



JUSTICE ROBERT BRUTINEL,  
STEERING COMMITTEE  
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# STEERING COMMITTEE ON ARIZONA CASE PROCESSING STANDARDS

Arizona  
Supreme  
Court



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# Model Time Standards

## FOR STATE TRIAL COURTS





This document has been prepared with support from Grant No. SJI-09-N-127 from the State Justice Institute. The points of view and opinions offered in this report are those of the authors and do not necessarily represent the official policies or position of the State Justice Institute or the National Center for State Courts.

**ISBN: 978-0-89656-280-6**

# Model Time Standards

**FOR STATE TRIAL COURTS**

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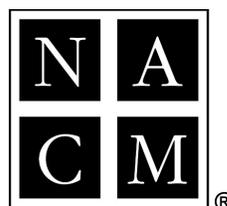
**These Model Standards were approved in August 2011 by the:**

Conference of State Court Administrators

Conference of Chief Justices

American Bar Association House of Delegates

The National Association for Court Management



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## **ACKNOWLEDGMENTS**

The Project Director wishes to express his appreciation to the Steering Committee and to the organizations that designated them: Chief Justice Christine Durham, Conference of Chief Justices; Don Goodnow, Sally Holewa, and Patti Tobias, Conference of State Court Administrators; Judge Terry Ruckriegle, National Conference of State Trial Judges, American Bar Association; Judge Bill Dressel, National Judicial College; Pam Harris, National Association for Court Management; and John Greacen, Institute for the Advancement of the American Legal System. Without your wisdom, perspective, attention to detail, reasonableness, and consistent good humor, the promise of this project could not have been realized. Thanks also to the members of the Conference of Chief Justices, the Conference of State Court Administrators, the National Association for Court Management, the National College of Probate Judges, the National Conference of Metropolitan Courts, and the National Conference of State Trial Judges, Judicial Division, American Bar Association, who reviewed the discussion draft and provided encouragement and valuable recommendations for clarifications and refinements. Finally, gratitude to my NCSC colleagues David Steelman, Lee Suskin, Dan Hall, and Richard Schaffler for their expertise, writing skill, and willingness to perform whatever tasks needed to be done.

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## INTRODUCTION

Since their first formal articulation, time standards establishing expectations for timely justice in American courts have been elaborated and refined. After having adopted speedy trial standards for criminal cases in 1968, the American Bar Association adopted standards for other case types as well in 1976, amending them in 1984 and again in 1992. The Conference of State Court Administrators promulgated national time standards for cases in the state courts in 1983. Over three quarters of the states have now adopted their own case disposition targets.

This document is the result of a two-year review of the more than 40 years of experience with time-to-disposition standards. This review is appropriate. The first decade of the 21st Century has witnessed the coming of age of the Internet and dramatic changes in the way in which ordinary people conduct financial transactions (e.g., banking, stock purchases and sales, and on-line purchasing of airline tickets and many goods and services), and many other business activities (such as music and movie distribution). Information on most topics is now immediately available from virtually any location. Communications with other persons anywhere on the globe are almost instantaneous, and available in text, voice and video media. The public

is becoming accustomed to very fast turnaround and convenience in dealing with commercial and governmental entities.

Court processes, on the other hand, have changed only marginally. While many courts now make information available online and are gradually incorporating electronic transactions for filings, service, and payments, the case disposition process remains virtually the same as it has been since the introduction of the Federal Rules of Civil Procedure in 1938. Surveys of public opinion concerning the courts consistently find the chief complaint to be the slowness of case resolution. A study in New Mexico showed that litigants desire to have their civil and family cases decided within one or two months of filing. Thus, there is a substantial disconnect between public expectations for the timeliness of court decisions based on the current pace of business, and the current pace of the American judicial system.

The time to disposition standards set forth in this document, based on a review of the experience of state courts, are intended to establish a reasonable set of expectations for the courts, for lawyers, and for the public.<sup>1</sup> They reflect a review of the case disposition times

<sup>1</sup> Much of the formal research studies cited were conducted more than a decade ago and focused heavily on courts with medium to high caseloads. However, the experience since then such as the examinations of state and federal courts conducted by the Institute for the Advancement of the American Legal System [IAALS, *Civil Case Processing in the Federal District Courts: A 21st Century Analysis* (2009) [www.du.edu/legalinstitute/form-PACER-success.html](http://www.du.edu/legalinstitute/form-PACER-success.html); *Civil Case Processing in the Oregon Courts* (2010) [www.du.edu/legalinstitute/pubs/civilcase.pdf](http://www.du.edu/legalinstitute/pubs/civilcase.pdf)] and current statewide and trial court data provided by several jurisdictions strongly suggest the continued validity of the findings of those studies as well as the principles and practices they recommend. See e.g., [www.utcourts.gov/courttools/](http://www.utcourts.gov/courttools/); [www.mass.gov/courts/cmab/metrics-report-2009.pdf](http://www.mass.gov/courts/cmab/metrics-report-2009.pdf); [www.courts.mo.gov/file.jsp?id=43761](http://www.courts.mo.gov/file.jsp?id=43761); [www.mncourts.gov/Documents/Public/Other/Annual\\_Report\\_2010\\_Performance\\_Measures\\_Public\\_Posting.pdf](http://www.mncourts.gov/Documents/Public/Other/Annual_Report_2010_Performance_Measures_Public_Posting.pdf); [www.superiorcourt.maricopa.gov/MediaRelationsAndCommunityOutreach/Publications/reports.asp](http://www.superiorcourt.maricopa.gov/MediaRelationsAndCommunityOutreach/Publications/reports.asp). Nonetheless, there remains an obvious need for continuing research on caseload management across multiple case types in state courts of varying sizes to maintain the currency of our knowledge of this critically important subject and to identify the practices used in courts with the best performance in resolving cases in a timely manner.

currently being achieved in selected jurisdictions around the country as well as consideration of the various time standards adopted by states, local jurisdictions, and national organizations. The final section of the document suggests a process for use by a state judicial branch to implement standards in its jurisdiction. It also shows how the time standards can be used to assist a court, and the courts of a state, to improve the timeliness of case disposition and improve the court's service to the litigants.

These are “Model Time Standards.” They are intended to unify the current sets of disparate national time standards to the greatest degree possible. The model standards are designed for use by the judicial branch of each state as a basis for establishing its own time standards covering general and limited jurisdiction courts, regardless of the source of funding for those courts. For the courts, the state standards set forth achievable goals. For lawyers, state standards establish a time framework within which to conduct their fact-gathering, preparation, and advocacy activities. For members of the public, state standards are intended to define what can be expected of their courts.

As indicated in Implementation Standard 1, state time standards should be promulgated by court leaders in communication and consultation with all key justice partners. State time standards should take into account state procedures, statutory time periods, jurisdictional conditions, demographic and geographic factors, and resources. The judicial branch time standards, including appropriate

standards for key intermediate points in the process, should establish the timeliness goals against which the delivery of judicial services by courts within the state should be measured. However, they should not be considered as a rule governing individual cases or creating rights for individual litigants.

With few exceptions, these standards run from *the date of filing to the date of disposition by entry of judgment*. The running of time is suspended under any of these standards by such occurrences as:

- The filing of an interlocutory appeal.
- Federal bankruptcy proceedings during pendency of a civil matter.
- Failure to appear and issuance of a bench warrant for a criminal defendant.
- Treatment to restore the competency of a criminal defendant found not to be competent to stand trial.<sup>2</sup>

The standards offered here reflect a recognition that there normally is a large proportion of cases that are disposed with little court involvement; a second proportion that dispose after one or two issues are resolved (e.g., a suppression motion); and the smallest proportion do not resolve without a trial. This tripartite model is reflected in many differentiated case management systems. Based on this understanding, the standards provide a first tier time period within which 75 percent of the filed cases should be disposed; a second tier time period within which 90 percent of the filed cases should be disposed; and a third tier time period within which 98 percent of filed cases should

<sup>2</sup> These are illustrative examples. Jurisdictions may identify other events which appropriately should be excluded from the time to disposition calculation, though these should be kept to a minimum.

## TABLE OF MODEL TIME STANDARDS

Case Category	Case Type	COSCA Standard	ABA Standard	Model Standard
CRIMINAL	Felony	100% within 180 days	90% within 120 days 98% within 180 days 100% within 365 days	75% within 90 days 90% within 180 days 98% within 365 days
	Misdemeanor	100% within 90 days	90% within 30 days 100% within 90 days	75% within 60 days 90% within 90 days 98% within 180 days
	Traffic and Local Ordinance			75% within 30 days 90% within 60 days 98% within 90 days
	<i>Habeas corpus</i> and similar Post-conviction proceedings (following a criminal conviction)			98% within 180 days
CIVIL	General Civil	100% of non-jury within 12 months 100% jury trials within 18 months	90% within 12 months 98% within 18 months 100% within 24 months	75% within 180 days 90% within 365 days 98% within 540 days
	Summary Matters			75% within 60 days 90% within 90 days 98% within 180 days
FAMILY	Dissolution/ Divorce/ Allocation of Parental Responsibility	100% uncontested within 3 months 100% contested within 6 months	90% within 3 months 98% within 6 months 100% within 12 months	75% within 120 days 90% within 180 days 98% within 365 days
	Post Judgment Motions			98% within 180 days
	Protection Orders			90% within 10 days 98% within 30 days
JUVENILE	Delinquency & Status Offense		90% within 3 months 98% within 6 months 100% within 12 months	For youth in detention: 75% within 30 days 90% within 45 days 98% within 90 days For youth not in detention: 75% within 60 days 90% with 90 days 98% within 150 days
	Neglect and Abuse		90% within 3 months 98% within 6 months 100% within 12 months	Adjudicatory Hearing 98% within 90 days of removal Permanency Hearing 75% within 270 days of removal 98% within 360 days of removal
	Termination of Parental Rights		90% within 3 months 98% within 6 months 100% within 12 months	90% within 120 days after the filing of a termination petition 98% within 180 days after the filing of a termination petition
PROBATE	Administration of Estates			75% within 360 days 90% within 540 days 98% within 720 days
	Guardianship/ Conservator of Incapacitated Adults			98% within 90 days
	Civil Commitment			98% within 15 days

be disposed. The 98 percent tier is key to establishing a backlog measure and setting the expectation of the maximum time within which a case should be decided or resolved. The other two tiers are intended as points of measurement for effective management of pending cases. The intent is to encourage the fair disposition of cases at the earliest possible time. Standards for completing critical decision points in the process are suggested in the commentary for each case disposition time standard to assist the judicial branch of states and individual courts in assessing and managing caseload.

