

Q&R Handbook



*How to Respond to Common Questions
Asked By Court Customers*

This Question and Response (Q&R) Handbook is a reference for court personnel to use while helping our customers, the public.

Of course, this handbook cannot anticipate all of the possible questions that court users may ask. When new questions arise, consult your supervisor. For some of the questions and responses contained in this handbook, you may wish to annotate, supplement, or provide additional information appropriate for your specific court, with the approval or at the suggestion of your supervisor.

When you are uncertain if you are being asked to give legal advice, please suggest that the person asking the question consult an attorney.

What is legal information?

Legal information is communication of facts about court procedures, timing, and resources. It includes information contained in court records, examples of forms and pleadings, informational pamphlets, copies of statutes and explanation of court rules, procedures, practices and due dates.

What is legal advice?

1. A written or oral statement that interprets some aspect of the law, court rules, court procedures, or recommends a specific course of conduct in an actual or potential legal proceeding.
 2. A written or oral statement that applies the law to an individual's specific factual circumstances.
 3. A written or oral statement that requires the person giving advice to have knowledge of the law and legal principles beyond familiarity with court requirements and procedures.
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TODAY'S COURT SYSTEM HAS THREE LEVELS

Level 1—Limited Jurisdiction. Justice of the peace courts and municipal (or city) courts have limited jurisdiction, meaning that their authority is restricted to certain cases. The cases these courts decide may be limited by the subject, the amount of money involved, or the sentence that can be imposed.

Level 2—General Jurisdiction. The general jurisdiction court is the Superior Court of Arizona, a statewide trial court. This court hears the widest variety of cases. Each county has at least one superior court facility, and it is referred to by its county location—for example, the Superior Court in Maricopa County.

Level 3—Appellate Jurisdiction. The Court of Appeals and the Supreme Court are Arizona's appellate courts. The state appellate courts have jurisdiction to review trials and decisions appealed to them. The two divisions of the Court of Appeals hear most of the appeals that come from the superior court, except for death penalty appeals and some cases involving elected officials and disputes between counties, which go directly to the Supreme Court.

To appeal a decision from the Court of Appeals, the appellant must file a petition for review by the Supreme Court. The Supreme Court justices evaluate the petitions for review and decide whether they will hear the case. Unlike the Court of Appeals, the Supreme Court is not required to hear every appeal.



WELCOME TO THE ARIZONA COURTS

We will be happy to help you if we can. As we must be fair to everyone, we are allowed to help you only in certain ways.

This is a list of some things court personnel can and cannot do for you:

- We can** explain and answer general questions about how the court works.
 - We can** give you general information about court rules, procedures, and practices.
 - We can** provide you with contact information for lawyer referral services, legal aid programs, and other services where you can get legal information.
 - We can** provide court schedules and information on how to get a case scheduled.
 - We can** give you information from your case file that is not restricted.
 - We can** provide you with court forms and instructions that are available.
 - We can** usually answer questions about court deadlines.
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- We cannot** tell you whether or not you should bring your case to court.
- We cannot** tell you what words to use in your court papers or whether they are correct.
- We cannot** tell you what to say in court.
- We cannot** give you an opinion about what will happen if you bring your case to court.
- We cannot** conduct legal research for you.
- We cannot** talk to the judge for you or let you talk to the judge outside of court.
- We cannot** alter court documents.

Our ability to assist you will depend on the time and resources available as well as the scope of our responsibilities, knowledge and experience.

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SECTION 1 FEE WAIVERS AND DEFERRALS

1-Q. What is a fee deferral or waiver?

1-R. Arizona law requires the court to charge filing fees, service fees and other fees to cover costs. Court fees are due at the time of filing or at the time of requesting service. If you wish to file a civil case (family court, small claims, non-guardianship juvenile, tax, and mental health) and you cannot afford to pay the court fees at the time of filing you may apply for a fee deferral or waiver. The court will review your individual situation as presented in the application, including participation in a qualifying program, income and extraordinary circumstances, to determine if you qualify for a fee deferral or waiver.

Resources:

- [Fee Deferral and Waiver Forms](#)

2-Q. What is the difference between a fee deferral and a fee waiver?

2-R. If the court grants you a deferral, payment may be postponed to the end of the case or you may be required to pay a portion of the fee now and be given additional time to pay the balance. If you are awarded a waiver you will not be required to pay the fees.

Resources:

- [Fee Deferral and Waiver Forms](#)

3-Q. How do I get a fee deferral or a fee waiver?

3-R. Forms are available at the court's filing counter or online for many courts, or you can access forms on the Arizona Judicial Branch webpage.

Resources:

- [Fee Deferral and Waiver Forms](#)
- Maricopa County [Fee Deferral and Waiver Forms](#)
- Pinal County Justice Courts Fee [Deferral and Waiver Forms](#)

4-Q. What kinds of fees are waived or deferred?

4-R. Filing or answer fees, Constable service fees (with some restrictions), summons or subpoena issuance fees, appeal preparation filing fees, fees for obtaining one certified copy of a temporary order in a domestic relations case, and fees for obtaining one certified copy of a final order, judgment or decree in all civil proceedings.

SECTION 2 PROCEDURAL GUIDANCE

1-Q. What proof or evidence do I bring to court with me?

1-R. You can bring whatever witnesses, documents, and other evidence you think support your case. We can't help you decide what to bring. It may be helpful to read the rules regarding evidence for your case type.

Resources:

- [Justice Court Rules of Civil Procedure](#)
- [Arizona Court Rules](#) webpage

- [Rules of Evidence](#) in Courts in the State of Arizona
- [Rules of Family Law Procedure](#)
- Marital and Domestic Relations A.R.S. [Title 25](#)

2-Q. When do I submit my proof or evidence to court personnel before court?

2-R. Read your court orders carefully to see if the judge ordered you to submit evidence ahead of time in your specific case. Unless you have an emergency hearing, you will almost always need to submit copies of your exhibits to the judge’s clerk before the hearing so they can be marked.

Resources:

- [Justice Court Rules of Civil Procedure](#)
- [Arizona Court Rules](#) webpage
- [Rules of Evidence](#) in Courts in the State of Arizona
- [Rules of Family Law Procedure](#)
- Arizona [Clerks of Superior Court](#)

3-Q. I received an inactive notice – what am I supposed to do now?

3-R. If no action has been taken in your case or you haven’t served your court papers, the court might notify you that your case is about to be dismissed. That notice explains your options to prevent your case from being dismissed.

4-Q. When am I supposed to file the affidavit of default?

4-R. You can file for default if the other party hasn’t responded within 20 days of being served, or 30 days if they were served outside of Arizona.

5-Q. I have a disability that prevents me from filling out this form. Would you fill it out for me?

5-R. We can read you exactly what the form says and fill in the blanks with exactly the words you give us. We can’t help you understand what the form means or advise you on what to put in the blanks or what words to use. (If court personnel filled out the form for the customer, please state on the form that you helped them by writing their words on the form exactly as they said them to you.)

6-Q. Where can I find a QDRO (Qualified Domestic Relations Order) form?

6-R. The U.S. Department of Labor web site provides some direction to sample forms and other assistance. A sample of a QDRO form can be found for Pinal County at the link below. Another reference is in the Arizona Legal Forms which most Arizona law libraries will have available.

Resources:

- [U.S. Department of Labor](#)
- [Sample Pinal County QDRO form](#)
- Arizona Legal Forms – Volume 4A, Chapter 10

7-Q. Would you look over this form and tell me if I did it right?

7-R. Court personnel can take a quick look to see if there are any obvious blanks that have been missed. Only an attorney can make sure this is complete and correct based on your specific circumstances.

8-Q. I want to talk to the judge. Where is the office?

8-R. To ask the judge to do something, you need to file a written request with the clerk of court. To ensure that the court process is fair and impartial, the judge isn't allowed to talk to one side without the other side being present.

9-Q. I know I can't talk to the judge, but you're nice – could you please take this message for me?

9-R. Court personnel are not allowed to act on behalf of either side on a case. Court personnel must remain neutral and not give one side an advantage over the other. You may be able to put the request in writing to file in court, with a copy provided to the other side.

10-Q. What is “*ex parte*” communication?

10-R. It is a Latin term that means communication with the court by one side without the presence or knowledge of the other side. In most cases *ex parte* contacts with the judge are not allowed in order that the judge can remain neutral.

11-Q. What will the judge say?

11-R. We can't predict what the judge will decide. You may research the laws that might guide the judge's decision in your particular case.

12-Q. How do I file for default?

12-R. You can file for default 20 days after you served the other party (30 days if you served them out of state). To file for default, file an Application for Entry of Default and Entry of Default, then mail a copy to the other party. From the day you file the application, the other party has 10 business days to file a response, otherwise default will be entered against them, and the case will go forward without the other party's input. The clerk of court can tell you the filing fee if there is one. Your local court might have forms and instructions for default.

13-Q. Should I get a lawyer?

13-R. You're not required to have a lawyer. It's up to you to decide whether you want to hire a lawyer. We can't help you decide what's best in your situation. Your local court might provide contact information for an attorney referral service and your local court might have a list of low-cost or no-cost legal services.

Resources:

- Maricopa County Bar Association Lawyer Referral Service: 602-257-4434 - <http://maricopalawyers.org>
- Pima County Bar Association Lawyer Referral Service: 520-623-4625 - <http://www.pimacountybar.org>
- Arizona Foundation for Legal Services & Education: 866-637-5341 - www.AZLawHelp.org

14-Q. I can't afford an attorney. Can you tell me what to do?

14-R. If you know what you want to do, we can tell you about procedures, but we can't help you decide what to do or counsel you on your situation. Your local court might have a list of low-cost or no-cost legal services, or go to AZLawHelp.org.

15-Q. I want a court-appointed attorney assigned. How do I get one?

15-R. You have a right to a court-appointed attorney only in certain types of cases. When you're in court, you can ask the judge to appoint an attorney for you, and the judge will let you know if that's an option in your case.

16-Q. I need a good lawyer. Who is the best?

16-R. We can't recommend a specific lawyer. We can just give you a list of lawyers who work on the type of case you need help with. Your local court might provide contact information for an attorney referral service, and your local court might have a list of low-cost or no-cost legal services.

Resources:

- Maricopa County Bar Association Lawyer Referral Service:
602-257-4434 - <http://maricopalawyers.org>
- Pima County Bar Association Lawyer Referral Service:
520-623-4625 - <http://www.pimacountybar.org>
- Arizona Foundation for Legal Services & Education:
866-637-5341 - www.AZLawHelp.org

17-Q. I'm filing this document asking the court to do something. Does that make me the plaintiff on this filing?

17-R. In nearly every case, only the person who started the case at the very beginning will be the plaintiff or petitioner. The only exception to this is in certain family law cases involving conciliation.

18-Q. What is a warrant?

18-R. A warrant is an order from the court to law enforcement to take someone or something into custody. Some warrant information is forwarded to law enforcement agencies throughout Arizona. For example, the court may order a bench warrant for law enforcement to arrest someone who failed to appear in court, or the court may issue a search warrant for law enforcement to seize property from a person or a place, or obtain a blood sample.

19-Q. It says "relief requested" next to this blank on the form. What do I put there?

19-R. That blank is asking you to write in your own words what you're asking the court to do. "Relief requested" is your chance to write in your own words what you're asking the judge to do. Court personnel cannot tell parties what words to use. If you have questions about what you can ask for in a case, you may consult an attorney.

20-Q. What is the difference between a petition and a decree?

20-R. A petition is a request, usually written, that a party files asking the court to do something. A decree is an order from the court detailing the parties' rights and obligations.

21-Q. I have asked you several questions and you won't answer them. Why aren't you more helpful?

21-R. Only an attorney is allowed to give you certain kinds of help. We can tell you facts about options, procedures, and forms, but only an attorney can interpret the law or how it applies in your specific case, and only an attorney can help you decide what's best in your situation. Court personnel must remain neutral in all situations. Many questions would require court personnel to explain or interpret the law or how the law would apply in the party's case. To do so would constitute legal advice, which court personnel may not provide.

22-Q. Where can I find information on Arizona's laws and rules?

22-R. Arizona's statutes (laws passed by the state legislature) are available in any law library and many public libraries. They may also be viewed at the Arizona State Legislature's web site. The *Arizona Rules of Court* contain the procedures that litigants must follow in Arizona courts and are available in any law library and many public libraries.

Resources:

- [Arizona State Legislature statutes](#)
- [Arizona Court Rules](#) webpage

SECTION 3 SCHEDULING AND COURT APPEARANCES

1-Q. Do I have to be in court today?

1-R. Court personnel may review whatever notice the party has to determine whether the party must appear in court and where the hearing (if any) will be held. Court personnel may also have access to the judicial calendar for the time period in question.

2-Q. Can I reschedule (continue) my hearing to a later date?

2-R. The judge decides whether or not to continue a hearing. You may file a written request with the clerk or court and provide a copy of the request to the other side, and the judge will consider the request.

SECTION 4 SEALED RECORDS

1-Q. Can I see a sealed file (for example, an adopted person is seeking information)?

1-R. Court personnel are not authorized to provide sealed records to the public. Local courts and judges may have different requirements, including an informal written request

or a formal motion before allowing a court customer to view sealed information. The court customer's written request may include the following:

- Sufficient information for the judge to determine whether such a record exists (e.g., nature of the case; case number; names of parties; dates of possible case filings; judgments or events; date of birth);
- The reason(s) supporting the court customer's right to view the sealed record; and
- The court customer's name, address, and phone number.

SECTION 5 SUBPOENAS

1-Q. What are subpoenas?

1-R. Subpoenas are orders to witnesses to give testimony in court or at a deposition. They are also an order for someone to submit documents to the court or the requesting party.

2-Q. How do I subpoena someone?

2-R. A subpoena is issued by the clerk's office. Some clerk's offices have the subpoena form available, but the clerk's office does not prepare the form. The party wanting the subpoena needs to prepare it, have it issued by the clerk's office, and make arrangements to have it served. The clerk's office can inform you of the current filing fee, if any, for issuing the subpoena.

3-Q. Where can I find a Subpoena Duces Tecum form for a family case?

