings encourage higher party attendance and often higher party satisfaction. Here are [findings and recommendations for conducting remote proceedings](#). See the *Trauma-Responsive Practices in Child, Family and Elder Cases Toolkit* for guidance on the cases best suited for remote proceedings, available soon at www.ncsc.org/pandemic.

- See this [Tiny Chat on Child Support](#) for insights on presiding over a Zoom child support docket.

In Sacramento, CA, some family court judges have used the breakout room function of their video platform to interview children with control over who else, if anyone, is present. Courts should remain mindful of the implications of holding and streaming virtual hearings, including protection orders and safety concerns for petitioners and the sharing of private information and potential security issues.

E-Finalizations. If all paperwork is in place (e.g., paternity settlement agreements, financial statements, child support agreements), judicial officers can sign the agreements and distribute copies electronically (Miami-Dade, FL; King County, WA).

Informal Domestic Relations Trials. Having originated in [Oregon](#) and now used in Alaska, IDRTs relax the rules of evidence to provide quicker case processing at the same time providing greater satisfaction for judges, staff, and parties alike. Win-win!

Tools like DocuSign and Virtual Private Networks (VPN) assist case processing by allowing staff to connect to private court networks remotely and electronically sign documents, request signatures, check document status, and send reminders. (Cuyahoga County, OH).

Case Management Teams. Routine case management tasks can be delegated to professional court staff to allow judicial officers to focus on matters that require their experience and authority.

Virtual Assistance to Parties. Nationwide, courts have retrofitted processes to provide assistance virtually. In Massachusetts, court users conduct business directly with registry personnel through the internet by clicking a [link](#). The University of South Carolina Law School published faculty advice for a general audience on several COVID-related legal topics, including [Co-parenting in the Coronavirus Pandemic](#).

Electronic Parenting Classes. Courts in Arizona and elsewhere provide parenting and other classes by community-based providers online.

If your state or court has innovated other case management solutions in Child, Family or Guardianship matters or if you would like to participate in upcoming webinars, we want to learn more.

For more information on Domestic Relations, please contact the CCJ/COSCA Pandemic Advisory Committee on Child, Family, and Elders matters through Alicia Davis adavis@ncsc.org.