A 98 percent level is used rather than 100 percent in recognition that there will be a very small number of cases that will require more time to resolve, e.g., capital murder cases and highly complex, multi-party civil cases that require a trial. Even these cases, however, should be monitored closely to ensure that they proceed to disposition without unnecessary delay.

## FELONY CASES

### Model Standard

75% within 90 days  
90% within 180 days  
98% within 365 days

**Definition.** Felony cases are those criminal cases involving “an offense punishable by incarceration for a year or more.”<sup>3</sup> In the preparation of these time standards, consideration was given to whether capital murder cases should be designated as a separate case category with different time standards. Because some capital cases are disposed by plea, however, it was concluded that those requiring a trial can be better accommodated simply as a “top tier” of one-two percent of all felony cases that require more time to reach disposition. The standards run from the filing of the initial complaint through disposition (e.g., dismissal or sentencing). Thus, in jurisdictions with a limited and general jurisdiction court, the standard would run from the filing of the complaint in the lower trial court except in those few cases filed directly in the general jurisdiction court.

**Earlier National Time Standards.** In 1983, COSCA provided a 180-day time standard for felony cases, while the 1992 ABA Time Standards provided that 90 percent of felony cases should be disposed within 120 days after arrest, 98 percent within 180 days, and 100 percent within 365 days.

<sup>3</sup> See Court Statistics Project, *State Court Guide to Statistical Reporting*, 18 (Williamsburg, VA: NCSC, 2009).

**State Judicial Branch Time Standards.**<sup>4</sup> At least 39 states and the District of Columbia have overall felony time standards, and two states have separate time standards for capital cases. There is considerable variation from state to state, however. For example:

- Ten states have adopted the COSCA time standard of 180 days, with six specifying that all cases are to be disposed within that time, and with five having the 180-day time standard run from filing of or arraignment on an indictment or information rather than arrest or initial appearance.
- As suggested in the ABA time standard, ten other states have adopted one year, 12 months, 365 days or 360 days as the longest time, although four do not have a 100 percent time standard and contemplate that from one to ten percent of all felonies may take longer to be disposed.
- Maximum times to disposition in other states range from 120 days to 22 months.
- The most common approach (14 states) is to provide simply that cases must be decided within a given time period. There are 13 states where the maximum specified duration is for fewer than 100 percent of all cases, assuming that there may always be some cases that might understandably take longer. The next most common approach (five states) is to provide times within which 90 percent, 98 percent and 100 percent of all cases must be disposed. In all, there are at least 17 different configurations for felony time standards.
- In at least 11 states, time standards do not run from arrest or initial appearance, but rather from the filing of an indictment or information, general-jurisdiction arraignment on that charging document, or some other event other than arrest or initial appearance.
- At least ten states have time standards for one or more intermediate case-processing stages.

**Overall Felony Case Time Standards.** It is critically important to note, however, that the time standard for felony cases is not a “speedy trial rule” requiring dismissal of the case if the standard is not met. These standards are intended as measures of the overall time to disposition in a jurisdiction, not as a rule governing individual cases or creating rights for individual criminal defendants. Moreover, speedy trial rules generally run from the date of arrest (or sometimes the date of arraignment on the indictment) to the start of trial. These standards are based on the period between the date on which the case is first filed with a court to the entry of the dispositional order (e.g., a dismissal, sentence).

The adoption here of a 365-day maximum rather than one of 180 days is based on the real experience of urban courts. After the adoption in 1983 of the COSCA time standard for felony cases, large-scale studies of felony case processing times in large urban trial courts were undertaken by NCSC.<sup>5</sup> In those studies, no court met the COSCA 180-day time standard for all cases disposed in 1987, and even the fastest courts in the study had eight percent of their cases taking longer. In the slowest court, 81 percent took longer than 180 days.<sup>6</sup> In a subsequent study of felony case disposition times in nine state criminal trial courts, even the fastest court saw 14 percent of its 1994 disposed cases taking

<sup>4</sup> See NCSC, Knowledge and Information Services, Database, “Case Processing Time Standards [CPTS],” [www.ncsconline.org/cpts/cptsType.asp](http://www.ncsconline.org/cpts/cptsType.asp), as downloaded from the Internet on September 8, 2010.

<sup>5</sup> See J. Goerd, C. Lomvardias, G. Gallas and B. Mahoney, *Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts* (Williamsburg, VA: National Center for State Courts, 1989); and J. Goerd, C. Lomvardias and G. Gallas, *Reexamining the Pace of Litigation in 39 Urban Trial Courts* (Williamsburg, VA: National Center for State Courts, 1991).

<sup>6</sup> See *Reexamining the Pace of Litigation*, *supra*, note 5, Table 2.2. For all the courts in the study, ten percent of the felony cases took 384 days or more from arrest to disposition. When cases with failures to appear were removed, ten percent of all cases remaining still took 289 days or more.

longer than 180 days, and disposition times exceeded 180 days in 48 percent of the cases for all courts combined.<sup>7</sup>

For all the courts in these NCSC studies, even a 365-day time standard was difficult to achieve. For all courts for which 1987 felony dispositions were studied, 11.7 percent took longer than a year;<sup>8</sup> and in the study of 1994 felony dispositions, about 11 percent took longer than a year.<sup>9</sup> Yet in each study, there were courts that were able to dispose of at least 95 percent of their cases within a year – eight of 39 of the courts in the study of 1987 dispositions, and two of nine courts in the study of 1994 dispositions. Contemporary court data indicate that courts in several states are able to dispose of the overwhelming number of felony cases in a year or less. For example: Missouri is able to dispose of 85 percent of its felony cases and New Jersey is able to dispose of 90 percent of its felony cases within 301 days; Colorado concludes 90 percent of its felony cases within 325 days; Minnesota disposes of more than 92 percent of its felony cases and Utah disposes of 93 percent of its felony cases within a year.

Empirical evidence from urban trial courts thus demonstrates two things. First, a time standard of 365 days, while still difficult to attain for almost all courts, is far more realistic than a time standard of 180 days. Second, a standard of 98 percent of all felonies is more realistic than one of 100 percent. This is especially true for capital

murder and unusually complex felony cases that go to jury trial; while some may be disposed by plea within a year after case initiation, others can predictably be expected to take longer.

**Intermediate Time Standards.** In many jurisdictions, achievement of the goals set by these time standards involves more than one level of court (e.g., a limited jurisdiction court that hears the early stages of criminal proceedings and a general jurisdiction court that obtains jurisdiction only after an indictment or information is filed) as well as justice system partners such as the prosecutor's office, the public defender and private defense counsel, law enforcement agencies, jails, pretrial services, and probation. All must work in concert in establishing internal processes and measures to facilitate fair and timely disposition of felony cases while carrying out their particular responsibilities. This includes holding meaningful interim court events in a timely manner. However, any analysis of the performance of an individual court must be measured against the events which that court controls.

For felony cases the key interim court events include:

In 100 % of cases, the initial appearance should be held within the time set by state law.

In 98% of cases, the arraignment on the indictment or information should be held within 60 days.

In 98% of cases, trials should be initiated or a plea accepted within 330 days.

<sup>7</sup> B. Ostrom and R. Hanson, *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts* (Williamsburg, VA: National Center for State Courts, 1999), Figure 2.1.

<sup>8</sup> *Reexamining the Pace of Litigation*, *supra*, note 5, Table 2.2.

<sup>9</sup> *Efficiency, Timeliness, and Quality*, *supra*, note 7, Figure 2.1.

In most if not all state court systems, there must be a prompt initial court appearance for preliminary arraignment, determination of eligibility for pretrial release, and determination of eligibility for defense representation at public expense. The elapsed time within which such a first court event must occur is typically within 24-72 hours after arrest. The time standards offered here acknowledge the need for such a prompt initial court event. The suggested interim standards urge that it be held in all cases within the time requirements of state law.

Although only a handful of states have intermediate time standards for felonies,<sup>10</sup> virtually all of them give particular attention to the elapsed time from arrest to general-jurisdiction arraignment on a felony indictment or information. Many states require prompt filing of an indictment or information for felony defendants not released from pretrial detention pending adjudication, but they may not provide such strict expectations for the large majority of defendants who have been released on bail or recognizance. Emphasizing a need for timely commencement of general-jurisdiction felony proceedings, the time standards here provide an indicator for the time within which arraignment on an indictment or information should be held for virtually all felony cases.

The provision of this interim time standard also has the effect of prompting early involvement of a public defender or appointed counsel, early discovery exchange, and early commencement of plea discussions between prosecution and defense.

Since the time standards here run from filing of the initial complaint to imposition of a sentence, trial commencement is considered an interim court event rather than the end-point of caseflow management. Consequently, the third interim time standard here has to do with the elapsed time after the initial complaint was filed within which there should be an actual trial start. Having firm and credible trial dates is a fundamental feature of successful caseflow management,<sup>11</sup> and large-scale research of factors affecting the pace of felony litigation has shown that courts with a higher percentage of firm trial dates consistently have shorter times to felony disposition.<sup>12</sup>

<sup>10</sup> See CPTS database, *supra*, note 4.

<sup>11</sup> See D. Steelman, J. Goerdts and J. McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg, VA: National Center for State Courts, 2004 edition), pp. 6-11.

<sup>12</sup> *Reexamining the Pace of Litigation*, *supra*, note 5, Figure 2.7.

## MISDEMEANOR CASES

### Model Standard

75% within 60 days  
90% within 90 days  
98% within 180 days

**Definition.** Misdemeanors involve “an offense punishable by incarceration for less than one year and/or fines.”<sup>13</sup> The time standard for misdemeanors recognizes that many moving traffic infractions and other comparable violations of public order have either been formally decriminalized or are treated without the procedural requirements for criminal cases. As a result of these matters now being handled administratively, they are not included in these time standards.

**Earlier National Time Standards.** In 1983, COSCA provided a 90-day time standard for misdemeanors and the 1992 ABA Time Standards provided that 90 percent of all misdemeanors should be disposed within 30 days after arrest and 100 percent within 90 days.