3-R. The Maricopa County Self-Service Center has this form available online.

Resources:

- [Subpoena Duces Tecum](#)

SECTION 6 DOMESTIC VIOLENCE OR HARASSMENT

1-Q. What's the difference between a restraining order and a protective order?

1-R. A restraining order is simply another term for an Order of Protection or an Injunction Against Harassment, which are protective orders in Arizona. Other states call them restraining orders, protection from abuse orders, and similar names.

Resources:

- Criminal Harassment [A.R.S. § 13-2921](#)
- Injunction Against Harassment [A.R.S. § 12-1809](#)
- Injunction Against Harassment [Forms](#)
- Injunction Against Workplace Harassment [A.R.S. § 12-1810](#)
- Protective order [forms](#) (English, Spanish, Arabic, Chinese, Vietnamese)

2-Q. What is an Order of Protection?

2-R. It is an order used for protection when there is a family relationship or a romantic or sexual relationship between the plaintiff and the defendant. The plaintiff must file a petition describing an act of domestic violence that was threatened or committed against the plaintiff by the defendant within the last year. If the plaintiff does not have a family or a romantic or sexual relationship with the defendant, the plaintiff may file a petition requesting an Injunction Against Harassment if the defendant has committed a series of acts of harassment against the plaintiff. The plaintiff must file a petition and then appear before a judge to explain why an Order of Protection is needed. If the judge finds that the defendant may commit or has committed an act of domestic violence, the judge can issue an Order of Protection that:

- Orders the defendant not to commit acts of domestic violence,
- Gives the plaintiff exclusive use of a house that both people previously shared,
- Prevents the defendant from coming near the plaintiff's house or apartment, place of employment, or school,
- May prohibit the defendant from possessing guns, and
- Includes any other relief necessary for the plaintiff's protection.

The Order of Protection is not in effect until it is personally served on the defendant. Once served, the defendant has a right to a hearing. After a hearing, the judge may order the defendant to obtain counseling.

Resources:

- Arizona Judicial Branch [Domestic Violence](#) webpage
- [Arizona Coalition to End Sexual and Domestic Violence](#) webpage
- [Address Confidentiality Program](#) (Secretary of State)
- [Arizona Rules of Protective Order Procedure](#)

3-Q. What is a domestic violence crime?

3-R. Arizona law currently includes 30 crimes, that when combined with a family or a romantic or sexual relationship, equal domestic violence. Domestic violence includes assault and aggravated assault; harassment and aggravated harassment; aggravated domestic violence; child or vulnerable adult abuse; criminal damage; criminal trespass; dangerous crimes against children; custodial interference; disobeying a court order; disorderly conduct; endangerment; kidnapping; stalking; surreptitious photographing; threats and intimidation; unlawful imprisonment; sexual assault; unlawful distribution of images; neglect, abandonment, or cruel mistreatment of animals; preventing or interfering with use of a telephone in an emergency; telephone harassment; and murder, manslaughter, and homicide.

Resources:

- Domestic violence [A.R.S. § 13-3601](#)

4-Q. What is the relationship test for an Order of Protection?

4-R. The plaintiff and the defendant must have one of the following relationships:

- married now or in the past
- live in the same household now or lived in the same household in the past
- parents of a child in common
- one party is pregnant by the other
- the parties are related by blood or marriage (such as parent, in-law, brother, sister, grandparent, step-parent, step-sibling)
- the parties have a current or previous romantic or sexual relationship

Resources:

- [Things You Should Know About Protective Orders](#) booklet

5-Q. How do I ask for an Order of Protection?

5-R. Fill out the form called a petition provided by the court, and return it to court staff. It's important to know that a copy of the petition will be given to the defendant if an Order of Protection is issued and sent out for service. Although an order may protect more than one person (one plaintiff and other protected persons), it can be issued against only one person. A separate petition must be completed for each person against whom you want to be protected.

Each petition must have:

- The defendant's name.
- The defendant's date of birth (or a reasonable estimate).
- A specific statement listing all acts and approximate dates of domestic violence that the defendant has committed against you within the past year. (The one-year requirement may be waived if the defendant is out of state, incarcerated, or good cause is shown.)
- Your address and telephone number so the court can contact you if the defendant requests a hearing. (Upon request, this information will be withheld from the defendant.)
- An address, if known, at which the defendant can be legally served with the court's order.

Resources:

- Protective order [forms](#) (English, Spanish, Arabic, Chinese, Vietnamese)

6-Q. How long is the Order of Protection in effect?

6-R. If the judge issues the Order of Protection, the defendant must be served with the order before it will be effective. If it is not served, it will expire one year from the date the judge issued it. Once an order has been served, it will be in effect for one year from the date it was served. A private process server or local law enforcement may serve the order. A law enforcement agency cannot charge a fee for serving an Order of Protection. If hiring a private process server, the plaintiff is responsible for delivering the defendant's copy of the order to the process server and for paying a service fee and mileage.

Resources:

- [Things You Should Know About Protective Orders](#) booklet

7-Q. What if the defendant is in jail?

7-R. If the plaintiff believes that the defendant is in jail, the plaintiff can ask jail staff to serve the defendant. Court staff may be able to direct the plaintiff to the appropriate jail location. If the defendant is in the process of being released, there may not be enough time to have service completed at the jail. If not, the plaintiff has one year in which to serve the defendant by requesting service from a law enforcement agency or hiring a private process server.

8-Q. What do I do if the defendant violates the Order of Protection once it is in effect?

8-R. Violation of the court order is a criminal charge, and law enforcement must be notified. If you are in immediate danger, call 9-1-1.

Resources:

- [Safety plan](#)
- [Safety plan](#) (Spanish)

9-Q. What if the other person contests the order?

9-R. The defendant may request a hearing on the order one time during the year in which it is in effect. A hearing will be held within 5 days (if exclusive use of the residence has been ordered) or 10 business days.

10-Q. What if the plaintiff and the defendant are in the process of divorce?

10-R. If a protective order was issued by a municipal or a justice court and a petition for dissolution or separation of marriage or a maternity or paternity action is filed in superior court, one of the parties must notify the issuing court immediately. The protective order proceedings then will be transferred to superior court and heard with the family court case.

11-Q. What is an Injunction Against Harassment?

11-R. An Injunction Against Harassment is a court order that is issued to prevent one person from harassing another person. The plaintiff must file a petition, explaining specifically how the defendant has harassed the plaintiff and then appear before a judicial officer to explain the reason for the request. If the judge determines that a series of acts of harassment have been committed by the defendant against the plaintiff over a period of time, the judge can issue the order. The injunction is not in effect until it is served on the defendant. Once served, the defendant has a right to a hearing.

Resources:

- Criminal Harassment [A.R.S. § 13-2921](#)
- Injunction Against Harassment [A.R.S. § 12-1809](#)
- Injunction Against Harassment [Forms](#)
- Injunction Against Workplace Harassment [A.R.S. § 12-1810](#)
- Injunction Against Workplace Harassment [Forms](#)

12-Q. What is harassment?

12-R. There are several different types of harassment under Arizona law: criminal harassment, Injunction Against Harassment and Injunction Against Workplace Harassment. You will need to determine which definition applies to your situation and then fill out the correct petition.

For purposes of an Injunction Against Harassment, harassment involves a series of acts that happened over any period of time that are purposefully directed at a specific person. The acts are those that serve no legitimate purpose and would cause a reasonable person to be seriously alarmed, annoyed, or harassed. A single incident, no matter how bothersome, does not constitute harassment for purposes of a protective order.

13-Q. How do I file for an Injunction Against Harassment?

13-R. Fill out the petition provided by the court and return it to court staff. It's important to know that a copy of the petition will be given to the defendant if an Injunction Against Harassment is issued and sent out for service. Although an injunction may protect more than one person (the plaintiff and other protected persons), it can be issued against only one person (the defendant). A separate petition must be completed for each person against whom you want to file.

Each petition must have:

- The defendant's name.
- The defendant's date of birth (or a reasonable estimate).
- A specific statement showing events and dates of the acts constituting the alleged harassment.
- Your address and telephone number so the court can contact you if the defendant requests a hearing. (Upon request, this information will be withheld from the defendant.)
- An address, if known, at which the defendant can be legally served with the court's order.

Resources:

- Injunction Against Harassment [A.R.S. § 12-1809](#)
- Injunction Against Harassment [Forms](#)

14-Q. What if I don't know where the person I am filing against lives?

14-R. If you do not know the defendant's address, you should keep a copy of the injunction. As soon you find out the address, you can contact a private process server or law enforcement so they can try to serve the defendant.

15-Q. How long is the Injunction Against Harassment in effect?

15-R. If the judge issues the Injunction Against Harassment, the defendant must be served with the order before it will be effective. If it is not served, it will expire one year from the date the judge issued it. Once the injunction has been served, it will be in effect for one year from the date it was served. A private process server or local law enforcement may serve the order. If using a private process server, the plaintiff is responsible for delivering the defendant's copy of the order to the process server and paying a service fee

and mileage. Unless the relationship between the plaintiff and the defendant is a dating relationship, law enforcement will also charge a fee for service of an Injunction Against Harassment.

16-Q. What do I do if the defendant violates the injunction once it is in effect?

16-R. Violation of the court order is a criminal charge, and law enforcement must be notified. If you are in immediate danger call 9-1-1.

17-Q. What if the other person objects to the injunction?

17-R. The defendant may request a hearing on the injunction one time during the year in which it is in effect. A hearing will usually be held within 10 business days from the date requested.

18-Q. What do I do if my child is being harassed by a bully at school?

18-R. Arizona law requires schools to have policies and procedures to prevent students from bullying, harassing, and intimidating other students in schools, on school grounds, on school buses, at school bus stops, and at school-sponsored activities and events. This includes harassment by electronic means on school networks and forums. Each school is required to have a procedure for students, parents and teachers to report, in confidence, bullying behavior to school officials. If the bullying acts threaten or actually cause injury to a person or property, then more severe penalties are called for and carried out under Arizona’s criminal laws.

Resources:

- Powers and duties of school district governing boards [A.R.S. § 15-341\(A\)\(37\)](#)
- Criminal disruption of an educational institution [A.R.S. § 13-2911](#)

19-Q. What is an Injunction Against Workplace Harassment?

19-R. It is an injunction filed by an employer or the owner of a business or operation. It is similar to an Injunction Against Harassment, except that it protects the employer, employees, people coming into the place of business, or employees who are performing official work duties elsewhere. For purposes of an Injunction Against Workplace Harassment, harassment means a single threat or act of physical harm or damage or a series of acts over any period of time that would cause a reasonable person to be seriously alarmed or annoyed.

Resources:

- Injunction Against Workplace Harassment [A.R.S. § 12-1810](#)
- Injunction Against Workplace Harassment [Forms](#)

**SECTION 7
CIVIL CASES IN LIMITED JURISDICTION COURTS
(INCLUDING SMALL CLAIMS ACTIONS)**

Civil lawsuits in Arizona justice courts—other than those involving evictions, civil traffic or boating proceedings, or protective orders or Injunctions Against Harassment—are governed by the *Justice Court Rules of Civil Procedure* (“JCRCP”). The justice court rules are more simplified, and are intended for use not only by attorneys appearing in justice

court, but also by self-represented litigants who have no legal training. Parties should use the JCRCP so that civil actions are resolved speedily, inexpensively, and fairly. The JCRCP are based upon the *Arizona Rules of Civil Procedure*, which are the rules governing civil actions in superior court.

1-Q. How do I file a small claims case?

1-R. You start a small claims case by filing a complaint with justice court. Your local justice court may have forms and instructions.

Resources:

- General information [Justice Courts](#) in Arizona
- [Mohave](#) County Small Claims information and procedures
- Mohave County [Plaintiff flowchart](#)
- Mohave County [Defendant flowchart](#)
- [Pinal](#) County Small Claims information and procedures
- ["How a Case Moves Through the Court System"](#)

2-Q. It says “relief requested” next to a blank on the form. What do I put there?

2-R. “Relief requested” is your chance to write in your own words what you’re asking the judge to do. Court personnel cannot tell parties what words to use. If you have questions about what you can ask for in a case, you may consult an attorney.

3-Q. I have a disability that prevents me from filling out this form. Would you fill it out for me?

3-R. We can read you exactly what the form says and fill in the blanks with exactly the words you give us. We can’t help you understand what the form means or advise you on what to put in the blanks or what words to use. (If court personnel filled out the form for the customer, please state on the form that you helped them by writing their words on the form exactly as they said them to you.)

4-Q. I live in Arizona and the defendant lives in another state. How do I start a lawsuit?

4-R. You may refer to Rules 110 and 113 of *Justice Court Rules of Civil Procedure*. Or you may consult an attorney.

Resources:

- [Rule 110](#) of *Justice Court Rules of Civil Procedure*
- [Rule 113](#) of *Justice Court Rules of Civil Procedure*

5-Q. I live in this county and the person I want to sue lives in another county. Where do I file?

5-R. You file the complaint in the county where the defendant lives or does business or where the act or incident took place.

Resources:

- [Rule 110](#) of *Justice Court Rules of Civil Procedure*
- [Rule 113](#) of *Justice Court Rules of Civil Procedure*

6-Q. What do I do with the summons?

6-R. Your local court might have forms and instructions.

Resources:

- For small claims:
[Rule 4.1](#) of *Arizona Rules of Civil Procedure*
[Rule 4.2](#) of *Arizona Rules of Civil Procedure*
[A.R.S. § 22-513](#)
- For civil lawsuits in justice court:
[Rule 112](#) of *Justice Court Rules of Civil Procedure*
[Rule 113](#) of *Justice Court Rules of Civil Procedure*

7-Q. Do I have a potentially winning case?

7-R. We can't predict what the judge will do or advise you on how strong your case is. Only an attorney can give you that service.

8-Q. Once I file my claim, how long before I go to court?

8-R. The party may refer to the instruction packet provided to the party or court personnel may explain the process for a particular court. If there are statistics for your court, refer to those to tell the party how long a case takes on average to conclude in your court.

9-Q. My case was dismissed a year ago. Can I re-file?