**State Judicial Branch Time Standards.** Court systems in at least 32 states and the District of Columbia have misdemeanor time standards.<sup>14</sup> Some states distinguish DUI, traffic, or motor-vehicle cases from other misdemeanors. Others make distinctions according

to differentiated case management (DCM) “track assignments.”<sup>15</sup> As with felony cases, there is considerable variation in standards from one state to another. For example:

- Only seven agree with the COSCA and ABA standards that all or most (99 percent in one state) can or should be disposed within 90 days or less after case initiation.<sup>16</sup>
- In the remaining 25 states and the District of Columbia, the maximum time standards range from 120 to 360 days.
- Only 12 states have a single flat time standard (which may or may not be 100 percent) for misdemeanors, with no percentile gradations.
- While 20 court systems provide a maximum time within which all misdemeanors must be disposed, 13 set the maximum time standard at a level assuming that some cases may unavoidably take longer to be disposed.
- In ten states, the maximum time standard for disposition of all or most misdemeanors is identical to that for felonies.

**Overall Misdemeanor Case Time Standards.** The time standards offered here for misdemeanors reflect agreement with the drafters of the COSCA and ABA time standards that most misdemeanors can and should be disposed within a short time after case initiation. In fact, the great majority of all misdemeanors (90 percent) can and should be concluded within three months as those earlier standards suggest.

<sup>13</sup> Guide to Statistical Reporting, *supra*, note 3, at 19.

<sup>14</sup> See CPTS database, *supra*, note 4.

<sup>15</sup> For more on DCM, see *Caseload Management*, *supra*, note 11, pp. 4-6.

<sup>16</sup> In one state, the time standard is that all misdemeanor cases should be disposed within 60 days.

Yet almost all states now treat high-volume speeding cases and other moving traffic violations, along with other comparable ordinance violations, as non-criminal or quasi-criminal matters for which there is little or no likelihood of jail sanctions, and for which many of the procedural safeguards of criminal procedure are absent or can be waived. These cases, though voluminous, were normally quickly resolved.<sup>17</sup> With such matters removed from the category of criminal misdemeanors, the actual experience in most states that have adopted misdemeanor time standards is that a number of these cases cannot be justly disposed within 90 days, and indeed that some must take longer than six months to be disposed. For example, Colorado's County Courts dispose of 75 percent of filed misdemeanors within 128 days and 90 percent within 231 days. Missouri concludes 84% of its misdemeanors within 180 days and 91 percent within 240 days. For this reason, the standard presented here sets a maximum time of 180 days for misdemeanors and recognizes that as many as two percent may understandably take longer than that to be concluded.

**Intermediate Time Standards.** The intermediate standards provided here follow the rationale presented above for felony cases, except that no interim standard associated with bind over and felony arraignment is required. As with felonies, there is a need to assure that a court arraigns the defendant on initial charges, reviews the need for pretrial detention, and sees that an early determination is made on eligibility for defense representation at public expense.

In 100 % of cases, the initial appearance should be held within the time set by state law.

In 98% of cases, trials should be initiated or a plea accepted within 150 days.

Once there has been an initial court hearing, it is important for compliance with time standards that the court exercise control over case progress to disposition by providing an early and firm trial date. The interim time standard here for time from case initiation to misdemeanor trial start provides a measurement tool for the court to exercise such control.

<sup>17</sup> See the Model Time Standard on Traffic and Local Ordinance Cases, p. 12 *infra*.

## TRAFFIC AND LOCAL ORDINANCE CASES

### Model Standard

75% within 30 days  
90% within 60 days  
98% within 90 days

**Definition.** This category of cases includes a violation of statutes and local ordinances governing traffic and parking, as well as violations of other local ordinances. In some jurisdictions these matters are called infractions; in others they are considered non-criminal violations. They include such matters as speeding, failure to yield, illegal parking, violations of noise ordinances, and illegal vending among others.<sup>18</sup> In those states in which these matters are non-criminal violations, the standards applicable to Summary Civil Matters may be used. Driving under the influence and other serious traffic-related offenses punishable by incarceration are intended to be covered under the standard for misdemeanor cases.

**Earlier National Time Standards.** The COSCA time standards and the ABA time standards do not include provisions specifically relating to traffic and local ordinance cases.

**Time Standards in State Court System.** At least 10 state court systems and the District of Columbia courts have developed time standards for traffic and/or local ordinance cases.

- The time period specified ranges from 30 days (1 state) to 270 days (1 state). Four set 60 days as the maximum time; three 90 days; and one each 120, 150, or 180 days.
- Four sets of standards establish tiers of cases.
- Seven set the maximum standard for less than all the cases ranging from 80 percent in one jurisdiction to 98 or 99 percent in four others.
- Two jurisdictions limit their time standards to contested traffic cases.
- One state distinguishes between jury and non-jury matters.

### Overall Traffic and Ordinance Violation Case Time

**Standards.** Traffic and ordinance violation cases constitute a significant part of the caseload of many municipal and other limited jurisdiction trial courts, and are the cases that involve the greatest proportion of the general public. Thus, both from the perspective of effective case management and from the perspective of providing effective and efficient judicial services, it is essential that these high volume matters are heard or resolved in as timely a manner as possible. In order not to take up court time and law enforcement officer time unnecessarily with uncontested cases, persons cited who do not wish to challenge the citation should be able to acknowledge guilt or responsibility and pay a standard financial penalty at the clerk's office, through a kiosk, or via the Internet, without having to appear in court. An appearance before a judge or hearing officer should only be required if a person cited submits a notice that he or she wishes to contest the citation or fails to respond. The time standards include both those cases resolved without a court appearance and those in which formal court involvement is required, but contemplates

<sup>18</sup> Guide to Statistical Reporting, *supra*, note 3, at 29-31.

that the overwhelming majority of traffic and ordinance violation citations will be resolved without a formal court appearance.

**Intermediate Time Standards.** The intermediate time standard suggests that the appearance date for all traffic and ordinance violation citations should occur within 30 days. For those matters which may require a trial that cannot be accommodated on a general docket because of length or that require a continuance because the respondent wishes to retain counsel, the trial date should be set to permit disposition within the recommended overall time standard.

In 100% of cases, the initial court appearance should occur within 30 days of citation, notice of contest, or failure to respond to the citation.

## ***Habeas corpus* and similar POST-CONVICTION PROCEEDINGS\***

### **Model Standard**

98% within 180 days

\* Following a criminal conviction

**Definition.** This case type involves petitions for collateral review of a criminal conviction, whether under statutory post-conviction review provisions or through proceedings on common law *habeas corpus* or *coram nobis* petitions. It does not include direct appeals or proceedings on motions for new trial, to reconsider or in arrest of judgment, nor to violation of probation proceedings.

**Prior National Time Standards.** The COSCA time standards and the ABA time standards do not include provisions for such proceedings. ABA standards relating to post-conviction review call for there to be a “prompt response” by the prosecution and court assignment of “suitable calendar priority” if there is reason for expedition, but they do not provide any specific time standard within which such proceedings should be concluded.<sup>19</sup>

**State Judicial Branch Time Standards.** One state has established time standards for post-conviction review proceedings -- 100 percent be disposed within 3 months after the filing of a petition.<sup>20</sup>

<sup>19</sup> See American Bar Association, Standards for Criminal Justice (2nd Edition, 1980, with 1986 supplement), Chapter 22, Standards 22-4.1 – 22-4.7, [www.abanet.org/crimjust/standards/postconviction\\_toc.html](http://www.abanet.org/crimjust/standards/postconviction_toc.html). Proposed revisions to the post-conviction remedies standards are being considered by the Standards Committee in 2010.

<sup>20</sup> See CPTS database, *supra*, note 4.

**Overall Time Standards.** Many petitions for post-conviction relief may be decided by a court without need for an evidentiary hearing. The time standard offered here recognizes that, while allowing time for prosecution and petitioner to prepare for hearing if one is required.

**Intermediate Time Standards.** Given the nature of a petition for collateral review, it is important that the prosecution respond with reasonable expedition. Statutes in some states indicate a time within which a prosecutor must file a response to a post-conviction petition.

In 98% of cases, responses with affidavits should be filed by the prosecution within 120 days.

## GENERAL CIVIL CASES

### Model Standard

75 percent within 180 days

90 percent within 365 days

98 percent within 540 days

**Definition.** Civil cases are a broad category of cases in which “a plaintiff requests the enforcement or protection of a right or the redress or prevention of a wrong.”<sup>21</sup> They include automobile torts and other personal injuries, contract disputes, product liability issues, malpractice matters, infringements of intellectual property, and requests for injunctions among other types of cases. As with capital felony cases, consideration was given to whether complex civil cases should be designated as a separate civil case category with different time standards. Because some complex civil cases are settled relatively quickly, however, no specific category for complex civil cases is required. Those complex cases that proceed to trial or settle late in the process can be accommodated simply as a “top tier” of two percent of all general civil cases that require more time to reach disposition.

In these standards, foreclosure cases are included in the category of general civil cases. This is because the new procedures required by the mortgage crisis commencing in 2007 have substantially increased the time needed to dispose of these cases.

<sup>21</sup> Guide to Statistical Reporting, *supra*, note 3, at 6.

In fact, foreclosure cases are not the only civil matters that may be considered neither “major” cases nor “summary” cases. Several state-level court systems have separate time standards for a broad category of “limited” civil cases that they distinguish from “summary” civil cases. Such “limited” cases typically include tort and contract cases that may be tried by a jury but involve claims below a certain dollar threshold but above that for small claims cases. In the time standards offered here, these “limited” civil cases are included in the category of “general” civil cases.

**Earlier National Time Standards.** The 1983 COSCA time standards for general civil matters provided that all non-jury cases should be tried or otherwise disposed within 12 months after initial filing, and that all jury cases should be tried or otherwise disposed within 18 months after filing. The ABA time standards did not distinguish between jury and non-jury cases, providing instead that 90 percent of all general civil cases should be tried or disposed within 12 months after filing; 98 percent within 18 months; and 100 percent within 24 months. Neither the COSCA standards nor the ABA standards distinguished “major” civil cases from “limited” non-summary civil cases.

**State Judicial Branch Time Standards for Major Civil Cases.**<sup>22</sup> There are statewide time standards for major civil cases in at least 35 states and the District of Columbia. As with the standards for criminal cases, there are substantial differences among them:

- Only two states have adopted the COSCA time standards, and they are the only states that provide different time expectations for jury cases and non-jury cases.
- Only six states have exactly copied the ABA time standards.
- Nine states have a single standard of time within which all general civil matters must be disposed, while five others have a single standard of time within which a percentage lower than 100 percent (from 75 percent to 98 percent) must be disposed.
- In addition to the six states that have exactly copied the ABA time standards, there are eight other states with three “tiers.” Each of these eight states has a slightly different tier configuration, however.
- Two states and the District of Columbia distinguish among different case types within the category of general civil cases; another three states distinguish among differentiated case management (DCM) tracks.
- In 11 states, the maximum time standard is for fewer than 100 percent of all general civil cases.
- The most common maximum duration (which may be fewer than 100 percent of all cases) is 24 months or its equivalent in days (15 states). The next most common maximum is 18 months or its equivalent in days (9 states). One state provides that all cases should be disposed within 180 days. At the other end of the continuum, two states provide that all cases should be disposed within 36 months.
- Two states have a separate time standard for what they define as complex cases.
- Seven states have time standards for one or more intermediate stages of case progress to disposition.

**State Judicial Branch Time Standards for “Limited Non-Summary” Civil Cases.**<sup>23</sup> In addition to “general civil” time standards, courts in six states and the District of Columbia have “limited civil” time standards that do not distinguish between summary and non-summary matters.

<sup>22</sup> See CPTS, *supra*, note 4.

<sup>23</sup> *Id.*

In addition, there are ten states that have three categories of civil time standards, generally calling them “general,” “limited,” and “summary.” Regarding the time standards for non-summary civil cases in these 17 jurisdictions, the following distinctions can be noted:

- The most common upper time limit is 180 days (six states), although only four of those states require that all such cases be disposed within that time period.
- The upper time limit in the other 11 jurisdictions ranges from 250 days to 730 days.
- In two states, the time standards run not from filing, but from service or return of service.
- In 12 states, the upper time limit is the time within which 100 percent of the cases must be disposed. In the remaining five states, the upper time limit is for fewer than 100 percent.
- As in the ABA time standards, there are four states providing time limits within which 90 percent, 98 percent and 100 percent of all cases must be disposed. Three other states have three tiers at a different percentage level, and one state has only two tiers. Eight states have just one tier – the time within which all or a specified percentage of cases must be disposed.

**Overall General Civil Time Standards.** Although the COSCA time standards urge that all civil cases should be disposed within 18 months, the ABA time standards suggest that one should expect only 98 percent of all general civil cases to be disposed that quickly, while the remaining two percent should require no more than an additional six months.

Studies of civil case processing times in large urban trial courts have shown how difficult it is to meet either time standard. In a 1991 study of the pace of civil litigation in 37 urban trial courts, researchers found one court that was able in 1987 to dispose of 99 percent of all civil cases within 24 months and another that was able to do so for 97 percent of all civil cases. For all civil cases in all 37 courts, only 78 percent were disposed within 24 months. Only two of the 37 courts were able to dispose as many as 90 percent of all civil cases in less than 18 months.<sup>24</sup>

In 1995, a similar study was done of tort and contract litigation in the 45 largest counties in the U.S. For tort cases, in 1992 the five fastest courts were able to dispose of 92-95 percent within 24 months; for contract cases, the five fastest courts were able to dispose of 96-99 percent within 24 months; and only one court disposed of more than 80 percent of its jury trial cases within 24 months.<sup>25</sup> Only 63 percent of all tort cases and 79 percent of all contract cases were disposed within 18 months; in fact, eight percent of all tort cases and four percent of all contract cases took longer than four years to be disposed.<sup>26</sup> More recent data confirms these findings. Utah is able to dispose of 95 percent of its civil cases within 24 months and 87 percent of general civil cases within 12 months. Minnesota disposes of 92.3 percent of its major civil cases within 12 months and 97 percent within 18 months.

<sup>24</sup> See *Reexamining the Pace of Litigation*, *supra*, note 5, at Table 3.2.

<sup>25</sup> J. Goerd, B. Ostrom, D. Rottman, N. LaFountain, and N. Kauder, “Litigation Dimensions: Torts and Contracts in Large Urban Courts,” *State Court Journal* (Vol. 19, No.1, 1995) 1, Appendices 7 and 8.

<sup>26</sup> *Id.*, Figure 2.9 and Figure 2.17.

Every state requires its courts to give priority to the processing of criminal cases over civil cases. This clearly has an effect on speedy disposition of civil cases. However, the 1991 study showed that courts that were able to dispose of felony cases more expeditiously were typically able to dispose of civil cases more promptly as well.<sup>27</sup> This likely reflects a court culture favoring timely case dispositions for all types of cases.

The time standards offered here do not make a distinction between jury and non-jury cases, and reflect a continuing effort to balance the litigants' desire for prompt case disposition with the reality of current court case processing experience. Thus, the upper time limit follows the COSCA time standards at 18 months/540 days, while expressing agreement with position in the ABA time standards that not all cases can be justly disposed within that time period. In recognition of the time justifiably needed to resolve such matters as contract fraud and toxic torts, however, it does away with the expectation that all cases should properly be expected to reach disposition within 24 months.

**Intermediate Time Standards.** The time standards offered here for intermediate stages of general civil proceedings reflect the key points in case processing that should be monitored by a court and addressed to assure that litigation proceeds to conclusion at a suitable pace.

In 98% of cases, service of process should be completed within 60 days.

In 98% of cases, responsive pleadings should be filed or default judgments entered within 90 days.

In 98% of cases, discovery should be completed within 300 days.

In 98% of cases, trials should be initiated within 480 days.

A threshold consideration is whether the defendants have been served. A key feature of due process in civil litigation is that there can be no case resolution unless actual or constructive notice has been given to a defendant. Service of a summons and a copy of the complaint start the clock running for the filing of a responsive pleading that will join the issues in the case. Failure to complete service leaves a civil case in limbo. Service of process is a particularly daunting step for plaintiffs who are representing themselves. Setting an interim time standard for completion of service of process encourages courts to monitor the performance of this critical procedural step and to take action – such as setting an early hearing for self-represented litigants who have not filed a return of service or sending the plaintiff's attorney a notice that the case will be dismissed for failure to prosecute – when it has not been completed timely. There are exceptional cases in which defendants evade service or service by publication becomes necessary; service in these cases will often not be completed within 45 days.

<sup>27</sup> *Reexamining the Pace of Litigation*, *supra*, note 5, Figure 4.1.

The next consideration is whether a defendant has filed a responsive pleading. In their study of civil cases decided in 1992 in 45 large trial courts, researchers found that an answer was filed by a defendant in only 51 percent of all tort cases in one court, and that answers were filed in only 87 percent of all tort cases in the court with the highest percentage of cases with answers filed. For contract cases, the filing of an answer was even less common, ranging from 21 percent of all such cases in one court to 69 percent in the court with the highest portion of defendant responses.<sup>28</sup>

To avoid having cases lay fallow for months or even years without being at issue, the second intermediate time standard thus offers a suggested elapsed time within which there should either be a responsive pleading by a defendant or a plaintiff request for default judgment. This intermediate time standard embodies a suggestion that the trial court should monitor cases to determine whether a responsive pleading has been filed within a reasonable passage of time after case commencement. The exercise of early court control in this fashion has been found to have a statistically significant correlation with shorter times to disposition in civil cases.<sup>29</sup>

Civil cases vary in the amount of discovery they require, with tort cases being more likely to have discovery than contract, real property or other civil cases.<sup>30</sup> Court management of discovery promotes expedition and helps conserve court resources. Research has shown that civil practitioners support direct court involvement and control over discovery through such means as holding an early discovery conference or establishing a discovery plan, through consistent application of the rules, and through the imposition of costs and sanctions for abuse.<sup>31</sup> Having an intermediate time standard like that presented here for completion of discovery can serve as an important tool for the court to exercise ongoing control of case progress.

The fourth intermediate stage in these time standards has to do with having timely and credible trial date scheduling. To help make better use of their time, many civil attorneys prefer to have trial date predictability, and having credible trial dates is a means for the court to prompt the attorneys to give early attention to whether a matter can be resolved by negotiation rather than by trial. Having actual trial commencement within 16 months in most cases where it is needed can serve as a helpful means to assure that almost all cases are concluded within 18 months.

<sup>28</sup> "Litigation Dimensions," *supra*, note 25, Appendix 5.

<sup>29</sup> *Reexamining the Pace of Litigation in 39 Urban Trial Courts*, *supra*, note 4, Figure 3.7.

<sup>30</sup> See S. Keilitz, R. Hanson and H. Daley, "Is Civil Discovery in State Courts Out of Control?" *State Court Journal* (Vol. 17, No. 2, Spring 1993) 8.

<sup>31</sup> See S. Keilitz, R. Hanson and R. Semiatin, "Attorneys' Views of Civil Discovery," *Judges' Journal* (Vol. 32, No. 2, Spring 1993) 2, at 38. Institute for the Advancement of the American Legal System (IAALS), *Interim Report & 2008 Litigation Survey of the Fellows of the American College of Trial Lawyers on the Joint Project of the American College of Trial Lawyers Task Force on Discovery and the Institute for the Advancement of the American Legal System* (Denver, CO: IAALS, 2008); [www.du.edu/legalinstitute/pubs/Interim%20Report%20Final%20for%20web1.pdf](http://www.du.edu/legalinstitute/pubs/Interim%20Report%20Final%20for%20web1.pdf); IAALS, *Survey of the Oregon Bench and Bar on the Oregon Rules of Civil Procedure* (Denver, CO: IAALS, 2010). [www.du.edu/legalinstitute/pdf/IAALSOregonSurvey.pdf](http://www.du.edu/legalinstitute/pdf/IAALSOregonSurvey.pdf); IAALS, *Survey of the Arizona Bench and Bar on the Arizona Rules of Civil Procedure* (Denver, CO: IAALS, 2010). [www.du.edu/legalinstitute/pdf/IAALSArizonaSurveyReport.pdf](http://www.du.edu/legalinstitute/pdf/IAALSArizonaSurveyReport.pdf); IAALS, *Civil Litigation Survey of Chief Legal Officers and General Counsel belonging to the Association of Corporate Counsel* (Denver, CO: IAALS, 2010) [www.du.edu/legalinstitute/pubs/GeneralCounselSurvey.pdf](http://www.du.edu/legalinstitute/pubs/GeneralCounselSurvey.pdf).