9-R. If the case was dismissed "with prejudice," no. If the case was dismissed "without prejudice," yes. The court order that dismissed the case will say whether it was with or without prejudice. You'll also need to make sure you're still within the statute of limitations.

Resources:

- Mohave County information regarding [statute of limitations](#)

10-Q. I received a paper and I don't know what it is. What am I supposed to do?

10-R. To respond appropriately, ask questions to determine what the paper is (the court customer may have to read the paperwork to you). Look at the paper and answer the question if it would be considered legal information. If a professional is needed to interpret the paper, provide a link to sources of attorney lists. If they need to ask the judge for clarification, provide information on how to file a Motion for Clarification.

Resources:

- Maricopa County Bar Association Lawyer Referral Service:
602-257-4434 - <http://maricopalawyers.org>
- Pima County Bar Association Lawyer Referral Service:
520-623-4625 - <http://www.pimacountybar.org>
- Arizona Foundation for Legal Services & Education:
866-637-5341 - www.AZLawHelp.org

11-Q. What is the difference between small claims and a civil case?

11-R. Small claims can be used if you're suing for \$3,500 or less. If you're suing for less than \$10,000, you can file a civil case in justice court. Also there are no attorneys allowed in small claims (unless both sides agree), and there are no appeals in small claims. Attorneys and appeals are allowed in civil claims.

12-Q. My friend's dog bit me. Should I sue him?

12-R. We can't help you decide what to do. Only an attorney can provide that service. Once you've decided what you want to do, we can try to help you find forms and explain procedures. Another option is to contact local law enforcement or animal control.

13-Q. I was dating someone and we split up. They have property that belongs to me that they won't let me have (car, furniture, etc.). How do I get my property back?

13-R. If the value of the property is \$10,000 or less, you can look at filing a civil case in justice court. If the value of the property is more than \$10,000, you can look at filing a civil complaint in superior court. An attorney could tell you if you have other options.

14-Q. Are these the forms I need?

14-R. If you know what you want to do, we can try to connect you with forms and explain procedures. If you're not certain that you have the right forms for your specific situation, only an attorney can help you confirm that.

Resources:

- [Forms](#) for civil actions - by county (\$10,000 and under)

15-Q. What do I do if I don't have the money to pay the filing fees?

15-R. You can file a request for fee deferral or waiver of fees. The court will determine what fees, if any, are waived or postponed until later in the case.

16-Q. What do I put in my complaint?

16-R. In general, you use the complaint to tell the court in your own words why you're suing someone and what you want the judge to do (for example, you might be asking the judge to order the person to pay you a certain amount of money). To learn what you can ask the judge to do in your specific situation, you can research that question at a law library, or an attorney can advise you.

Resources:

- [Rule 110\(b\)](#) of *Justice Court Rules of Civil Procedure*

17-Q. What is the time limit to file a small claims case?

17-R. Time limits in civil actions start from the date the events that gave rise to the action occurred.

Resources:

- Mohave County information regarding [statute of limitations](#)

18-Q. Can I serve a subpoena or do I have to hire someone to do it?

18-R. *Justice Court Rules of Civil Procedure* Rule 137 allows service by anyone who is at least 18 years of age and not a party to the case.

Resources:

- [Rule 137](#) of *Justice Court Rules of Civil Procedure*

SECTION 8 SERVICE

1-Q. What do I do when I don't know where the other person is to serve him or her?

1-R. The *Arizona Revised Statutes* and court rules explain how to proceed if the other party is refusing or avoiding service, or if the other party is no longer at the last known address. The Service Members Civil Relief Act (SMCRA) is a federal statute that explains the requirements for serving a party who is in the military.

Resources:

- [Rule 4.1](#) of *Arizona Rules of Civil Procedure*
- [Rule 113](#) of *Justice Court Rules of Civil Procedure*
- [SMCRA](#) website
- [Service Members Civil Relief Act Waiver](#) form

2-Q. Can I serve this or do you?

2-R. A small claims summons and complaint may be served by registered or certified mail, return receipt requested. Service is considered to be complete when the defendant signs for it. The return receipt must then be filed with the court, unless there is a permissible exception. See Rule 113 of *Justice Court Rules of Civil Procedure*. Service for other civil cases must be made in person by a sheriff, a sheriff's deputy, or private process server. Some exceptions are set out in Rule 4.1 and 4.2 of *Arizona Rules of Civil Procedure*. See Rules 40-42 of *Arizona Rules of Family Law Procedure* concerning service in family law cases.

Resources:

- [Rule 113](#) of *Justice Court Rules of Civil Procedure*
- [Rule 4.1](#) of *Arizona Rules of Civil Procedure*
- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*
- [Rule 40](#) of *Arizona Rules of Family Law Procedure*
- [Rule 41](#) of *Arizona Rules of Family Law Procedure*
- [Rule 42](#) of *Arizona Rules of Family Law Procedure*

3-Q. How do I serve the papers on someone who is out of state?

3-R. Contact law enforcement or the local courts for a list of process servers or constables in that state. You may consult an attorney or refer to Rule 4.2 of *Arizona Rules of Civil Procedure*, or Rule 42 of *Arizona Rules of Family Law Procedure*, based on the type of case.

Resources:

- [Rule 113](#) of *Justice Court Rules of Civil Procedure*
- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*
- [Rule 42](#) of *Arizona Rules of Family Law Procedure*

**SECTION 9
ANSWERING A CLAIM**

1-Q. Where can I find legal information about answering a claim?

1-R. You will find information in the Civil Trial Practice Volume 2, Chapter 13, at a law library, or you may seek advice from an attorney. Rule 112(d) requires a plaintiff to attach a Notice to Defendant to the summons.

Resources:

- [Rule 112\(d\)](#) of *Justice Court Rules of Civil Procedure*
- [Notice to Defendant](#) form

2-Q. I received a small claims summons and complaint in the mail. What do I do now?

2-R. Follow the instructions on the notice and perhaps seek advice from an attorney. Court personnel cannot tell you what words to use in your answer.

3-Q. How do I file a counterclaim?

3-R. Court personnel may provide the appropriate forms and indicate where the information should be placed on the form, but cannot suggest what to write or whether a counterclaim should be filed.

4-Q. I was served with a summons and complaint. What do I do now?

4-R. Read the Notice to Defendant and follow the instructions in the summons and file an answer to the complaint within 20 calendar days (30 calendar days if out of state). Ask court personnel about the current filing fee, if any.

Resources:

- [Rule 112\(d\)](#) of *Justice Court Rules of Civil Procedure*

5-Q. What do I do if I'm served with an amended complaint?

5-R. You may file a response or you may contact an attorney for advice.

6-Q. What do I write in my answer?

6-R. You write the factual and legal defenses to the complaint. Court personnel cannot advise what to put in an answer. You may want to consult an attorney.

Resources:

- [Rule 116](#) of *Justice Court Rules of Civil Procedure*

7-Q. If I did not file my answer in time, and the plaintiff did not file default papers, can I still file my answer?

7-R. Yes. The court will determine the effect of the late filing.

8-Q. When are my 20 days up for filing an answer?

8-R. Start counting the 20 days on the day after service was completed. If you don't know the date of service, court personnel may advise if proof of service was filed with the court.

Resources:

- [Rule 115\(a\)](#) of *Justice Court Rules of Civil Procedure*

9-Q. How long do I have to file my complaint?

9-R. Many deadlines may apply depending on the type of case and facts involved. *Arizona Revised Statutes* and court rules list additional procedures and requirements, or you may consult an attorney.

10-Q. In what county or precinct do I file my case?

10-R. The answer to this question depends on the type of case being filed, where the litigants live, and where events took place. You may consult an attorney.

11-Q. How do I file an answer?

11-R. Your answer must be in writing and filed within the proper time period after the complaint was served on the party. You must provide a copy to the opposing side.

12-Q. When do I have to file my opposition papers on this motion?

12-R. Rule 116 of *Justice Court Rules of Civil Procedure* states that the defendant who is served with a summons and complaint within the State of Arizona must file a written answer or response with the court within 20 days after the date of service. A defendant who is served with a summons and complaint outside the State of Arizona must file a written answer or response with the court within 30 days after the date of service.

Resources:

- [Rule 128](#) of *Justice Court Rules of Civil Procedure*
- [Rule 116](#) of *Justice Court Rules of Civil Procedure*

13-Q. I have to file my papers ten days before the hearing, but that day falls on a holiday when the court is closed. What do I do?

13-R. You must file and serve the papers by the end of court business on the next day that the court is open following the holiday.

SECTION 10 CIVIL CASES IN SUPERIOR COURT

Civil cases involve legal disputes among individuals, businesses, corporations, partnerships and governmental entities. Most civil cases are the result of personal injury, property damage, medical malpractice and contract disputes. For superior court civil arbitration (beginning at Rule 72), [Arizona Rules of Civil Procedure](#) explain how and when arbitration may be required in a civil case.

1-Q. I want to file a lawsuit. Can you tell me how to do it?

1-R. Civil actions start by filing a complaint. Additional steps in the rules of procedure are required. A civil case can be complex. Court customers may wish to contact an attorney.

Resources:

- [Forms](#) for civil actions
- Supreme Court [Civil Law](#) webpage

2-Q. What are subpoenas?

2-R. Subpoenas are orders to give testimony in court or demand documents be submitted to the court or the requesting party.

3-Q. How do I subpoena someone?

3-R. A subpoena is issued by the clerk's office. Some clerk's offices have the subpoena form available, but the clerk's office does not prepare the form. The party wanting the subpoena must prepare it, have it issued by the clerk's office, and make arrangements to have it served. The clerk's office can inform the party of the current filing fee, if any, for issuing the subpoena.

Resources:

- Arizona [Clerks of Superior Court](#)

4-Q. Can I serve a subpoena or do I have to hire someone to do it?

4-R. *Arizona Rules of Civil Procedure* Rule 45(b) allows service by anyone who is at least 18 years of age and not a party to the case.

Resources:

- [Rule 45\(d\)](#) *Arizona Rules of Civil Procedure*

5-Q. How do I serve someone with a complaint?

5-R. Service in the state of Arizona shall be by a sheriff, sheriff's deputy or private process server. A party to an action may also sign an Acceptance or Waiver of Service. *Arizona Rules of Civil Procedure* Rule 4 and 4.1 cover different types of service, including out-of-state service.

Resources:

- [Rule 4](#) of *Arizona Rules of Civil Procedure*
- [Rule 4.1](#) of *Arizona Rules of Civil Procedure*

6-Q. What do I do when I don't know where the other person is?

6-R. Service by publication may be available. The *Arizona Revised Statutes* and court rules explain how to proceed if the other party is refusing or avoiding service, or if the other party is no longer at the last known address. The Service Members' Civil Relief Act is a federal statute that explains the requirements for serving a party who is in the military.

Resources:

- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*
- [Service Members Civil Relief Act](#) Website

7-Q. It says “relief requested” next to this blank on the form. What do I put there?

7-R. “Relief requested” is a party’s opportunity to write in your own words what is requested of the court. Court personnel cannot tell you what words to use. If you have questions about the types of remedies available in the case, you may consult an attorney.

8-Q. I was served with this complaint and summons. What do I do now?

8-R. You should follow the instructions in the summons. If you file an answer, it must be in writing and a copy served on the other party. If you are unsure how to file an answer you may contact an attorney. The clerk can inform you of the current filing fee, if any. See Section 8 entitled “Answering a Claim.”

9-Q. How long do I have to answer a complaint?

9-R. The time to file an answer to a civil complaint is 20 days from the date you are served or accept service, if it is in state, and 60 days for a waiver of service. If it is out of state, you have 30 days to file an answer. If the last day falls on a weekend or holiday, you have until the end of the next business day to file.

Resources:

- [Rule 4.1\(c\)\(3\)](#) of *Arizona Rules of Civil Procedure*

10-Q. How do I file for default?

10-R. You can file an Application for Entry of Default and Entry of Default 20 days after the other party has been served (30 days if they were served out of state). The local court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk’s office can inform you of the current filing fee, if any. You must send a copy of the Application for Entry of Default and Entry of Default to the other party or parties and to the attorney for the party. The entry of default does not take effect for 10 business days after filing the application. Service can occur in several ways. *Arizona Rules of Civil Procedure* Rule 55 and *Arizona Rules of Family Law Procedure* Rule 44 provide specific information.

Resources:

- [Rule 55](#) of *Arizona Rules of Civil Procedure*
- [Rule 44](#) of *Arizona Rules of Family Law Procedure*

11-Q. I got a dismissal notice. What am I supposed to do now?

11-R. Dismissal notices may be sent when there has been no action taken on a case or if there has been no service on a case. The notice explains options available to you. You must choose the option that best fits the situation. If you are not sure what to do, you may want to consult an attorney.

Resources:

- [Rule 38.1\(g\)](#) of *Arizona Rules of Civil Procedure*

12-Q. Would you look over this form and tell me if I did it right?

12-R. Court personnel may tell you if you provided all the required information. Court personnel cannot tell you whether the information provided is correct or legally sufficient.

13-Q. When do I have to file my response to this motion?

13-R. In civil cases, Rule 7.1 of *Arizona Rules of Civil Procedure* states that the opposing party shall file any answering memorandum within 10 days after the motion was filed and served. Rule 6 (e) of *Arizona Rules of Civil Procedure* allows an additional 5 calendar days when the motion is served by mail. The judge may determine there are grounds for an accelerated ruling, in which case the time for filing may be shortened. The time periods may be different when specific times for motions are otherwise provided by statute, *Arizona Rules of Civil Procedure*, or order of the court.

Unless the court ordered otherwise, Arizona law requires all papers opposing a motion be filed and served on the opposing party by at least 10 calendar days before the hearing.

Resources:

- [Rule 7.1](#) of *Arizona Rules of Civil Procedure*
- [Rule 6\(e\)](#) of *Arizona Rules of Civil Procedure*

14-Q. I have to file my papers ten days before the hearing, but that day falls on a holiday when the court is closed. What do I do?

14-R. You must file and serve the papers by the end of court business on the next day that the court is open following the holiday.

15-Q. I have a disability that prevents me from filling out this form. Would you fill it out for me?