## SUMMARY CIVIL MATTERS

### Model Standard

75% within 60 days

90% within 90 days

98% within 180 days

**Definition.** Small claims<sup>32</sup> and landlord/tenant<sup>33</sup> matters are the most common cases in this category. Other kinds of matters that might be included are harassment, garnishment, and civil infractions such as traffic and local ordinance violations where they are classified as non-criminal matters. For foreclosure cases and other limited non-summary civil cases, see the commentary above on standards for general civil matters. Where traffic and local ordinance violations are considered criminal or quasi-criminal proceedings, the standard specifically addressing those matters applies.

**Earlier National Time Standards.** The COSCA time standards have no provision for summary civil matters. The ABA time standards do include a specific provision for summary matters, suggesting that 100 percent be disposed within 30 days.

**State Judicial Branch Time Standards.** There are specific time standards for summary civil matters in 21 states and the District of Columbia. No court system agrees with the ABA 30-day standard. Highlights of the variations among states include the following:

- The state with the shortest time expectation calls for all unlawful detainer matters to be disposed within 45 days, but allows up to 95 days for all small claims.
- The two jurisdictions with the longest time expectation allows up to 12 months for all cases. No other state has an upper limit longer than six months.
- In 18 states, the upper limit is from three to six months.
- In 11 states, there is a single specific time within which all cases must be disposed.
- Nine states have tiers giving times within which specified percentages must be disposed.
- In five states, the upper time limit is for a percentage lower than 100 percent, reflecting an expectation that some cases will unavoidably need more time to be disposed.

**Overall Time Standards for Summary Civil Matters.** In 1992, a study was published about times to disposition in 1990 for small claims cases in 12 courts.<sup>34</sup> The researcher found that only one court was able to dispose of as many as 75 percent of its small claims cases within the ABA 30-day time standard. In fact, eight of the 12 courts took longer than 30 days to dispose of just 25 percent of their cases. On the other hand, only four courts needed more than 125 days to dispose of 90 percent of all their small claims cases.

<sup>32</sup> "A subcategory of civil cases (tort, contract, or real property claims) that are governed by statutorily defined summary procedures and in which the remedy sought is a specific, limited amount of monetary damages. Typically these cases dispense with written pleadings, legal counsel, and strict rules of evidence." *Guide to Statistical Report*, *supra*, note 3, at 10.

<sup>33</sup> "Contract cases alleging a breach of contract (lease/rental agreement) between a landlord and commercial or residential tenant in which a landlord alleges that the tenant's right to occupy the real property has terminated." *Id.* At 9.

<sup>34</sup> See J. Goerd, *Small Claims and Traffic Courts: Case Management Procedures, Case Characteristics, and Outcomes in 12 Urban Jurisdictions* (Williamsburg, VA: National Center for State Courts, 1992).

The time standards offered here for summary civil matters are premised on the actual experience of courts in summary matters.<sup>35</sup> They suggest that most summary civil cases be disposed within two or three months. Yet they also show an appreciation for the fact that contested matters actually going to trial may need more time.

**Intermediate Time Standards.** As with other trial court matters, providing prompt and affordable justice in summary civil matters calls for the court to exercise early and continuous control of case progress. It may be even more important in summary matters than in general civil cases that the court finds an efficient way to monitor service on a defendant and the filing of an answer. The time standards offered here consequently provide an expected elapsed time within which an answer or a request for default judgment has been filed. Sixty days is a reasonable time period for summary civil cases because the time periods for service of process and for filing a responsive pleading are generally shorter than for general civil matters. Further, service is performed by the court using certified mail in a number of states.

By their very nature, summary civil matters do not usually require a substantial amount of time for the completion of discovery. It is therefore important that the court set an early and credible date for trial commencement, as suggested here.

In 98% of cases, service of process should be completed within 30 days.

In 98% of cases, responsive pleadings should be filed or default judgments entered within 60 days.

In 98% of cases, trials should be initiated within 120 days.

<sup>35</sup> E.g., Colorado County Courts dispose of 75 percent of summary civil cases within 63 days, but disposition of 90 percent requires up to 113 days, and disposition of 98 percent cases require 267 days.

## Family Dissolution/Divorce/ Allocation of Parental Responsibility

### Model Standard

75% within 120 days\*

90% within 180 days\*

98% within 365 days\*

\*Not including a statutorily imposed waiting period if any.

**Definition.** This case category includes custody, visitation, and spousal and child support matters that are subsumed as part of a dissolution/divorce proceeding. It also includes cases involving custody, visitation, or support of the children of unmarried couples who may be dissolving their relationship, and paternity/parentage or non-divorce custody, support or visitation proceedings.<sup>36</sup> It does not include post-decree proceedings to enforce or modify court orders on custody, visitation and support.

**Earlier National Time Standards.** The 1983 COSCA time standards for domestic relations matters distinguish between uncontested cases, which are to be tried or otherwise disposed within three months after filing, and contested cases, which are to be disposed within six months after filing. The 1992 ABA time standards do not make such a distinction. Instead, they provide that 90 percent of all domestic relations cases should be tried or otherwise disposed within three months after filing; 98 percent within six months; and 100 percent within 12 months.

**State Judicial Branch Time Standards.** At least 27 states and the District of Columbia have overall time standards for Family Dissolution/Divorce cases.<sup>37</sup> The standards for the great majority of these states exceed the COSCA time standard of six months and are more in line with the proposed standard of 98 percent within 12 months.

- Five states have separate standards for contested and uncontested matters, but only two states have adopted the COSCA standards as promulgated. In the other three states, the upper time limit for contested cases is 12 or 14 months, and one of them provides that two percent might take longer.
- In two states, a difference in time expectations is based not on whether a matter is contested, but on whether there are children involved.
- No state has adopted the ABA standards as promulgated. Two states come close: one provides that 90 percent of all cases should be disposed within three months, 95 percent within six months, and 99 percent within 12 months; and the other provides that 90 percent should be disposed within three months, 95 percent within nine or ten months (depending on whether there are children), and 100 percent within 12 months.
- In nine states, the maximum time standard is 12 months, like that of the ABA standard, while six states set the maximum time at 18 months. Only one state has a maximum time standard longer than 18 months.
- A common approach (adopted in nine states) is simply to indicate how long it should take for 100 percent of all cases to be disposed, with no provision for the percentage of cases that should be disposed within a shorter time. Ten states allow that a small percentage of cases (from one percent to ten percent) may take longer than the stated maximum.
- Only one state has a separate time standard for complex cases.

<sup>36</sup> *Guide to Statistical Reporting*, *supra*, note 3, at 12.

<sup>37</sup> See CPTS Database, *supra*, note 4.

**Overall Time Standards.** Compared to the prior COSCA standard, the proposed time standard allows for additional time for the final disposition of dissolution/divorce cases. It is comparable to the current ABA standard and is in line with standards established by the state courts, based on their experience of the length of time needed to resolve the complex financial and parenting issues present in some of these cases.

A 1992 national study of case processing and the pace of litigation in urban trial courts hearing divorce matters supports the ABA 12-month maximum time standard as an achievable goal for divorce cases. In that study, researchers found that three of the 16 courts in the study were within four percent of meeting the 12-month time standard, and six courts came within ten percent. Yet only two courts were able to come close to the six-month time standard (100 percent of all cases for COSCA and 98 percent for ABA). In fact, 14 of 16 courts had less than 75 percent of their cases disposed within six months.<sup>38</sup>

Although there are no more recent multi-jurisdiction assessments of disposition times for divorce cases in American trial courts,<sup>39</sup> there has been a recent analysis of case processing times of divorce cases in Canadian courts, with results very similar to those in the 1992 study in American courts. While common law court practices in Canada are not identical to those in the US, the data tend

to support the time standards offered here. For 2008/2009 divorce cases in four provinces and three territories, 77 percent reached initial disposition within six months after case initiation; 92 percent within 12 months; and 99 percent within 24 months.<sup>40</sup>

The proposed standard takes into account that statutes and court rules in most states reflect the state's policy that spouses, and particularly those with children, must wait for a period of time to reflect on the consequences of their actions before their divorce may become final. These waiting periods are generally between 30 to 90 days, although in some states they are as short as 20 days and in others as long as six, 12, and 18 months. The existence of a waiting period should not deter courts from moving a case as far along in the process as expeditiously as possible before the waiting period concludes. The proposed standard also takes into account the statutes and court rules in some states that require mediation/arbitration and/or parenting classes as preconditions to a trial and/or issuance of judgment.

**Intermediate Time Standards.** Only two states have time standards for intermediate stages in dissolution cases. One has established a standard of three months for the issuance of a temporary/interim order, even in complex cases involving children, in order to establish stability and financial support for the children. The other provides that

<sup>38</sup> J. Goerd, *Divorce Courts: Case Management Procedures, Case Characteristics, and the Pace of Litigation in 16 Urban Jurisdictions* (NCSC, 1992), pp. 9-11.

<sup>39</sup> The limited single-state data available shows that Missouri disposes of 90 percent of its domestic relations cases within 300 days; Colorado is able to dispose of 90 percent of its domestic cases within 328 days; and Minnesota 91.3 percent of its dissolution cases within 365 days.

<sup>40</sup> See M. B. Kelly, "The Processing of Divorce Cases Through Civil Court in Seven Provinces and Territories," *Statistics Canada* (May 2010), Table 4, [www.statcan.gc.ca/pub/85-002-x/2010001/article/11158-eng.htm](http://www.statcan.gc.ca/pub/85-002-x/2010001/article/11158-eng.htm).

a case management order for custody and visitation is to be filed within 90 days after the return date.

Four intermediate time standards for family dissolution/divorce cases are proposed:

In 98% of cases, service of process should be completed within 45 days.

In 98% of cases, temporary orders should be issued within 60 days.

In 98% of cases, responsive pleadings should be filed or a default judgment entered within 90 days.

In 98% of cases, trials should be initiated within 300 days.

- Especially when children may be involved, courts should be vigilant to ensure that the early stages of dissolution cases do not fall prey to party-caused delay. This includes timely service of process. As suggested with regard to general civil cases, setting an interim time standard for completion of service of process encourages courts to monitor the performance of this critical procedural step and to take action – such as setting an early hearing for self-represented litigants who have not filed a return of service or sending the plaintiff a notice that the case will be dismissed for failure to prosecute – when it has not been completed in a timely fashion.
- In many instances, the most important pre-trial step is the issuance of a temporary order to stabilize the financial and parenting situation pending final judgment. For the safety and security and well-being of the spouses and children, it is important that an order be established early on addressing child support, spousal support (maintenance), custody (parental rights and responsibilities), and visitation (parent/child contact). Other matters that may need to be resolved early include possession of the dwelling, and, if not

resolved through a domestic violence proceeding, orders to protect the safety of either spouse. Sixty days should be considered the maximum amount of time for issuance of a temporary order in all or nearly all cases.

- An intermediate standard of 90 days for the issuance of a default judgment is established for those cases in which there are no contested issues. This would be evident to the court by a failure of a party, properly served, to respond to the complaint. It would also be evident by parties filing a stipulation to judgment that resolves all issues to the satisfaction of the judge.
- A standard of 300 days for the start of the trial is needed for the overall time standard to be met. Many cases that go to trial contain complex issues that require extensive findings by the judicial officer. To the greatest extent possible, divorce trials should be heard without interruption rather than be held intermittently over several weeks.

As is the case with the overall time standards, states should take into account the waiting period, if any, prescribed in their statutes or court rules in setting their specific standard.

## POST JUDGMENT MOTIONS (Domestic Relations)

### Model Standard

98% within 180 days

**Definition.** This category includes motions for modification of child support, spousal support, visitation and custody, and other requests for review of matters determined during a divorce, dissolution, or allocation of parental responsibility proceeding.<sup>41</sup>

**Earlier National Time Standards.** Neither the 1983 COSCA nor 1992 ABA time standards specifically address post judgment motions in domestic relations cases.

**State Judicial Branch Time Standards.** Only four states directly address disposition of post judgment domestic relations matters.

- Two use a three-tiered standard with all but one or two percent of the cases to be disposed in 180 days or 365 days respectively and at least 75 percent of the cases disposed within 60 to 90 days.
- One state employs a COSCA type standard calling for 100 percent of post judgment matters to be disposed within 180 days.
- One state differentiates the amount of time by the subject matter of the proceeding: child support enforcement and modification of parental contact motions – 60 days; child support contempt, child support modification, and parental role and responsibility – 90 days; spousal maintenance – 120 days.

**Overall Time Standards.** Post judgment motions constitute a significant portion of the caseload of any court hearing domestic relations matters and often address issues of great significance to parties or their children. Hence, they should be resolved as quickly as is possible. These motions range from clarifying some aspect of the initial divorce, child support, or custody order; to modifying an order because of changed circumstances; to, in essence, re-litigating the entire case. Little data is currently available regarding how long these motions take to resolve in practice. Thus, rather than establishing tiers, the proposed standard urges that nearly all post judgment motions be disposed of within six months, with the expectation that the vast majority will be resolved much more quickly.

**Intermediate Time Standards.** The intermediate time standards for post judgment motions, like those for other types of proceedings are intended to facilitate the ability of courts to decide these matters within the overall time limits.

In 98% of cases, service of process should be completed within 30 days.

In 98% of cases, responsive pleadings should be filed or a default judgment entered within 75 days.

In 98% of cases, hearings should be initiated within 150 days.

<sup>41</sup> The *Guide to Statistical Reporting* classifies these matters as “reopened” domestic relations cases, *supra*, note 3, at 13.

## PROTECTION ORDER CASES

### Model Standard

90% within 10 days  
98% within 30 days

**Definition.** This time standard applies only to cases involving a civil protection order or a restraining order issued by the court to limit or eliminate contact between two or more individuals or prevent harassment of one person by another.<sup>42</sup> The bulk of these cases arise as a result of violence between domestic partners but can also result from dating violence, stalking, workplace harassment, and cyber-attacks. This category is not intended to apply to criminal proceedings involving charges of domestic violence.

**Earlier National Time Standards.** The COSCA time standards and the ABA time standards do not include provisions relating to domestic violence cases.<sup>43</sup>

**State Judicial Branch Time Standards.** At least ten jurisdictions have time standards for domestic violence cases.<sup>44</sup> The shortest time standard is that 99 percent of domestic violence cases be disposed within ten days. Five states call for all domestic violence cases to be concluded within 21 – 30 days. Two jurisdictions have a 60-day standard; one a 120-day standard. Three have adopted time standards that include tiers with the top tier setting the disposition time for less than 100 percent of the cases.

**Overall Time Standards.** The proposed standard comports with national and state policy that domestic violence will not be tolerated and that victims of domestic violence need to be able to access the courts to receive orders protecting them from their abuser as quickly as possible. It recognizes also that respondents have an interest in resolving the matter quickly if, for example, they are excluded from the family home by the order. The establishment of two tiers acknowledges that while initial contested hearing in most cases can be held and the case disposed within 10 days, some may require more time in order to enable one or both parties to obtain representation and sufficiently prepare their case. In these instances, however, it is anticipated that a temporary protection order will be in effect until the formal hearing can be held.

**Intermediate Time Standards.** All states and territories in the US have adopted legislation to protect victims from domestic violence.<sup>45</sup> Some states require that courts be available to accept the filing of domestic violence complaints 24 hours-a-day and seven days-a-week and to issue orders within hours of the filing of the complaint. Other states require that states accept complaints and issue orders within 24 hours. The proposed standard calls for 100 percent of *ex parte* hearings to be held and orders issued in compliance with state law.

In 100% of cases, *ex parte* hearings should be concluded within the period specified by state law.

<sup>42</sup> *Guide to Statistical Reporting*, *supra*, note 3, at 15.

<sup>43</sup> In National Conference of Juvenile and Family Court Judges (NCJFCJ), *A Guide for Effective Issuance and Enforcement of Protective Orders* (2005), there are no suggested time standards for these cases.

<sup>44</sup> See CPTS Database, *supra*, note 4.

<sup>45</sup> For state-by-state information on statutory enactments since 1995 on domestic violence matters, see NCJFCJ, "Publications: Family Violence: Legislative Updates," [www.ncjfcj.org/content/blogcategory/256/302/](http://www.ncjfcj.org/content/blogcategory/256/302/).

## JUVENILE DELINQUENCY AND STATUS OFFENSE

### Model Standard

For youth in detention:	For youth not in detention:
75% within 30 days	75% within 60 days
90% within 45 days	90% with 90 days
98% within 90 days	98% within 150 days

**Definition.** This case type includes both delinquency cases (i.e., cases involving an act committed by a juvenile, which, if committed by an adult, would result in prosecution in criminal court and over which the juvenile court has been statutorily granted original or concurrent jurisdiction),<sup>46</sup> and status offense cases (i.e., non-criminal misbehavior by a juvenile such as a curfew violation, running away, truancy, or incorrigibility).<sup>47</sup> In some jurisdictions, status offense cases are called CHINS or CINS cases (child or children in need of supervision), PINS cases (person in need of supervision), or JINS cases (juvenile in need of supervision). The time period begins with the filing of the complaint or petition and runs through the issuance of the dispositional order.

**Earlier National Time Standards.** The 1983 COSCA time standards did not address juvenile delinquency cases. The 1992 ABA time standards specify that 90 percent of delinquency cases should be disposed within three months; 98 percent within six months; and 100 percent within 12

months. The National Advisory Committee on Juvenile Justice and Delinquency Prevention (NACJJDP) standards issued in 1980 recommend 30 days from filing to disposition for juveniles in custody, and 45 days for juveniles who are not detained.<sup>48</sup> The most recent set of recommendations are contained in the 2005 *Guidelines* issued by the National Council of Juvenile and Family Court Judges (NCJFCJ). Those *Guidelines* distinguish between youth who are detained and those who are not detained, setting a maximum time of 30 calendar days between arrest and disposition for detained youth, and 58 calendar days for juveniles who have been released.<sup>49</sup>

**State Judicial Branch Time Standards.** At least 27 states and the District of Columbia have overall time standards for juvenile delinquency cases.<sup>50</sup> Two offer standards for Status Offense cases. All but one set of state standards exceed the NCJFCJ *Guidelines*; however, all but four specify a maximum time to disposition for all cases well below the ABA's one year limit.

- Six jurisdictions make a distinction between the time period for cases in which the youth is detained and those in which the juvenile has been released, with two making an additional differentiation between secure and non-secure detention. All but three set the end point as the disposition rather than adjudication. The beginning point, if stated, varies from arrest, to filing, to first appearance.

<sup>46</sup> *State Court Guide to Statistical Reporting*, *supra*, note 3, at 24.

<sup>47</sup> *Id.*

<sup>48</sup> National Advisory Committee on Juvenile Justice and Delinquency Prevention, *Standards for the Administration of Juvenile Justice*, Standard 3.161 (Washington, DC: OJJDP 1980).

<sup>49</sup> National Council of Juvenile and Family Court Judges, *Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases*, 90, 121, 137 (Reno, NV: NCJFCJ, 2005).

<sup>50</sup> See CPTS *supra*, note 4.

- One jurisdiction sets separate time periods for the most serious cases and another has established different time standards for jury and non-jury cases.
- While eight jurisdictions have established tiers of time standards, no state has adopted the ABA standards as promulgated. Both the percentages and prescribed time maximums vary widely. The most frequent maximum time limits are 90 days (five states), 180 days (five states) and 270 days (four states). Only one state's standard exceeds one year; one sets a time limit of 37 days for detained youths.
- Seven states provide for a percentage of cases to exceed the maximum time limit – two percent (three states); one percent (two states); five percent (one state); and 25 percent (one state).

**Overall Time Standards.** As stated in the National Council of Juvenile and Family Court Judges *Guidelines*:

... [T]imeliness throughout the juvenile justice process is critical for two reasons:

- One purpose of the juvenile justice process is to teach offenders that illegal behavior has consequences and that anyone who violates the law will be held accountable. A youth ...who must wait a significant period of time between offense and consequence may not be able to sufficiently connect the two events. ...
- If the juvenile justice process is not timely, many youth will experience prolonged uncertainty [which] can negatively impact trust and a sense of fairness. If a youth does not perceive the juvenile justice system to be predictable and fair, then the system's goal of changing behavior is less likely to be achieved.