15-R. We can read you exactly what the form says and fill in the blanks with exactly the words you give us. We can't help you understand what the form means or advise you on what to put in the blanks or what words to use. (If court personnel filled out the form for the customer, please state on the form that you helped them by writing their words on the form exactly as they said them to you.)

16-Q. The judge ruled in my favor in a civil case. How do I collect from the defendant?

16-R. Check with your county court for an informational packet. Here are a couple of examples from Maricopa and Yavapai county courts.

Resources:

- Maricopa County Justice Court – [How to Collect a Money Judgment](#)
- Mayer Justice Court – [Collecting Your Judgment](#)

SECTION 11
JUDGMENTS – SMALL CLAIMS

1-Q. I filed a debt collection case against a person. After that, the person filed for bankruptcy. How will the bankruptcy case affect my case against that person?

1-R. Often, the bankruptcy will put a hold on the lawsuit. An attorney can advise you how it will affect your particular case.

2-Q. If I file bankruptcy will my debts go away?

2-R. Bankruptcy law is complicated and it depends on your circumstances. An attorney could advise you. You can read about bankruptcy on these websites.

Resources:

- <http://www.azb.uscourts.gov/filing-without-attorney>
- <http://bankruptcy.findlaw.com/>

3-Q. Once a judgment is obtained, how long before I get my money?

3-R. If the person who lost the case doesn't pay you, you can review these websites for your options to collect the money.

Resources:

- Maricopa County Justice Court – [How to Collect a Money Judgment](#)
- Mayer Justice Court – [Collecting Your Judgment](#)

4-Q. Does my judgment ever expire?

4-R. Judgments are usually good for 5 years. You can research the law or consult with an attorney to learn if a different time period applies to your specific case.

5-Q. How do I garnish the wages of the person who lost this case in order to collect the money the court ordered them to pay me?

5-R. View this webpage for more information about garnishing wages.

Resources:

- [Garnishment forms and instructions](#)

6-Q. If the person who lost this case has more than one employer, can I garnish their wages at both jobs?

6-R. No. You can only garnish someone's wages at one job at a time.

7-Q. How do I find out where the defendant works?

7-R. One option is a process called a "debtor examination" or "supplemental proceedings." The purpose of this process is to learn about the defendant's assets and other information that might help you collect the judgment. An attorney could advise you if there are other options available to you.

Resources:

- Coconino County – [Instructions for supplemental proceedings.](#)

8-Q. I tried a Writ of Execution, but it didn't work. What do I do now?

8-R. A Writ of Execution is an order to the Constable to serve the defendant and attempt to collect on the judgment. Information could be obtained through a debtor examination after a judgment has been obtained. Court personnel may provide an "if you win packet" for more information. You may want to contact an attorney, as there could be more options available.

9-Q. What is a debtor’s exam?

9-R. This is a process available to someone who has obtained a judgment against another party and has attempted an execution on the judgment, but the judgment debtor still has not paid the debt. In this situation the winning party may file a request for a debtor’s exam. Both parties will have to appear in court where the winning party may question the judgment debtor under oath regarding the amount and location of the judgment debtor’s assets (e.g., bank accounts, real property).

10-Q. Can the losing party make installment payments on the judgment?

10-R. It’s up to the person who won the case whether to accept installment payments.

11-Q. The other party paid me just the judgment and not court costs. How do I collect the court costs?

11-R. View these resources for options to collect the money.

Resources:

- Maricopa County Justice Court–[How to Collect a Money Judgment](#)
- Mayer Justice Court – [Collecting Your Judgment](#)

12-Q. Why can’t the judge just put the defendant in jail?

12-R. Arizona law doesn’t usually let the judge put someone in jail in a civil case.

13-Q. How do I calculate my interest?

13-R. A basic method for calculating simple interest on a judgment:

- Step 1: Multiply \$ (judgment) X (interest) % = (annual interest rate due)
- Step 2: Divide (annual rate) by 365 = (daily interest amount)
- Step 3: Multiply the daily interest amount times the number of days since the judgment was entered. (Note: every time a payment is made the interest must be recalculated.)

Resources:

- Rate of interest for loan; interest on judgments [A.R.S. § 44-1201](#)

14-Q. I paid my judgment in full and the plaintiff has not released it. How do I get the judgment released?

14-R. You can file a request in your own words asking the court to “satisfy the judgment” and include proof that you’ve paid the judgment in full.

15-Q. I paid my judgment, so why don’t you satisfy it?

15-R. The court can “satisfy the judgment” only if one of the parties files a request for that. You can file a request in your own words asking the court to “satisfy the judgment” and include proof that you’ve paid the judgment in full.

16-Q. How do I stop a garnishment?

16-R. You can file a Request for Hearing; however, filing this request will not automatically stop a garnishment currently in effect. The Request for Hearing will get you before a judge within 5 business days, at which point the judge will issue a ruling on any modification to the garnishment. The garnishment will still be in effect until a decision is made by the judge.

Resources:

- [Garnishment forms and instructions](#)

17-Q. Are there any liens on my property?

17-R. You may search the records in the recorder’s office, or have a title company or an attorney conduct a search for them. Court personnel do not provide this service.

18-Q. How do I file a mechanic’s lien?

18-R. This is done in the recorder’s office. Due to potential complications concerning questions of law and notice, you may want to consult with an attorney.

19-Q. How long do I have to file a mechanic’s lien or an action to enforce a mechanic’s lien?

19-R. In most cases a contractor or subcontractor who is owed money for products or services must file for a mechanic’s lien within 90 days after the last of the materials were furnished or the last of the labor was performed. An action to enforce a mechanic’s lien may be brought within 2 years from the expiration of the 90 days for filing a claim for the mechanic’s lien. Since the determination of the 90-day filing period may involve complicated legal issues, you may consult an attorney as to the application of these code sections to the party’s case.

Resources:

- Property [A.R.S. §§ 33-981 through 33-1008](#)

SECTION 12

MINORS AS PARTIES IN A SMALL CLAIMS OR CIVIL CASE

1-Q. I’m 15 years old and I haven’t been paid for work I’ve done. How do I sue to get my money?

1-R. Your parent or guardian must file the claim.

Resources:

- [Pima County Justice Court](#) forms and instructions
- [Maricopa County Justice Court](#) forms and instructions
- [Pinal County Justice Court](#) forms and instructions

2-Q. Can I sue a minor?

2-R. No; however, the parent or guardian of the minor may be sued.

SECTION 13 LANDLORD/TENANT – EVICTION

This is a complex area of law that court customers may prefer the use of an attorney.

Resources:

- [Arizona Residential Landlord and Tenant Act](#)
- [Rules of Procedure for Eviction Actions](#)
- [AZLawHelp.org](#) – Eviction
- [Landlord and Tenant Rights and Responsibilities](#)

1-Q. Are eviction actions just like other lawsuits?

1-R. No; these cases move faster and require the court to hold a final hearing within a few days. If you want to contest the filing of the case you must do so as soon as possible.

2-Q. Do I have to have an attorney represent me in an eviction action?

2-R. No. There are lots of resources available for people who want to represent themselves.

Resources:

- [Arizona Residential Landlord and Tenant Act](#)
- [Rules of Procedure for Eviction Actions](#)
- [AZLawHelp.org](#) – Eviction
- [Landlord and Tenant Rights and Responsibilities](#)

3-Q. Does a three day “notice to quit” include weekends and holidays?

3-R. Yes.

4-Q. What does “calendar days” mean?

4-R. Calendar days include weekends and holidays.

5-Q. Where can I get legal help?

5-R. You can apply for legal services at the Arizona's Access to Justice Online Intake System.

Resources:

- [AZLawHelp.org](#)
- [Arizona's Access to Justice Online Intake System](#)
- [Southern Arizona Legal Assistance](#)
- [Community Legal Services](#)

6-Q. How do I get my possessions out of my house?

6-R. After the court evicts you, you can file a written request with the court to let you return to the residence to pick up your personal property. You must give a copy of your request to the other party. The court will schedule a hearing to decide what property you can take, when you can pick it up, and under what conditions.

Resources:

- Title 33 Property [A.R.S. § 33-1368](#) and [A.R.S. § 33-1370](#)

SECTION 14 REAL PROPERTY

1-Q. Can you provide me with a legal description of my property?

1-R. You can get this information from your county’s treasurer, assessor, or recorder’s office.

2-Q. Is an address good enough when a legal description of real property is needed?

2-R. No, you need to list the official legal description. You can get this information from your county’s treasurer, assessor, or recorder’s office.

3-Q. How do I get someone’s name off the title of my property?

3-R. This could be accomplished by a petition to quiet title. Like most lawsuits, it could become legally complicated. You may wish to seek the assistance of an attorney.

SECTION 15 CIVIL APPEALS IN LIMITED JURISDICTION COURTS

1-Q. How long do I have to file an appeal?

1-R. For general civil cases, you have 14 days from the date the court mailed the judgment or decision to you. If it is a small claims case, there is no right to appeal. If it is an eviction action, the deadline is 5 days from the date of mailing. Weekends and holidays are not excluded from the calculation. They must be counted to determine the deadline. If, however, your deadline falls on a Saturday, Sunday or day when the court is closed, the Notice of Appeal is due on the next day the court is open.

Resources:

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)
- [Forms](#)

2-Q. If I am evicted, do I still have to move and pay the judgment once I file my appeal?

2-R. Yes, unless you post a supersedeas bond with the court. A party seeking to appeal a judgment may stay or “suspend” the enforcement of the judgment while the appeal is pending by filing a supersedeas bond. This bond is usually the amount of the judgment and stays with the court while the appeal is in process. For most tenants, filing a supersedeas bond is the second most important step in appealing a justice court’s decision. (The first is filing the Notice of Appeal on time.) By paying the supersedeas bond to the court, a tenant can temporarily stop the order that he or she be removed from rental housing. If a tenant does not purchase a supersedeas bond, he or she will be locked out of the rental home 5 days after the Judgment of Eviction is entered, or in the case of an “immediate” eviction, 24 hours after the Judgment of Eviction is entered.

Exception for restraining orders: The rules governing the payment of supersedeas bonds do not apply to Orders of Protection and Injunctions Against Harassment (“restraining orders”).

3-Q. What do I do to file an appeal?

3-R. Fill out the proper paperwork and pay the filing fee. Read the Notice of Right to Appeal to find out the process of the appeal and what to do next.

Resources:

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)

4-Q. I have filed an appeal on my eviction. Who do I pay my rent to?

4-R. The monthly rent gets paid to the court and the court will issue a check to the landlord. If you want to remain in your rental home pending your appeal, you must purchase a supersedeas bond and then continue to pay your rent into the court on or before the day it is due each month. There is no “grace period” for payment. If you fail to pay rent into the court on time you may be removed from the rental property during the appeal.

Resources:

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)

5-Q. I have filed my appeal. Now what?

5-R. File an appellant memorandum (and typed transcript if the taped proceedings are more than 90 minutes) within 60 calendar days of the expiration of the deadline to file the Notice of Appeal. The Notice of Right to Appeal explains what an appellant memorandum is.

Resources:

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)

6-Q. I still don’t understand what a memorandum is.

6-R. A memorandum is a written explanation of why the court’s ruling was legally wrong. It may not exceed 15 pages in length.

Resources:

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)

7-Q. I filed my appellant memorandum. Now what?

7-R. The opposing side has 30 days to file an appellee’s memorandum (response). Once filed, a Notice to Pay Filing Fees in Superior Court will be sent. Once the fees are paid, the trial court will send the record on appeal to superior court for a decision.

8-Q. Will I get another court date?

8-R. Only if the superior court overturns the trial court’s decision or if the record on appeal cannot be sent.

SECTION 16 CIVIL APPEALS IN GENERAL JURISDICTION COURTS

1-Q. How do I appeal a superior court ruling to the court of appeals?

1-R. The party wanting to appeal (the appellant) may file a written Notice of Appeal no later than 30 days after entry of the Judgment. The local court can inform the party of the current filing fee, if any. The appellant or cross-appellant must pay the preparation costs when ordering the necessary transcripts from either the court reporter in the superior court or the Electronic Services Office in the superior court if the proceeding was recorded electronically. It may be possible to obtain a deferral or a waiver of the obligation to pay for preparing the transcripts. The requirements for obtaining a deferral or waiver of fees is based on the party's financial situation, including the amount of any economic assistance from the state or federal government. The party applying for a deferral or waiver must file an application with the superior court and provide proof of the financial circumstances supporting the request. (See Form 15). A party appealing from the entry of a money judgment must deposit a supersedeas bond with the superior court if the party wants to prevent the other side from collecting on the judgment until after the appeal is decided.

Resources:

- [Guide for Self-Represented Appellants and Appellees Revised Edition 2015](#)
- [Rule 6 of Arizona Rules of Appellate Procedure – Civil](#)
- [Form 15](#)

2-Q. What does the “due date” heading on the appellate index refer to?

2-R. This is the date the clerk's appellate unit is required to have the superior court record transmitted to the court of appeals, and is not related to the parties' obligations.

3-Q. I filed a document with the superior court but it is not included on the appellate index. Why not?

3-R. Most often this occurs because the document was filed after the superior court record was transmitted to the court of appeals. If the appellate court requires the document, it will issue a memorandum after briefing is completed that requests any additional filings submitted to the superior court that were filed after the initial transmission of the record to the court of appeals.

4-Q. Where do I file the appellate brief?

4-R. You must file the Appellate Brief with the court of appeals. If you make a mistake and file it with the superior court, this could delay the filing of your Brief with the court of appeals by your deadline.

5-Q. What happens at the court of appeals after the superior court record is transmitted?

5-R. This guide explains the procedures in detail.

Resources:

- [Guide for Self-Represented Appellants and Appellees Revised Edition 2015](#)

6-Q. The appellate court ruled on my case. How do I reopen it in the lower court?

6-R. For more information, contact the division of court administration for the case type that was appealed.

SECTION 17 JUVENILE CASES HEARD IN LIMITED JURISDICTION COURTS

1-Q. My child got a ticket for curfew violation, possession of tobacco, underage drinking, or truancy. Does my child need to go to court?

1-R. Yes.

Resources:

- [Rule 12](#) of *Arizona Rules of Procedure for the Juvenile Court*

2-Q. Do I have to appear in court with my child?

2-R. A parent or guardian must appear with the juvenile for all criminal or petty offenses.

3-Q. My child received a criminal traffic ticket. Does he or she need to appear in court?

3-R. In most cases, if the juvenile prefers to pay the ticket, he or she may; however, the juvenile will be required to appear in court with a parent or guardian on a class 1 misdemeanor or serious traffic violation.

4-Q. Can I be held liable if my juvenile does not do what the judge says?

4-R. Yes.

5-Q. Can a warrant be issued for my child's arrest?

5-R. At this level of the court, a warrant will not issue for the child; however, the child's license may be suspended until the child turns 18 years of age, at which time the court can issue a warrant for arrest.

6-Q. Can I sue a minor?

6-R. No; however, the parent or guardian of the minor may be sued.

SECTION 18 JUVENILE CASES HEARD IN GENERAL JURISDICTION COURTS

1-Q. How can I cancel an adoption?

1-R. Court personnel do not provide any forms. The person may wish to consult an attorney.

Resources:

- Child Safety [A.R.S. §§ 8-101 through 8-173](#)

2-Q. How can I contest an adoption?

2-R. Court personnel do not provide any forms. You may wish to consult an attorney.

3-Q. After a juvenile delinquency record has been destroyed, how do I answer the question “have you ever been convicted?” when completing a job application?

3-R. The Application for Destruction of Records answers this question. An attorney can provide more information.

Resources:

- Destruction of Juvenile Records [A.R.S. § 8-349](#)
- Maricopa County Attorney’s Office Application for Destruction of Records [form](#)

**SECTION 19
FAMILY AND DOMESTIC RELATIONS**

1-Q. If a marriage license was never recorded would someone have to file for a divorce? Who would know a marriage occurred if there is no record?

1-R. There’s not an easy answer to this question. An attorney could advise you on your specific situation.

2-Q. How does someone file for divorce without an attorney?

2-R. The statutes pertaining to dissolution of marriage are found in *Arizona Revised Statutes*, Title 25. The *Arizona Rules of Family Law Procedure* list additional procedures and requirements. Your court might have a do-it-yourself divorce packet. If not, check to see if your court will accept the Maricopa County or Pima County packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

Resources:

- Marital and Domestic Relations A.R.S. [Title 25](#)
- [Arizona Rules of Family Law Procedure](#)
- [Maricopa County forms, instructions, and packets](#)
- [Pima County forms, instructions, and packets](#)

3-Q. How do I file for legal separation?

3-R. Legal separation is filed in the same manner as a Petition for Dissolution of Marriage. Check to see if your court will accept the Maricopa County or Pima County packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

Resources:

- Marital and Domestic Relations A.R.S. [Title 25](#)
- [Arizona Rules of Family Law Procedure](#)
- [Maricopa County forms, instructions, and packets](#)
- [Pima County forms, instructions, and packets](#)

4-Q. How do I file for divorce in a covenant marriage?

4-R. You can read about covenant marriage in a brochure that explains when you can file for divorce if you have a covenant marriage. It also explains the extra information you'd need to give the court about your case that might not be in the do-it-yourself forms.

Resources:

- [Covenant Marriage in Arizona](#) brochure

5-Q. How soon after a divorce is final can someone get married again?

5-R. There is no waiting period in Arizona.

6-Q. How do I file for an annulment?

6-R. If you and your spouse have no children together, your court might have a do-it-yourself annulment packet. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation. If you and your spouse do have children together, you can research what's required for an annulment in the *Arizona Revised Statutes* and the *Arizona Rules of Family Law Procedure* and write your forms from scratch based on your research, or an attorney could help you. The clerk's office can inform you of the current filing fee, if any.

Resources:

- [Annulment of a Non Covenant Marriage](#) Forms and instructions
- Marital and Domestic Relations A.R.S. [Title 25](#)
- [Arizona Rules of Family Law Procedure](#)

7-Q. Do I have grounds for an annulment?

7-R. The following information sheet explains when an annulment might apply. You can also research this question in *Arizona Practice: Marriage Dissolution Practice*, section 114, which you can find at or through your local law library. If you're still unsure, an attorney can advise you. As court staff, we can give you this information, but we aren't qualified to help you decide how these laws apply to your specific case.

Resources:

- [Annulment information sheet](#)

8-Q. I don't know if I'm divorced. I haven't seen my spouse for years. Do I need to get a divorce here?

8-R. To check if you're already divorced, you can contact the superior court clerk's office in the county where the divorce might have happened.

Resources:

- Arizona [Clerks of Superior Court](#)

9-Q. How can I serve someone when I can't find them?

9-R. Usually, if you can't find the person, you can serve them by publishing a notice in a newspaper. You can read about the requirements and steps in the "Service of Process" section of the *Arizona Rules of Family Law Procedure*. Your court might have forms and instructions for serving by publication.

Resources:

- [Arizona Rules of Family Law Procedure](#)
- Maricopa County [How to Serve the Court Papers by Publication](#)

10-Q. I just got served with divorce papers. What do I do?

10-R. If you disagree with anything in the divorce papers, you can file a response to give your input. Your deadline to file the response is 20 days after you were served (30 days if you were served out of Arizona). If you agree with everything in the divorce papers, you have a few options. The first option is called Consent Decree. With this option, you and the other party fill out a Consent Decree together listing all your agreements. You pay a fee to participate in the case in this way. Often, there is no hearing with a Consent Decree. Your court might have do-it-yourself packets for this option. If not, many courts accept Maricopa County’s packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation. If you and the other party don’t agree on all areas of the divorce, you may have a “contested” case. If you and the other party don’t come to a full agreement, the court may set the matter for a hearing. Another option is called “default,” which has specific requirements. With default, the other party was served with divorce papers and proof of service has been filed with the clerk of court, and the other party has not filed a written response or answered within the time frame set by law.

Resources:

- Arizona divorce or legal separation [flowchart](#)
- Maricopa County [divorce packets](#)
- Maricopa County [How to Get a Default Decree in Family Court Cases](#)

11-Q. I was served with divorce papers on June 3. Exactly how many days do I have to respond?

11-R. See the table below for how long you have to file a written response to the petition. Find the date in the “After” column on a calendar. Start counting on the next day. Count off the days in the “Count” column, including weekends and holidays. You must respond by the last date you counted, unless it’s a weekend or court holiday, in which case you must respond by the next workday.

Where were the papers served?	How were the papers served?	Count:	After:
In Arizona, not on an Indian Reservation	Acceptance of Service	20 days	The other party signs the Acceptance of Service
	Certified Mail	20 days	The other party signs the green card
	Process Server	20 days	The other party receives the papers from the process server
	Sheriff	20 days	The other party receives the papers from the sheriff

Where were the papers served?	How were the papers served?	Count:	After:
In Arizona, on an Indian Reservation*	Acceptance of Service	30 days	The other party signs the Acceptance of Service
	Tribally Licensed Process Server	30 days	The other party receives the papers from the process server
	Tribal Law Enforcement	30 days	The other party receives the papers from the officer
Outside of Arizona	Acceptance of Service	30 days	The other party signs the Acceptance of Service
	Certified Mail	30 days	The other party signs the green card
	Process Server	30 days	The other party receives the papers from the process server
	Sheriff or Tribal Law Enforcement	30 days	The other party receives the papers from the officer
	Publication	60 days	The first publication

***If the papers were served on an Indian Reservation in Arizona:** Depending on the facts and circumstances of the case, there *may* be fewer days for you to respond. An attorney can advise you.

12-Q. How do I modify my divorce decree?

12-R. Your court might have a do-it-yourself packet for changing parts of your decree; however, property and debt division are generally not subject to modification and you may want to seek the help of an attorney. Many courts accept Maricopa County’s packets, which explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

Resources:

- Maricopa County [divorce packets](#)

13-Q. Can I dismiss my dissolution or divorce case?

13-R. If you are the Petitioner and service has not been completed, you can submit a Notice of Dismissal. If service has been completed you can file a Motion to Dismiss your divorce. If both of you agree to dismiss your divorce, you can submit a Stipulation to Dismiss your divorce. You can pick up the form from the self-service center or you can download the form, complete it, and return it to the court. You will need to determine which form you will need.

Resources:

- Maricopa County [Stipulation to Dismiss](#)

14-Q. How can I get a Consent Decree signed by the court?

14-R. The court enters a Consent Decree when all parties have agreed on how to resolve everything required for a divorce, legal separation or annulment. You must agree in writing to issues such as division of property and debt, spousal maintenance (if any), legal decision-making, parenting time, and support (if you have children). All parties must sign the written decree. In Maricopa County, after you have waited the required time frames, paid the response fee, and attended the Parenting Information Program (if you have children) you can submit a Consent Decree by mail or set a hearing on the Internet.

Resources:

- In Maricopa County – Call 602-372-3332 to schedule a time to come to court and have your paperwork signed during a hearing.
- In Maricopa County set hearing on the [ezCourtForms](#) site

15-Q. How can I get a Default Decree signed by the court?

15-R. If **no** response to your petition is filed, you may be able to get divorced by default. You can set a default hearing if the other party has not filed a written response. A default hearing is scheduled when you want a divorce, other judgment or order when the opposing side does not respond in writing to your petition or motion. A default hearing cannot be set for at least 61 days after the date the petition (and other documents) were served on the respondent. If you want to set a default hearing, you must complete the Application and Affidavit of Default and file it with the clerk of the court. You must be sure service of the petition was complete, and that the other party did not file a written response or answer with the court.

At the time you file the Application and Affidavit of Default with the clerk of the court, make sure you have 2 copies of the Application and Affidavit of Default date-stamped by the clerk. You must mail or hand-deliver one copy to the other party the day that you filed the Application and Affidavit of Default with the clerk of the court. After you have given the other party a copy of the Application and Affidavit of Default you must wait 10 court days.

If the other party still does not file a written response or answer in 10 court days, you may be able request a default hearing date.

Resources:

- Arizona divorce or legal separation [flowchart](#)
- Maricopa County [divorce packets](#)
- Maricopa County [How to Get a Default Decree in Family Court Cases](#)
- In Maricopa County – Call 602-372-3332 to schedule a time to come to court and have your paperwork signed during a hearing.
- In Maricopa County set hearing on the [ezCourtForms](#) site

16-Q. If I cannot afford to pay the fees, can I have my fees deferred?

16-R. You may fill out an application for deferral of your filing or service fees. Your application will be reviewed and if you qualify the court may allow you to make payments for your fees.

Resources:

- Maricopa County [To Request a Deferral or Waiver of Court Fees](#)

17-Q. How can I get documents or exhibits released to me from the exhibits?

17-R. You will need a court order and valid identification (driver's license or other picture I.D.) to remove materials from this section.

18-Q. How long do you keep exhibits?

18-R. There are strict criteria that have to be met in order to return exhibits or dispose of them. There is no set time for a case; only specific criteria that must be met to determine when an individual case is closed. At the conclusion of a hearing, exhibits not offered into evidence or received in evidence by the court, can be returned to the respective parties. If the matter is taken under advisement, exhibits can be returned at the time of ruling. There is a different method of return for exhibits offered into evidence or received in evidence by the court. When a case is determined closed, including such considerations as a final judgment or decree, all appeals times are over, complete, and dismissal of the case, exhibits can be released to the parties or disposal can occur.

Resources:

- In civil cases, [Local Rule of Maricopa County 2.8\(d\)](#) is used to determine that the case is closed for all parties.

19-Q. I filed a motion for temporary orders; how soon will I see the judge?

19-R. It usually takes about 30 days to have a hearing on temporary orders.

20-Q. My child's other parent is not complying with the decree. How do I make the other parent comply?

20-R. To enforce the order, a party may file a Petition for Enforcement, or the party may initiate a contempt proceeding with an Order to Show Cause or Order to Appear, depending on the situation. Your court might have a do-it-yourself packet to enforce the decree. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

Resources:

- Maricopa County [divorce packets](#)
- Rules 91 and 92 of the [Arizona Rules of Family Law Procedure](#)

21-Q. What does the judge consider when determining legal decision-making and parenting time?

21-R. Arizona has statutes that have specific factors that the judge follows when deciding the best interests of the children. The court shall determine legal decision-making, either originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all relevant factors, including:

- The past, present and potential future relationship between the parent and the child.
- The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.
- The child's adjustment to home, school and community.
- If the child is of suitable age and maturity, the wishes of the child as to legal decision-making and parenting time.
- The mental and physical health of all individuals involved.
- Which parent is more likely to allow the child frequent, meaningful and continuing contact with the other parent. This paragraph does not apply if the court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse.
- Whether one parent intentionally misled the court to cause an unnecessary delay, to increase the cost of litigation or to persuade the court to give a legal decision-making or a parenting time preference to that parent.
- Whether there has been domestic violence or child abuse pursuant to A.R.S. § 25-403.03.
- The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time.
- Whether a parent has complied with chapter 3, article 5 of this title.
- Whether either parent was convicted of an act of false reporting of child abuse or neglect under A.R.S. § 13-2907.02.

Resources:

- Legal decision-making; best interests of the child [A.R.S. § 25-403](#)

22-Q. I want to see my child more than the court order allows. How do I get more time with my child?

22-R. Your court might have a do-it-yourself packet to change parenting time. If not, many courts accept Maricopa County's packet. Modification of parenting time may involve complicated issues and you may want to seek the help of an attorney.

Resources:

- Modification of legal decision-making or parenting time [A.R.S. § 25-411](#)
- Maricopa County [forms and instructions](#)

23-Q. My child doesn't want to return to the other parent's home at the end of my parenting time. Does my child have to go back?

23-R. Everyone must follow the court order until the judge changes it. Your court might have a do-it-yourself packet to change parenting time. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation. If someone is in danger, you can call law enforcement.

Resources:

- Maricopa County [forms and instructions](#)

24-Q. How do I move out of state with my child (the other parent is staying here)?

24-R. If your parenting time order says you can't move, you can ask the court to change that order to let you move. Your court might have a do-it-yourself packet to change parenting time. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

Resources:

- Coconino County - [Moving with Children When There Are Court Orders About the Children](#)
- Maricopa County [forms and instructions](#)

25-Q. I am supposed to pick up my kids this weekend, but the other parent says I won't be allowed to have them. Can the court make the other parent give me the kids?