The most comprehensive information regarding the time required to dispose of delinquency cases is reported in a 2009 study of juvenile courts in 392 counties by

Butts, Cusick, and Adams.<sup>51</sup> In 2004, 71 percent of the delinquency cases were disposed within 90 days of filing. Cases in which the youth was not detained proceeded slightly more slowly than those involving detention (67 percent disposed within 90 days vs. 71 percent).<sup>52</sup> A report of 2007 caseload information in one state revealed that only 32 percent of contested juvenile delinquency cases were disposed within 30 days, about 78 percent were concluded within 90 days, and approximately 90 percent within 180 days. However, the report points out that there is no data available on uncontested cases which are generally “too short” to make data collection worthwhile. Data on total delinquency dispositions in 2009 is available from three other states. One reported that 74 percent of juvenile delinquency cases were disposed within 90 days, 88 percent within 150 days, and over 92 percent within 180 days. The second reported that 80.6 percent were concluded within 90 days, 92.5 percent within 150 days, and 95 percent within 180 days. The third reported that 75 percent of the delinquency cases were concluded within the time standards (180 days for non-jury cases; 240 days for jury cases).

**Intermediate Time Standards.** Only three states establish interim time standards for delinquency and status offense cases. Two include a standard for holding the detention hearing (one 24 hours, the other 48 hours); one has a standard for the filing of trial briefs (30 days); all three set a standard for holding the adjudication hearing or making a decision; and one establishes a time limit for holding a dispositional hearing after adjudication.

<sup>51</sup> J.A. Butts, G.R. Cusick, and B. Adams, *Delays in Youth Justice* (Chicago, IL: Chapin Hall, University of Chicago, 2009).

<sup>52</sup> *Id.*, at 62.

In 98% of cases, detention hearings should be held within 48 hours.

In 98% of cases, waiver hearings, if needed, should be held within 45 days.

In 98% of cases, the trial/adjudication hearing or acceptance of an admission should be held within 60 days after the detention hearing if the juvenile is detained.

In 98% of cases, the trial/adjudication hearing or acceptance of an admission should be held within 120 days after detention hearing if the juvenile is not detained.

Effective case management is essential if the time standards for disposition of juvenile delinquency cases are to be met. Setting and enforcing intermediate time standards are part of an effective case management strategy. Three intermediate time standards are proposed. The first is for holding the detention hearing, i.e., the initial appearance of an alleged delinquent youth before the judge to advise the juvenile of the charges and her or his rights; ensure that the juvenile has counsel; determine whether there is probable cause to proceed; and decide custody status. Frequently at these hearings, the court is advised whether the prosecution is seeking to transfer the youth to the criminal court and the youth will be asked whether he/she denies or admits the allegations.<sup>53</sup> It has long been accepted that when the juvenile is being detained, this initial hearing must be held within a day or two days at most. Difficulty in notifying the parents of the need to appear...should be the only reason to delay the detention hearing....”<sup>54</sup>

The second proposed intermediate standard addresses the timing of the hearing to determine whether the juvenile court will waive jurisdiction and transfer the case to the criminal court. Because transfer of jurisdiction has significant short-term and long-term consequences if the youth is ultimately convicted, time is required by both the state and defense to prepare. On the other hand, because the standard of proof is generally low (usually probable cause), the preparation time can be less than that required for a full-scale trial or adjudication hearing.<sup>55</sup>

The third intermediate standard is for the adjudication hearing or trial. It sets the time for the adjudication hearing sufficiently before the expiration of the overall standard to permit a determination of what services and level of supervision are needed following a finding that the youth is delinquent.

<sup>53</sup> NCJFCJ, *supra*, note 49, at 89.

<sup>54</sup> *Id.*, at 90.

<sup>55</sup> *Id.*, at 102-104.

## NEGLECT AND ABUSE CASES AND TERMINATION OF PARENTAL RIGHTS

### Neglect and Abuse Model Standard

#### Adjudicatory Hearing

98% within 90 days of removal

#### Permanency Hearing

75% within 270 days of removal

98% within 360 days of removal

### Termination of Parental Rights Model Standard

90% within 120 days after the filing of a termination petition

98% within 180 days after the filing of a termination petition

**Definition.** Neglect and abuse cases are actions brought by the state alleging that a child has been hurt or maltreated or that the person legally responsible for a child's care has failed to provide the child with suitable food, shelter, clothing, hygiene, medical care, or parental supervision. In each of these circumstances, it is usually required that the maltreatment or omission threatens to cause lasting harm to the child.<sup>56</sup> Some jurisdictions characterize these matters as dependency cases. Termination of parental rights cases result from the filing of a petition by the state to sever the parent-child relationship due to allegations of abandonment by a parent, child abuse, or unfitness of a parent.<sup>57</sup>

**Earlier National Time Standards.** The 1983 COSCA time standards did not address juvenile dependency cases. The 1992 ABA time standards specify that 90 percent of neglect and abuse cases and terminations of parental

rights should be disposed within three months; 98 percent within six months; and 100 percent within 12 months. The federal Adoption and Safe Families Act (ASFA) (P.L.105-89) requires that in order for states to receive funds under Titles IV-B and IV-E of the Social Security Act, they conduct a permanency hearing for a neglected or abused child no later than 12 months after the child has entered foster care.<sup>58</sup>

A child is considered to have entered foster care upon a judicial finding that the child has been subjected to abuse or neglect (the adjudicatory hearing) or 60 days after the child has been removed from her/his home, whichever occurs earlier.<sup>59</sup> A permanency hearing is the proceeding at which a court determines:

...the final plan in a neglect or abuse case that will move the child out of temporary foster care and into a safe, nurturing and permanent home. At the permanency hearing, the judge must order one of the following permanent plans for the child and specify the date that the plan will be implemented:

- Return to the parent
- ...[A]doption ...with the state filing a petition to terminate parental rights, if necessary;
- ...[L]egal guardianship;
- ...[P]ermanent placement with a relative, foster parent or other non-relative; or
- ...[A]nother specified permanent living arrangement....<sup>60</sup>

<sup>56</sup> *Guide to Statistical Reporting*, *supra*, note 3, at 27.

<sup>57</sup> *Id.*

<sup>58</sup> 42 U.S.C. §675(5)(C).

<sup>59</sup> 42 U.S.C. §675(5)(F).

<sup>60</sup> National Council of Juvenile and Family Court Judges, *Adoption and Permanency Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*, 18 (Reno, NV: NCJFCJ, 2000).

Termination proceedings under ASFA must be initiated, in most instances, if “a child... has been in foster care under the responsibility of the state for 15 of the most recent 22 months.”<sup>61</sup>

**State Judicial Branch Time Standards.** Fourteen states have standards addressing neglect and abuse cases, termination of parental rights proceedings, or both. The four that specifically address the permanency hearing are all consistent with ASFA.

- Four states set overall time limits covering the time to a permanent placement with 18 months as the most frequently used goal. Eight address only the hearing to determine that a child has been neglected or abused. These standards vary from 33 to 180 days, with four in the 88 to 120-day range. One state has standards for both achievement of permanency and adjudication hearings.
- Five jurisdiction’s standards distinguish between the time limits that should apply to cases in which a child has not been removed from her/his home and those in which removal has occurred. One also sets different time limits for standard and complex cases in each category.
- Six jurisdictions have specific time standards for termination proceedings (two at 180 days, two at 360 or 365 days, and one each at 120 and 150 days respectively). Four states address both neglect and abuse cases and termination cases.
- Three states provide for a percentage of cases to exceed the maximum time limit – one percent (one state); five percent (one state); 25 percent (one state).

**Overall Time Standards.** The proposed time standard is based upon the federal ASFA requirements leavened with the recognition that because of the difficulty in securing a safe permanent placement, a very small percentage of cases will exceed the federal timeframe. It sets time goals for both the adjudicatory and the permanency hearing in neglect and abuse cases, and for the disposition of termination of parental rights petitions. The proposed standard sets a goal of holding all but a very few adjudicatory hearings within three months and three-quarters of permanency hearings within [nine] months of removal, leaving only the most difficult cases to be heard in the [three] remaining months until the one year deadline. It is anticipated that most adjudicatory hearings can be conducted well before the 90-day goal.

Similarly, in many cases, it may be possible to hold the permanency hearing more quickly than 270 days after removal. In others, time is required to extend services to a family and assess their impact or to locate another permanent caregiver within or outside the family. However, it is essential that permanency planning and the provision of services be initiated at the earliest possible point in the process (preferably immediately upon removal), and that the exceptions that take more than one year be kept to an absolute minimum. As noted in the NCJFCJ *Guidelines*, uncertainty over placements and frequent transitions from one home to another “can seriously and permanently damage a child’s development of trust and security.”<sup>62</sup>

<sup>61</sup> 42 U.S.C §675(5)(E).

<sup>62</sup> National Council of Juvenile and Family Court Judges, *supra*, note 60, at 5.

Petitions to terminate parental rights “should be filed at any time when it is clear that reunification cannot occur.”<sup>63</sup> In some instances, the petition will be filed well before the date scheduled for the permanency hearing; in others they are filed just before or after the permanency hearing. Once the petition is filed, it is then the court’s responsibility to ensure both that the parties have sufficient time to secure counsel if they are not represented, seek a negotiated solution, retain experts if necessary, and otherwise prepare, and that this difficult issue is decided as expeditiously as possible. The standard sets a goal of determining 90% of termination cases – all of the uncontested cases and most of the contested cases within four months, and all but a very few of the remainder within six months.

States around the nation, inspired by the three National Judicial Leadership Summits for the Protection of Children, enabled by the grant funds provided through the federal Court Improvement Program, and challenged by the federal Child and Family Services Reviews have been striving to meet the prescribed timeframes. Based on 2008 data submitted by the more than 40 states participating in Summit III:

- The average mean time from filing of the protection order to the adjudication hearing was 137.2 days.
- The average median time from filing of a complaint to permanent placement was 627.1 days.
- The average mean time from notice of appeal to the final appellate decision was 197.9 days.<sup>64</sup>

Comparable data was not collected regarding disposition of termination of parental rights proceedings.

**Intermediate Time Standards.** The proposed intermediate time standards address key decision points in the process. For neglect and abuse proceedings, the first point of concern to the parties is the initial hearing to determine whether removal was appropriate. If it is determined that removal was required to protect the child, then the court should set the timetable for further proceedings and assure that permanency planning is undertaken from the start. If it is determined that removal was not appropriate or is no longer appropriate, immediate action should be taken to safely reunite the family. The second interim point is the adjudication hearing. In order to achieve the goal of concluding 98 percent of adjudications within 90 days, the bulk of the hearings must occur well before that date to accommodate both the evidentiary process and time required to make a decision and craft an order. Four states have established standards for both adjudication and permanency hearings, with the time set for the adjudication hearing ranging from 33 to 153 days.