25-R. The court can't enforce an order unless the other party has actually disobeyed it. If the other parent denies your parenting time, you can ask the court to enforce the parenting time order. Your court might have a do-it-yourself packet for enforcement. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

Resources:

- Maricopa County [forms and instructions](#)

26-Q. Will I get to talk to the judge about my family court emergency?

26-R. That is up to the judicial officer on a case-by-case basis.

27-Q. Does an unwed mother automatically have sole legal decision-making authority of the children?

27-R. Legal decision-making authority and parenting time are determined by court order. If there is no court order, law enforcement agencies, schools, and doctors may have different and conflicting policies on how they determine which parent has legal decision-making authority. To establish legal decision-making authority and parenting time, the local superior court may have forms with instructions available that the party can prepare, or the party may seek the help of an attorney. The clerk's office can inform the party of the current filing fee, if any.

28-Q. How do I remove the "presumed father" from the birth certificate when it turns out that he is not the biological father?

28-R. Your court might have a do-it-yourself packet to establish paternity. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation. Parties are encouraged to seek advice and assistance from an attorney. Legal services may be available locally for those who cannot afford to hire a private attorney.

Resources:

- Maricopa County [forms and instructions](#)
- [Arizona Department of Health Services](#) – paternity information

29-Q. How do I add a father's name to the birth certificate?

29-R. Adding the father's name to the birth certificate requires filing an Acknowledgment of Paternity. Acknowledgement of Paternity forms can be found at all birthing hospitals, the Office of Vital Records, the Arizona Department of Economic Security's Division of Child Support Services offices and many of the county registrar's offices. You can also work with the courts to file for voluntary paternity or file for paternity, legal decision-making authority and related matters together. Your court may have a do-it-yourself packet. If not, many courts accept Maricopa County's packet.

Resources:

- Arizona Department of Health Services Vital Records – [Corrections & Amendments to Birth Certificates](#)
- Division of Child Support Services – [Voluntary Acknowledgement](#) form
- Maricopa County [To Establish Voluntary Acknowledgement](#)

30-Q. If the father is on the birth certificate, does he still need to petition the court for paternity orders as well as parenting time and legal decision-making?

30-R. Is his paternity being challenged? If not, then probably not. Even if paternity has been legally established and the father is on the birth certificate, the father has no legal right to parenting time or legal decision-making until the court orders parenting time or legal decision-making. Your county superior court may have more information or forms on this particular circumstance.

Resources:

- Maricopa County [forms and instructions](#)
- Presumption of paternity [A.R.S. § 25-814](#)

31-Q. The father of my children agrees that he is the father. How can we get an order from the court?

31-R. If the father's name is on the birth certificate you may not need a court order. If both parents agree who the biological father is, you can sign a statement called an Acknowledgment of Paternity. These forms are available at all birthing hospitals, the Office of Vital Records, the Arizona Department of Economic Security's Division of Child Support Services offices and many of the county registrar's offices.

You can also establish court ordered paternity by completing paperwork and filing it with the court. A court order to change a birth certificate must have the child's birthday on it. If you have a court order for paternity, the order may be filed with the Office of Vital Records directly by the court, the agency that petitioned the court for the order, or one of the parents may deliver it in person. If you decide to bring a court order to the Office of Vital Records in person, you must bring a certified copy of the court order with you.

Resources:

- Arizona Department of Health Services Vital Records – [Corrections & Amendments to Birth Certificates](#)
- Division of Child Support Services – [Voluntary Acknowledgement](#) form
- Maricopa County [To Establish Voluntary Acknowledgement](#)

32-Q. Where can I get help completing the Parent’s Worksheet to establish or modify a child support order?

32-R. The Arizona Supreme Court maintains an online child support calculator. If you do not have exact figures, you can estimate the information input on the worksheet. You should be prepared to explain to the court the numbers used.

Resources:

- Arizona statewide online [child support calculator](#)

33-Q. Can I get a child support order without getting a legal separation or divorce?

33-R. If the parties have never been married, yes. You may file a petition directly with the court; a private attorney may file on your behalf; or the local Division of Child Support Services may help you establish a support order, as well as paternity, if that is an issue in the case. If you are currently married, you will need to contact an attorney or research the *Arizona Revised Statutes* to determine if child support can be ordered without filing a separation or divorce proceeding in court. For information regarding child support while married, contact the Division of Child Support Services.

Resources:

- Arizona [Division of Child Support Services](#)

34-Q. Please describe legal decision-making and parenting time.

34-R. Children are your first priority when making decisions concerning their lives. Research tells us that children of separated or divorced parents do better if both parents stay actively involved in their lives. Remember, conflict is not good for your children. The way you and the other parent act may affect them. The more you and the other parent can deal with each other without conflict, the better it will be for your children. As part of the divorce process, parents or the judge will decide if major decisions regarding the children’s health, education, and religion can be made by one or both parents.

In most cases, the children will likely spend time with each parent after the divorce. Arrangements regarding when and how the children will spend time with each parent are referred to as parenting time.

Resources:

- [Things You Should Know About Legal Decision-Making and Parenting Time](#)

35-Q. What does the judge consider when determining legal decision-making and parenting time?

35-R. Arizona has statutes that have specific factors that the judge follows when deciding the best interests of the children. The court shall determine legal decision-making, either

originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all relevant factors, including:

- The past, present and potential future relationship between the parent and the child.
- The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.
- The child's adjustment to home, school and community.
- If the child is of suitable age and maturity, the wishes of the child as to legal decision-making and parenting time.
- The mental and physical health of all individuals involved.
- Which parent is more likely to allow the child frequent, meaningful and continuing contact with the other parent. This paragraph does not apply if the court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse.
- Whether one parent intentionally misled the court to cause an unnecessary delay, to increase the cost of litigation or to persuade the court to give a legal decision-making or a parenting time preference to that parent.
- Whether there has been domestic violence or child abuse pursuant to A.R.S. § 25-403.03.
- The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time.
- Whether a parent has complied with chapter 3, article 5 of this title.
- Whether either parent was convicted of an act of false reporting of child abuse or neglect under A.R.S. § 13-2907.02.

Resources:

- Legal decision-making; best interests of the child [A.R.S. § 25-403](#)

36-Q. What are the types of legal decision-making in Arizona?

36-R. You may want to look at the definitions for legal decision-making.

- “Legal decision-making” means the legal right and responsibility to make all nonemergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions. For the purposes of interpreting or applying any international treaty, federal law, a uniform code or the statutes of other jurisdictions of the United States, legal decision-making means legal custody.
- “Joint legal decision-making” means both parents share legal decision-making and neither parent's rights are superior, except with respect to specified decisions as set forth by the court or the parents in the final judgment or order. “Parenting time” means the schedule of time during which each parent has access to a child at specified times. Each parent during their scheduled parenting time is responsible for providing the child with food, clothing and shelter and may make routine decisions concerning the child’s care.

- “Sole legal decision-making” means one parent has the legal right and responsibility to make major decisions for a child.

Resources:

- Definitions [A.R.S. § 25-401](#)

37-Q. How can I find out more information regarding legal decision-making and parenting time?

37-R. The Arizona Supreme Court has more general information about legal decision-making and parenting time in this brochure.

Resources:

- [Things You Should Know About Legal Decision-Making and Parenting Time](#)

38-Q. What is the Parent Information Program (PIP)?

38-R. Parent Information Program (PIP) is a mandatory class that provides information to divorcing parents, or parents involved in other domestic relations actions, concerning what their children may be experiencing during this emotionally difficult period. There are certain agencies that provide PIP classes in person and online.

Resources:

- [Parent Education webpage](#)

39-Q. If we agree on joint legal decision-making what paperwork do we need to complete?

39-R. You will need a parenting plan, signed by both parents that includes:

- A designation of the legal decision-making as joint or sole as defined in A.R.S. § 25-401.
- Each parent's rights and responsibilities for the personal care of the child and for decisions in areas such as education, health care and religious training.
- A practical schedule of parenting time for the child, including holidays and school vacations.
- A procedure for the exchanges of the child, including location and responsibility for transportation.
- A procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of conciliation services or private counseling.
- A procedure for periodic review of the plan's terms by the parents.
- A procedure for communicating with each other about the child, including methods and frequency.
- A statement that each party has read, understands and will abide by the notification requirements of A.R.S. § 25-403.05, subsection B.

Resources:

- [Things You Should Know About Legal Decision-Making and Parenting Time](#)
- [Planning for Parenting Time Arizona's Guide for Parents Living Apart](#)
- Sexual offenders; murderers; legal decision-making and parenting time [A.R.S. § 25-403.05, subsection B](#)

40-Q. Is Arizona a community property state?

40-R. Arizona is a community property state because of our state law. Community property generally means that spouses equally share ownership of anything purchased, acquired, or paid for during the marriage no matter who uses the property, who paid for the property, or whose name is on the title to the property.

41-Q. What are examples of community property and debts?

41-R. Examples of community property include: real estate, home furnishings, vehicles, bank accounts, investment accounts, credit card debts, student loans, car payments, and some retirement plans. All property or debt that either spouse acquires during the marriage is likely considered community property unless it can be proven that certain property was acquired as a gift or inheritance.

42-Q. Under what circumstances can spousal maintenance be paid?

42-R. Generally, the parties can agree or the court can order spousal maintenance be paid by one spouse to another. The court will follow the state law ([A.R.S. § 25-319](#)) when determining if spousal maintenance is appropriate:

A. In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse for any of the following reasons if it finds that the spouse seeking maintenance:

1. Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's reasonable needs.
2. Is unable to be self-sufficient through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home or lacks earning ability in the labor market adequate to be self-sufficient.
3. Contributed to the educational opportunities of the other spouse.
4. Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient.

43-Q. How do I appear after default is entered against me?

43-R. *Arizona Rules of Family Law Procedure* list the procedures and requirements. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

Resources:

- [Arizona Rules of Family Law Procedure](#)
- Maricopa County [How to Get a Default Decree in Family Court Cases](#)

44-Q. How do I amend a motion?

44-R. *Arizona Rules of Family Law Procedure* list the procedures and requirements. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

Resources:

- [Arizona Rules of Family Law Procedure](#)

45-Q. My child and former in-law are divorced and now I'm being kept from seeing my grandkids. How can I get to see them?

45-R. This is called grandparent's visitation. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

Resources:

- Maricopa County establish [grandparents visitation](#) packet

46-Q. How can I get my parental rights restored?

46-R. Restoration of parental rights is a complex matter and court personnel do not provide forms. You may wish to contact an attorney.

47-Q. How can I get my children back from DCS?

47-R. If the Department of Child Safety (DCS) has removed your child from your home, you will be served with a Notice of Hearing. A court hearing will be set within 7 days. Any requests to the court must be made in writing. The local court can provide forms for dependency petitions and service, requests for review of temporary custody (only in dependency) and requests for appointment of an attorney or court interpreter. Other forms are available at local court websites and self-service centers.

48-Q. How do I tell the court what witnesses I'm bringing to a hearing?

48-R. *Arizona Rules of Family Law Procedure* provides the requirements. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

Resources:

- [Arizona Rules of Family Law Procedure](#)

49-Q. How do I get a protective order (Order of Protection or Injunction Against Harassment)?

49-R. Most protective orders can be filed in any justice court, municipal court, or superior court. However, when there is an active case between parties pending in superior court (family court), the petition must be filed in the superior court under your active case number. The protective order must be served on the other party by a process server or law enforcement officer before it is effective. The order will remain in effect for one year from the date it is served on the other party. If you are seeking an Order of Protection at the Superior Court in Maricopa County, you must go to the Family Violence Prevention Center located at the courthouse.

50-Q. I was dating someone and we split up. They have property that belongs to me that they won't let me have (car, furniture or other property). How do I get my property back?

50-R. This situation is a civil matter. If the value of the property is \$10,000 or less, you may file a small claims case in justice court. If the value of the property is more than \$10,000, you may file a civil complaint in superior court. For other options that may be available, you may want to speak with an attorney.

51-Q. How is child support determined in Arizona?

51-R. The current Arizona Child Support Guidelines follow the Income Shares Model. An income shares model is a model that takes into consideration the income of both parents. The guidelines allow for the children to be supported at the same level as when the parents and child were living together. Each parent contributes his or her proportionate share of the total child support amount. The Arizona Supreme Court and the self-service center also offer a free online child support calculator that may help you determine if a change in the child support amount is appropriate

Resources:

- Arizona statewide online [child support calculator](#)
- Arizona [Child Support Guidelines](#)

52-Q. What are IV-D services?

52-R. Title IV-D (Title IV-D of the Social Security Act) services are for any person with legal decision-making of a child who needs help to establish a child support or medical support order, any parent who already has a support order who needs help to collect support payments, or any noncustodial parent can apply for IV-D child support. If you are receiving public assistance from Temporary Assistance for Needy Families (TANF), or Medicaid or federally-assisted Foster Care programs, you have been automatically referred to the Division of Child Support Services (DCSS) for services.

Resources:

- Arizona [Division of Child Support Services](#)

53-Q. How do I apply for Title IV-D services?

53-R. You must contact the Division of Child Support Services (DCSS). DCSS is a Division of the Department of Economic Security (DES) that is charged with the statewide administration and operation of the Child Support Enforcement Program as established by Title IV-D of the Social Security Act.

Resources:

- Arizona [Division of Child Support Services](#)

SECTION 20 NAME CHANGE

1-Q. How do I change my name?

1-R. You may file an application in the superior court in your county of residence, listing reasons for the change and the name to be adopted. The court may enter judgment that your adopted name be substituted for your original name. You will need to provide the court's order to the vital records department in the state where you were born.

Resources:

- Arizona Supreme Court [name change forms](#) and instruction
- Courts and Civil Proceedings A.R.S. [Title 12](#) (Scroll to A.R.S. § 12-601)

2-Q. How do I change a minor's name when the other parent won't sign the request?

2-R. When the other parent does not agree with the request to change a minor's name, you must provide Notice of Hearing Regarding Application for Change of Name. The local superior court may have forms with instructions available; you can prepare your own application or seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

Resources:

- Arizona Supreme Court [name change forms](#) and instruction
- Courts and Civil Proceedings A.R.S. [Title 12](#) (Scroll to A.R.S. § 12-601)

3-Q. How can I view the electronic court record for cases in the Superior Court in Maricopa County?

3-R. Maricopa County - You can access the public information portion of the court and clerk's computer system by visiting the Customer Service Center at 601 W. Jackson (Phoenix), the Southeast Court at 222 E. Javelina (Mesa), the Northwest Court at 14264 W. Tierra Buena Lane (Surprise), or the Northeast Court at 18380 N. 40th Street, Suite 120 (Phoenix). You will find computer terminals that provide public to case, party, docket, and judgment information. You can also access and print scanned images of documents.

You can access documents anywhere through the Electronic Court Record (ECR) for those cases you, as a registered user, are directly related to. Attorneys are able to access images on cases where they are on the case record, and individual parties will have access to cases where you are the party of record. The system will not allow access to sealed cases, sealed documents, or Mental Health cases. One time registration to authenticate user identity is required and can be found at <https://ecr.clerkofcourt.maricopa.gov/login.aspx>. An Arizona driver's license is required for online authentication. Please be aware that copies printed from the ECR website are not considered certified. Certified copies of records must be obtained on paper, either in person or by mail from the clerk's office.

To search cases in other courts and counties visit the [Public Access to Court Case Information](#) on the Arizona Judicial Branch webpage. This is a valuable online service providing a resource for information about court cases in many Arizona courts.

SECTION 21 PROBATE – MENTAL HEALTH

Probate cases present a challenge to courts across the country. They require a high degree of oversight to protect and prevent mistreatment of protected individuals and their property. The term "Probate Court" is used generically to reference the court that hears not only estate probate and intestate matters but also a variety of other cases that traditionally involve filings in the areas of guardianship, conservatorship, elder fraud, and physical abuse.

1-Q. Do I have to open an estate for a dead relative?

1-R. If you have a legal right to claim the property, and the value of all personal property is less than \$75,000 or the value of the real property is less than \$100,000, you may be able to file an Affidavit for Collection of All Personal Property or Affidavit for Transfer of Title to Real Property. If value of the personal property exceeds \$75,000 or the value of the real property exceeds \$100,000, you may qualify for an informal probate. Forms for filing are available in some self-service centers and some superior courts. You should consult an attorney to determine if you have a legal right to the property or if the estate has to be probated and to help guard against undesired and unexpected consequences. The clerk’s office can inform the party of the current filing fee, if any.

Resources:

- [Affidavit for Transfer of Real Property](#)
- [Affidavit for Collection of All Personal Property](#)
- Maricopa County [Probate](#) cases webpage

2-Q. How do I get title changed on property that belonged to my relative (husband, wife, father, mother, etc.) who is now deceased?

2-R. If the value of the estate is less than \$100,000, you may file an Affidavit for Transfer of Title to Real Property. Self-service centers or superior courts may have forms available online. If the value of the real property exceeds \$100,000, you may qualify to file an informal probate. You should consult an attorney to determine if the estate has to be probated and to help guard against undesired and unexpected consequences. The clerk’s office can inform you of the current filing fee, if any.

Resources:

- [Affidavit for Transfer of Title to Real Property](#)
- Maricopa County [Probate](#) cases webpage

3-Q. My spouse died. How do I get his or her last paycheck?

3-R. *Arizona Revised Statutes*, Title 14, lists additional procedures and requirements in this area.

Resources:

- Trusts, Estates, and Protective Proceedings A.R.S. [Title 14](#) (Scroll to A.R.S. § 14-3971)

4-Q. My spouse died. How do I get the money out of his or her savings or checking account or any other personal property?

4-R. If the value of the personal property is less than \$75,000, you may file an Affidavit for Collection of All Personal Property. If the value of the personal property exceeds \$75,000, you may qualify to file an informal probate. Forms for filing an informal probate are available in some self-service centers and some superior courts. You should consult an attorney to determine if you have a legal right to the property or if the estate has to be probated and to help guard against undesired and unexpected consequences. The clerk’s office can inform you of the current filing fee, if any.

5-Q. Do you have my will?

5-R. The local superior court clerk can tell you whether your will is being stored in the clerk's office. The local county recorder's office can tell you if the will is recorded in its office.

6-Q. How can I get someone committed because he is a threat to himself or others?

6-R. Contact the Arizona Department of Health Services, Division of Behavioral Health Services at 602-364-4558, or the Federal Mental Health Services Administration Treatment Referral Routing Service at 1-800-662-HELP (4357). Through either agency, you can request to be connected to the Regional Behavioral Health Authority in your region to inquire about completing an Application for Involuntary Evaluation.

7-Q. Do I need an attorney to file a guardianship and conservatorship?

7-R. It is possible for you to file a guardianship and conservatorship on your own, but due to legal complexities and potential liability, you may wish to consult an attorney. The local court or self-service center may have forms and instructions. The clerk's office can inform you of the current filing fee, if any.

Resources:

- Arizona Supreme Court [Probate](#) webpage

8-Q. How do I establish guardianship and conservatorship of an adult?

8-R. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

9-Q. As a guardian (or conservator), do I have to file an annual report?

9-R. Yes. *Arizona Revised Statutes*, Title 14, lists additional procedures and requirements in this area.

Resources:

- Arizona Supreme Court [Probate](#) webpage
- Trusts, Estates, and Protective Proceedings A.R.S. [Title 14](#)

10-Q. How do I prepare a guardian's report?

10-R. The local superior court may have forms with instructions available that the party can prepare, or you may seek the help of an attorney. The clerk's office can inform the party of the current filing fee, if any.

Resources:

- Arizona Supreme Court [Probate](#) webpage
- Maricopa County [Probate](#) cases webpage

11-Q. Who do I call for a bond?

11-R. Some courts provide lists of bonding companies. Bonding companies can also be found online or in the phone book. Maricopa County suggests you contact your insurance agent as well.

SECTION 22
CRIMINAL
IN LIMITED AND GENERAL JURISDICTION COURTS

1-Q. What is the procedure for entering a plea to a criminal charge?

1-R. There are three possible pleas to a criminal charge:

- Plea of Not Guilty–The defendant denies guilt and the State must prove the criminal charges against the defendant. The State is represented by the city or county prosecutor's office.
- Plea of Guilty–The defendant admits that the defendant committed the acts charged in the complaint, that the acts are prohibited by law and that the defendant has no legal defense for such acts.
- Plea of No Contest–This plea, also known as *nolo contendere*, means the defendant is not admitting guilt and not denying it. The defendant is saying that the defendant does not wish to contest the State's charges. Upon a plea of no contest, the judicial officer may find the defendant guilty and enter a judgment of guilt.

2-Q. What happens at a trial on criminal charges or complaints?

2-R. Depending on the alleged offense, a defendant may be entitled to a trial by jury. The defendant is entitled to hear all testimony introduced against him or her. A defendant has the right to cross-examine any witness who testifies against him or her, to testify on his or her own behalf and a Constitutional right not to testify. If the defendant chooses not to testify, a refusal cannot and will not be used against the defendant in determining guilt or innocence. However, if a defendant chooses to testify, the prosecutor will have the right to cross-examine the defendant. A defendant may call witnesses to testify on his or her behalf and has the right to have the court issue subpoenas to ensure the appearance of reluctant witnesses.

3-Q. What will be my sentence?

3-R. The judge imposes the sentence. Court personnel cannot guess, as different facts and law may apply to each case, as well as good and bad aspects of the defendant's background.

4-Q. What happens at the arraignment?

4-R. The process may vary depending on the court. The judge usually sets bail, and informs the defendant of the charges, available rights, consequences of a conviction, and the importance of appearing for scheduled hearings. The defendant enters an initial plea at arraignment, too, typically "guilty" or "not guilty."

5-Q. What happens after I enter a plea at arraignment?

5-R. Once you have decided on your plea you must enter a plea with the judge at your arraignment. Unless the case involves a victim who has asked to be present, no witnesses will be present at arraignment and no testimony will be taken. At an arraignment, the judge will not grant a request to dismiss any charges. You must enter a plea to the charges against you.

- If a plea of guilty or no contest is entered you may be sentenced immediately following the judge's acceptance of your plea or you may be sentenced at a later date.
- If a plea of not guilty is entered, a pre-trial disposition conference will be scheduled followed by a trial setting. You must decide, if you have not already done so, whether to employ an attorney to represent you.
- You may be represented only by yourself or an Arizona licensed attorney. In some circumstances, a court-appointed attorney may be provided to you.

If you cannot afford an attorney and wish representation, you may request that an attorney be appointed to represent you. An examination of your financial status will be made to determine if you are entitled to a court-appointed attorney. If eligible, you may be ordered to pay a portion of the attorney's cost.

6-Q. How do I post bond?

6-R. Procedures vary. Contact the local court or jail for locations and hours for posting bond. Some courts or agencies accept cash, money orders, bank checks (cashier's checks), personal checks, MasterCard, Visa or other major credit cards. Some agencies will only accept the exact amount of cash or a money order. Call first.

7-Q. I do not have the money to post bond. How can I find a bail bond agency?

7-R. Some courts provide lists of bonding companies. Bonding companies may also be found in the yellow pages or search online for bail bond agencies.

8-Q. What happens at a pre-trial conference?

8-R. A defendant or the defendant's attorney will be given an opportunity to meet with a prosecutor to review the facts supporting the State's criminal charges against him or her. At the pre-trial conference, a defendant is entitled to review a copy of the complaint, any written police reports or any other evidence that the State intends to use at the trial. Witnesses do not attend the pre-trial disposition conference and no testimony is taken. However, victims do have the right to be present if they request to do so. A defendant has three options at the pre-trial conference:

- Accept the prosecutor's offer, including any sentencing agreements, and then plead "guilty" or "no contest." But the judge must still approve the settlement.
- Reject the prosecutor's offer, but still plead "guilty" or "no contest" to the original charges. Both sides would then have the right to ask for any sentence they want.
- Maintain his or her plea of not guilty and ask for a trial.

9-Q. Can I reschedule (continue) my hearing to a later date?

9-R. Only the judge can continue a hearing. You may file a written request with the clerk and provide a copy of the request to the other parties (or the prosecuting attorney in a criminal case) for the judge to consider the request.

10-Q. Can I plead by telephone or mail?

10-R. If authorized by the court and the case is a misdemeanor, a telephonic plea may be available provided you are an out-of-state resident or you reside more than 100 miles from the court, the plea is in writing, a law enforcement officer certifies that you signed a plea of guilty/no contest form, and that the officer attached your fingerprint to the document. Courts of limited jurisdiction may accept a written plea of guilty or no contest to a misdemeanor or petty offense if the court is satisfied that a personal appearance by the defendant would constitute an undue hardship such as illness, physical incapacity, substantial distance to travel, or incarceration. A plea submitted by mail must comply with the requirements of Rule 17 and must be signed by the defendant and acknowledged by a notary public.

Resources:

- [Rule 17](#), *Arizona Rules of Criminal Procedure*
- [Form 28\(a\)](#) Guilty/No Contest Pleas by Mail

11-Q. How do I get unsupervised probation?

11-R. Probation is determined by the judge. If you are representing yourself, you may request that the court impose unsupervised probation at the time of sentencing. The final decision is up to the judge.

12-Q. How do I clear my record and get my rights restored?

12-R. If you are a first-time offender, convicted of a single felony count, you do not need to petition the court for restoration of civil rights. Civil rights are automatically restored upon successful completion of all aspects of sentencing, including payment of all court ordered fines, fees and restitution. These rights include the right to vote, to hold public office, and to serve as a juror. The right to possess firearms is not automatically restored and requires petitioning the sentencing court. The judge will determine whether or not to grant the request. If you served time in prison, 2 years must have passed since the date of absolute discharge before becoming eligible to file for restoration of civil rights. To restore civil rights, the party may apply to the sentencing court to vacate the judgment of guilt, dismiss charges and restore civil rights in Arizona. The Certificate of Absolute Discharge must be included with your application.

13-Q. My relative got arrested. Who do I talk to?

13-R. If your relative has an attorney, you may contact your relative's attorney. Court personnel may provide public information, such as upcoming court dates and how to post bond. In some cases, the arresting agency can provide terms of release or other information and may be able to accept bond.

14-Q. I posted bond for someone. How and when can I get my money back?

14-R. The bond will be exonerated (released) after the conclusion of the case or when ordered by the court. The court must have a current mailing address to return money, which usually occurs within a few days of the exoneration order.

15-Q. What victim services are available?

15-R. Victim services are available through the local county attorney’s office. Victims’ services vary between courts and agencies and based on misdemeanor or felony crimes may be available through the prosecutor’s office involved in the case, the law enforcement agency involved in the case, or an outside agency. A victim advocate can explain the judicial system, act as a link between the prosecutor and the victim, give current case status information, assist in obtaining orders of protection, make referrals for counseling, food, shelter, and escort victims while they testify or appear at hearings. Under Arizona’s Victims Bill of Rights, a crime victim always has the right to retain private counsel, and to be notified of both upcoming hearings and possible plea offers before they are proposed to the defendant. If you are a victim, it is imperative that you stay in touch with the prosecutor’s office and appear in court for each hearing – or they may assume that you do not care how they resolve the case.

16-Q. What is a public defender?

16-R. A public defender is an attorney who represents a person who is accused of a crime who cannot afford to hire an attorney. Some counties have public defender offices that have a number of attorneys on staff. Some counties may contract with private attorneys to provide services on court appointments.

17-Q. Will the county attorney represent me?

17-R. The county attorney and other prosecutorial agencies usually represent the State and its municipalities in criminal cases. For more information, the party may contact the county attorney or prosecuting agency.

18-Q. Can you appoint an attorney for me?

18-R. Only a judge can appoint an attorney, and only in certain cases. In most civil and family court cases, attorneys are not appointed.

19-Q. What is a warrant?

19-R. A warrant is an order from the court to law enforcement to take someone or something into custody. Some warrant information is forwarded to law enforcement agencies throughout Arizona. For example, the court may order a “bench” warrant for law enforcement to arrest someone who failed to appear in court, or the court may issue a search warrant for law enforcement to seize and remove property from a person, place, or thing.

20-Q. What are the different warrants?

20-R. The criminal court may issue a warrant in many instances: at the beginning of a case, during a case if a defendant fails to appear, or after sentencing when a defendant fails to comply with a court order, such as a probation violation. Criminal arrest warrants may be issued when there is reasonable case to suspect an individual of a misdemeanor or felony crime.

An arrested suspect usually remains in jail until he or she posts a bond or appears in court. The judge will decide if bond is continued or if the defendant can be released on his or her own recognizance, meaning the defendant remains personally responsible for appearing, but is not required to post a bond.

When a person fails to appear for a scheduled court date, a warrant is issued. The defendant may be arrested and may be required to post a bond and another court date will be set. If a defendant knows ahead of time that he or she cannot attend court at the scheduled time, the defendant may request a continuance. The defendant must appear unless the continuance is granted by a judicial officer. The defendant may contact his or her attorney, if one has been appointed or retained, or appear as soon as possible in court to ask the judge to quash (cancel) the warrant and to reset the court date. The judge decides whether to require bond.

21-Q. What attorney should I call to handle my case? Who would be good?

21-R. Court personnel cannot advise a party whether the party should hire a lawyer, nor may they recommend a specific lawyer. Some courts provide a list of local attorneys and there may be a list of local resources of attorneys who will work for a reduced fee or no fee.

Resources:

- Maricopa County Bar Association Lawyer Referral Service:
602-257-4434 - <http://maricopalawyers.org>
- Pima County Bar Association Lawyer Referral Service:
520-623-4625 - <http://www.pimacountybar.org>
- Arizona Foundation for Legal Services & Education:
866-637-5341 - www.AZLawHelp.org

22-Q. I cannot afford to hire an attorney. How do I get one appointed?

22-R. You may request the court to appoint an attorney when you make the first court appearance. You will have to complete a financial affidavit to determine whether or not you qualify for a court-appointed attorney. If you wish to represent yourself, the court may appoint an attorney as advisory counsel. The court may order you to pay a monthly amount towards the costs of your attorney either during the case or, if you are convicted, after you have been sentenced.

23-Q. What have I been charged with?

23-R. A defendant has the right to be informed of the charges at the initial appearance. Court personnel can also show you the public record file if it is not confidential or sealed.

24-Q. What sentence will I get if I plead guilty?

24-R. The judge imposes the sentence. Court personnel cannot guess, as different facts and law may apply to each case. However, certain offenses have mandatory sentences, meaning a judge cannot order a lesser sentence than is required. Other offenses allow a judge to use discretion to determine the appropriate sentence. If a charge has a mandatory sentence, the judge will inform you of that during the sentencing proceeding.

25-Q. When do I have to pay my fine?

25-R. The terms and schedule for paying fines and other obligations are set by the judge at the time of sentencing. If you have lost the paperwork, the information may be available in the public record or from the probation office, if applicable.

**SECTION 23
CRIMINAL
IN GENERAL JURISDICTION COURTS**

1-Q. Will you give me an extension to pay my fine?

1-R. Usually only a judge may grant an extension. You may file a request in writing with the clerk who will then process the request to the judge for consideration. In some cases, probation officers have the authority to grant extensions. You may check with the probation officer first.

2-Q. How do I get a copy of my grand jury transcript or presentence report?

2-R. For a copy of grand jury transcripts, a request must be made in writing to the judge who presided over the case, providing a specific reason to support the request. Presentence reports are not public record until after they are filed with the clerk of the court's office. Copies are available from the clerk.

3-Q. How do I appeal my case?

3-R. In superior court, you may only appeal a criminal case under certain circumstances. The party's Notice of Rights of Review after Conviction will tell you what may be appealed. If you do not have the right to appeal, you may file for post-conviction relief. The Notice of Rights of Review after Conviction provides the procedure for filing post-conviction relief. See Sections 15 and 16.

**SECTION 24
JURY SERVICE**

1-Q. Where does the jury commissioner obtain names of prospective jurors?

1-R. The list of names used to summon people for jury service is created by combining the county's voter registration list and Arizona Department of Transportation records. Names are randomly selected from that master jury list.

2-Q. I have been called to serve three times in the past five years and none of my friends have ever been called. Why don't you pick some other people?

2-R. Names are randomly selected to summon potential jurors. Since that process is random, some people may be selected more often than others.

3-Q. Some people would volunteer for jury service if you'd let them. Why don't you?

3-R. The jury office adheres to the random selection process set forth in the law. Arizona law does not allow people to volunteer for jury service.

4-Q. I can no longer fulfill my duties as a juror. Can't you take my name off your list?

4-R. Under certain circumstances, such as permanent mental or physical disability, jury staff can permanently remove a name from its records. Prospective jurors must explain their situation in writing to the jury office with any required supporting documentation. People who receive a jury summons to an Arizona court who are at least 75 years of age may be excused upon written request. Eligible citizens who wish to be excused should mark this option on their summons and return it to the jury office.

5-Q. I am not a citizen of the United States but I would still like to serve as a juror. Why can't I?

5-R. Arizona law disqualifies non-citizens, non-residents, convicted felons whose civil rights have not been restored, and people under 18 years of age from jury service.

6-Q. Is jury service mandatory?

6-R. Yes, the United States Constitution and the Arizona State Constitution guarantee the right to trial by jury. Failure to attend as directed may subject the person to penalties provided by law, including a fine up to \$500 and being rescheduled for jury service.

Resources:

- Juries A.R.S. [Title 21](#)

7-Q. How long will I have to serve as a juror?

7-R. If selected to serve on a jury for a trial, service is complete at the conclusion of the trial. Generally, jury service is also complete for those who are not selected to serve on the first day.

8-Q. Are there ever any instances when I may have to serve longer?

8-R. Jurors have to serve the length of the trial. Trials usually end within 3 to 5 days. During the jury selection portion of the case, the judge presiding over the trial will state the estimated length of that particular trial.

Resources:

- Arizona Supreme Court [Jury Service Information](#) webpage

9-Q. I served on a jury three years ago. Do I have to serve again already?

9-R. Yes. Jurors who appeared for service but were not chosen for a trial are exempt from serving again for a period of time determined by the jury commissioner, generally ranging from 1 to 2 years. Jurors who served on a jury panel for a trial in Arizona are exempt from serving again for 2 years. If it has been more than 2 years since serving as a juror, citizens are required to appear for jury service again, regardless of how many times they have served in the past.

Resources:

- Arizona Supreme Court [Jury Service Information](#) webpage

10-Q. How do I request to be excused from jury service?

10-R. Prospective jurors who are otherwise qualified to serve may be excused from jury service for certain reasons and hardships. The jury summons or local jury office can provide the specific reasons or hardships and explain the supporting documentation needed with the request to be excused. Each request is reviewed individually. Potential jurors are encouraged to complete the juror questionnaire truthfully, to the best of their knowledge. Failure to do so is against the law. Jury service is a citizen's civic duty and responsibility.

Resources:

- Arizona Supreme Court [Jury Service Information](#) webpage

11-Q. I know that I will not be selected for a jury because of what I do for a living. Why not excuse me now and save time?

11-R. Many courts try civil and criminal cases, both of which require juries. The random selection process prevents jurors from knowing in advance what trial or the type of trial for which they will be selected. Jury office staff cannot excuse potential jurors based on what they do for a living. However, peace officers wishing to be excused may review the requirements explained in A.R.S. Title 21, and send the necessary documentation to the jury office.

Resources:

- Arizona Supreme Court [Jury Service Information](#) webpage

12-Q. I am unable to judge anyone because of my moral or religious beliefs. May I be excused?

12-R. Arizona law does not provide an excuse from jury service for moral or religious beliefs; jury service is still required. Prospective jurors may tell the judge about their beliefs during the jury selection process.

13-Q. Does my employer have to pay me for serving as a juror?

13-R. No. Arizona law does not require employers to compensate their employees while they are on jury service. Many employers support the jury system and provide jury service benefits and will continue employee wages while they serve as a juror. Each employer may have a policy answering this question.

14-Q. Can my employer prevent me from serving as a juror?

14-R. Arizona law prohibits an employer from discharging or in any manner discriminating against an employee for taking time off to serve as a juror if the employee, prior to taking time off, gives reasonable notice to the employer of the requirement to serve as a juror. Jurors who experience problems with their employers should contact the jury office for assistance.

Resources:

- Juries A.R.S. [Title 21](#)

15-Q. I live closer to a different court than the one where I've been summoned. Why can't my service be transferred there?

15-R. Arizona law requires that jurors be selected randomly from the court's jurisdiction. Prospective jurors must appear at the court to which they were summoned.

16-Q. How late will I be at the courthouse?

16-R. The hours of operation for most courts are 8:00 a.m. to 5:00 p.m. Prospective jurors should make arrangements to remain the entire day.

17-Q. What about getting a postponement?

17-R. Courts realize prospective jurors may have been summoned at an inconvenient time and in most instances are willing to reschedule service to a more convenient time. Review the jury summons or contact the local jury office for information on postponing jury service.

Resources:

- Arizona Supreme Court [Jury Service Information](#) webpage

18-Q. Will I be compensated for jury service?

18-R. Yes, jurors who appear only on the first day will be compensated for their mileage. Jurors selected to serve on a trial will receive compensation for every day the trial lasts, plus mileage. Courts differ in how often they compensate jurors for jury service (daily, weekly, or bi-weekly).

19-Q. My jury summons asks if I have been convicted of a felony and if my civil rights have been restored. How do I find out if I was convicted, if it was a misdemeanor or a felony, and how do I know if my civil rights have been restored?

19-R. You may check with the records department of the court where you were sentenced to see what the conviction was on the sentencing minute entry or order. Persons are "convicted" when sentenced to a felony or if the charge is left "undesignated." If the conviction was a first-time felony, and all terms of the sentence are completed (monies paid, probation, etc.) then civil rights and the right to sit on a jury are automatically restored. If the conviction was a second-time felony (or more), you must apply to have civil rights restored. If the sentencing minute entry or order reflects "undesignated felony" (still a felony conviction), the judge has the option to designate the offense a misdemeanor after the party has completed all aspects of the sentence. If the judge chooses to do this, the judge will mark "misdemeanor" on the bottom of the discharge. If the judge chooses not to designate the felony a misdemeanor, you may ask the sentencing judge to do this. The discharge can also be found at the records department of the court where the person was sentenced.

SECTION 25
CALCULATING NUMBER OF DAYS

Rules of Civil Procedure 6(a). Computation

In computing any period of time specified or allowed by these rules, by any local rules, by order of court, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. When the period of time specified or allowed, exclusive of any additional time allowed under subdivision (e) of this rule, is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When the period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

Rules of Civil Procedure 6(e). Additional time after service under Rule 5(c)(2)(C), (D), or (E)

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served by a method authorized by Rule 5(c)(2)(C), (D), or (E), 5 calendar days are added after the prescribed period would otherwise expire under rule 6(a). This rule has no application to the distribution of notice of entry of judgment required by Rule 58(e).

Rules of Criminal Procedure 1.3. Computation of Time

In computing any period of time of more than 24 hours, prescribed by these rules, by order of court, or by an applicable statute, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period shall run until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. Whenever a party has the right or is required to take some action within a prescribed period after service of a notice or other paper and the notice or paper is served by a method authorized by Rule 5(c)(2)(C), (D) *Arizona Rules of Civil Procedure*, 5 calendar days shall be added to the prescribed period. Mailing pursuant to *Arizona Rule of Civil Procedure* 5(c)(2)(C) includes every type of service except same day hand delivery.

b. Date of Arraignment. In computing any period of time based upon the date of arraignment, if an arraignment is not held as provided in Rule 14.1(d), the date that the defendant receives notice of the next court date as provided in Rules 5.8 and 12.10 shall be deemed the date of arraignment.

Justice Court Rules of Civil Procedure 115. How to Calculate Time

a. Basic rules.

(1) *Day of the act or default.* In calculating any period of time specified or allowed by these rules, by any local rules, by order of a court, or by any applicable statute, the day of the act or default from which the designated period of time begins to run is not included.

(2) *If the time period is less than eleven (11) days.* When the period of time specified or allowed is less than eleven (11) days before including any additional time allowed under section (b) of this rule, then intermediate Saturdays, Sundays and legal holidays are not included in the calculation of time. When the period of time is eleven (11) days or more, intermediate Saturdays, Sundays and legal holidays are included in the calculation.

(3) *Last day.* The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday. **[ARCP 6(a)]**

b. Additional time for mailing or e-mailing. Except as provided in Rule 114(a), if a party is required to do something within a specified period of time after service of a document, and the document is served by first class postal mail, or by e-mail, then five (5) calendar days are added after the specified period would otherwise expire under Rule 115(a). The term “mail” used in this rule includes every type of professional delivery service except same day hand-delivery. This paragraph does not apply to the distribution of a notice of entry of judgment as provided by Rule 139(f). **[ARCP 6(e)]**

c. Extension of time. When these rules or a court order require that a party do something by a specified time, including but not limited to filing a document, the court may extend that time period. The court may grant an extension on motion of a party or, if the extension is granted before expiration of the specified time period, on its own and without notice to the parties. After the expiration of the specified time period, the court may grant an extension only if a party files a motion showing that the party's failure to act before expiration of the time period resulted from the party's excusable neglect. However, the court may extend the time limits for a motion for judgment as a matter of law under Rule 134(b), a motion for new trial under Rule 138(b), or a motion requesting relief from a judgment or an order under Rule 141(c), only if the court finds that a party entitled to notice of the entry of a judgment or an order did not receive notice from the clerk or from another party within twenty-one (21) days of the date of entry, and that no party would be prejudiced if the court allowed an extension. **[ARCP 6(b)]**

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Question & Response (Q&R) Handbook
How to Respond to Common Questions from Court Customers

© 2016 Arizona Supreme Court
Court Services Division, Court Programs Unit
1501 W. Washington, Suite 410
Phoenix, AZ 85007-3231
(602) 452-3358