With regard to termination proceedings, ASFA requires that a termination of parental rights petition must be filed for any child who has been in foster care for 15 of the most recent 22 months unless timely services were not provided to the family, the child is being cared for by a relative, or there are other compelling circumstances. [42 USC §675 (5)

<sup>63</sup> *Id.*, at p26.

<sup>64</sup> R. Van Duizend & N. Sydow, “A New Judicial Commitment to Improving the Child Protection Process and the Quality of Outcomes for Children,” *Future Trends in State Courts 2010*, 107, 109 (Williamsburg, VA: NCSC, 2010).

(E) and (F).] This requirement is intended to avoid “the documented substantial and unjustified delays in many states in legally freeing children for adoption.”<sup>65</sup> An intermediate standard is not included because the filing of the petition is not a matter directly within a court’s control.<sup>66</sup> The third intermediate standard seeks to balance the need for a prompt determination with the recognition of the time required to perfect service and prepare for a proceeding at which a fundamental right is at issue. It calls for the vast majority of hearings to take place within 150 days so that the overall 180 day to disposition goal can be met. To the greatest extent possible, termination hearings should be heard without interruption rather than be convened intermittently over several weeks. The NCJFCJ Guidelines recommend that all termination proceedings that require a trial begin within 90 days, with a decision no later than 14 days after conclusion of the trial. The Guidelines also encourage use of mediation and other settlement techniques to achieve voluntary terminations and settlement of related issues so as to avoid as many trials as possible.<sup>67</sup> The one state that includes an interim standard for termination cases calls for hearings within 60 days and all dispositions within 150 days.

#### **Neglect and Abuse**

In 98% of cases, the preliminary protective hearing should be held within 72 hours.

In 98% of cases, the adjudicatory hearing, if required, should start within 60 days.

#### **Termination of Parental Rights**

In 98% of cases, the trial/termination hearing should start within 150 days after service of process.

<sup>65</sup> National Council of Juvenile and Family Court Judges, *supra*, note 60, at 26.

<sup>66</sup> If a state wishes to adopt an intermediate standard regarding the filing of a termination of parental rights petition, one approach could be: In 90% of cases, TPR petitions, if required, should be filed within 455 days (15 months) after the preliminary protective hearing; in 98% of cases, TPR petitions, if required, should be filed within 670 days (22 months) after the preliminary protective hearing.

<sup>67</sup> National Council of Juvenile and Family Court Judges, *supra*, note 60, at 27.

## ADMINISTRATION OF ESTATES

### Model Standard

75% within 360 days

90% within 540 days

98% within 720 days

**Definition.** Cases of this type involve the estate of a deceased person, including the determination of the validity and proper execution of a will or, in the absence of a will, the determination of the decedent's heirs. Also included is the adjudication of disputes over a will and the oversight of actions by an executor, administrator, or personal representative.<sup>68</sup>

**Earlier National Time Standards.** The COSCA time standards and the ABA time standards do not include provisions on administration of decedents' estates. Although it emphasizes that probate proceedings, in general, and estate administration, in particular, should proceed in a timely manner, the National Probate Court Standards<sup>69</sup> do not prescribe specific time standards.

**State Judicial Branch Time Standards.** At least 12 jurisdictions have time standards for cases involving the administration of decedents' estates. They vary considerably.<sup>70</sup>

- Two states have a time standard only for contested estates, while two others have one time standard for uncontested estates and another for contested estates.

- One jurisdiction has separate time standards for small and large estates, while another separates the time requirement for estates with a federal estate tax from that for all others.
- Two states have one time standard for cases with no formal administration and another for those with full administration.
- Maximum times vary from three months to three years, with the most common expected duration (five states) being 360 days.
- All 12 states expect that a substantial portion of the estates should be settled within 12 months or less.

**Overall Time Standards.** The 360-day time standard offered here is reasonably consistent with the estate administration norms for all of the court systems with time standards. In some states, however, current experience may be that the portion of all decedents' estates taking longer than a year to reach conclusion may be greater than two percent.

**Intermediate Time Standards.** An intermediate time standards is suggested here for the initial critical step in a probate estate case -- when the court "issues letters" -- that is, when it appoints an executor, personal representative, or administrator. Since most estates are uncontested and may require little or no active or formal probate court involvement, the intermediate time standard from filing to issuance of letters is short.

In 98% of uncontested cases, letters of administration or letters testamentary should be issued within 90 days.

<sup>68</sup> See *Guide to Statistical Reporting*, *supra*, note 3, at 19.

<sup>69</sup> National College of Probate Court Judges, *National Probate Court Standards* (NCPJ and NCSC, 1993), [www.ncsconline.org/WC/Publications/Res\\_PropCt\\_NatlProbateCrtStandardsPub.pdf](http://www.ncsconline.org/WC/Publications/Res_PropCt_NatlProbateCrtStandardsPub.pdf).

<sup>70</sup> See CPTS database, *supra*, note 4.

## ADULT GUARDIANSHIP/ CONSERVATORSHIP CASES

**Model Standard**  
98% within 90 days

**Definition.** This case type includes matters involving the establishment of a fiduciary relationship between a person charged with taking care of either the personal rights of an adult who is found by the court to be unable to care for himself or herself (guardianship) or the property of an adult found by the court to be unable to manage his or her own affairs (conservatorship).<sup>71</sup> It includes both full and limited guardianship and/or conservatorship for adults, but does not include guardianship of a minor or elder abuse cases.

**Prior National Time Standards.** The COSCA time standards and the ABA time standards do not include provisions for this case type. The National Probate Court Standards call for early court control and expeditious case processing, with hearings set at the earliest date possible, but do not offer specific time standards.<sup>72</sup> The terms of the Uniform Guardianship and Protective Proceedings Act (UGPPA 1997) provide simply that the court should set a date and a time for a hearing.<sup>73</sup>

**State Judicial Branch Time Standards.** There appear to be only two state court systems with time standards specifically for guardianship and conservatorship cases.<sup>74</sup>

One calls for all such cases to be disposed within eight months after filing; the other specifies that 75 percent of guardianship/conservatorship cases should be disposed within six months, 90 percent within nine months, and 100 percent within 12 months.

At least three states have a statutory requirement for how soon a court hearing should be held after the filing of a petition for guardianship and conservatorship.<sup>75</sup> One requires that a hearing be held within 120 days after filing; the other two within 60 days after filing.

**Overall Time Standards.** The time standard offered here addresses the time from the filing of the petition to denial of the petition or issuance of a court order appointing a fiduciary on a non-temporary basis. It is premised on two considerations. First, there should be a prompt court decision balancing the due process rights of a disabled person with the need to protect that person or her or his estate. Moreover, in many such cases there is no dispute over either the disabled person's capacity or the suitability of the individual or organization proposed to be his or her fiduciary.

It should be noted that this standard covers only the proceedings leading to the appointment of a guardian or conservator for an incapacitated adult. It is beyond the scope of these standards to address the time frames

<sup>71</sup> See *Guide to Statistical Reporting*, *supra*, note 3, at 19.

<sup>72</sup> See *National Probate Court Standards*, *supra*, note 69, Sections 3.3.3, 3.3.8, 3.4.3, and 3.4.8.

<sup>73</sup> See National Conference of Commissioners on Uniform State Laws, Uniform Guardianship and Protective Proceedings Act (1997), Sections 305 and 406, [www.law.upenn.edu/bll/archives/ulc/fnact99/1990s/ugppa97.htm](http://www.law.upenn.edu/bll/archives/ulc/fnact99/1990s/ugppa97.htm).

<sup>74</sup> See CPTS database, *supra*, note 4.

<sup>75</sup> See American Bar Association, Commission on Law and Aging, "State Law Charts and Updates: Guardianship: Conduct and Findings of Guardianship Proceedings (as of Dec. 31, 2009)" (August 2010), [http://new.abanet.org/aging/PublicDocuments/chart\\_conduct\\_08\\_10.pdf](http://new.abanet.org/aging/PublicDocuments/chart_conduct_08_10.pdf).

applicable to the monitoring of the well-being of incapacitated adults by guardians and the management of their estates by conservators. [*But see, National Probate Court Standards, supra, note 65.*] However, it is anticipated that courts will require submission of reports and accounts at least on an annual basis.

**Intermediate Time Standards.** In some circumstances, it is important for quick action to be taken to protect a disabled person or the estate. For this purpose there should be provision for prompt temporary appointment of a fiduciary. A requirement for temporary appointment in most circumstances within 72 hours allows time for notice and the scheduling of a court hearing while still assuring prompt action. When there is no dispute over incapacity, who should serve as guardian or conservator, and the terms of the guardianship or conservatorship, the hearing should be held and the order issued as quickly as possible so that needed services can be provided and assets protected. Holding a hearing in contested cases within 75 days should provide sufficient time for an investigation and also for possible mediation if there is a dispute.

In 98% of cases, in which emergency action is required, a hearing should be held within 3 days.

In 98% of uncontested cases, trials/hearings regarding a permanent appointment should be held within 30 days.

In 98% of cases in which there are contested issues, a trial/hearing should be started within 75 days.

## CIVIL COMMITMENT CASES

**Model Standard**  
98% within 15 days

**Definition.** In terms of court statistical definitions, civil commitments are “mental health cases” in which a court is requested to make a legal determination whether a person is a danger to him or her or others due to mental illness or incompetency and “should be placed, or should remain, under care, custody and/or treatment.”<sup>76</sup> This case type does not include court determination of competency to stand trial, nor does it include proceedings for civil commitment of sexually violent predators.

**Earlier National Time Standards.** Neither COSCA time standards nor ABA time standards include provisions relating to civil commitments. The National Guidelines for Involuntary Civil Commitment urge that a court hearing should be held no more than three days after a respondent was taken into custody or a petition was filed.<sup>77</sup> More recently, the Model Law for Assisted Treatment provides that on any petition a court does not dismiss, the court should schedule a hearing to be held within ten calendar days after the petition was filed.<sup>78</sup>

<sup>76</sup> *State Court Guide to Statistical Reporting, supra, note 3, at 19.*

<sup>77</sup> Task Force on Guidelines for Involuntary Civil Commitment, *National Guidelines for Involuntary Civil Commitment* (NCSC, Institute on Mental Disabilities and the Law, 1986), Guideline F2, <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=12>.

<sup>78</sup> Treatment Advocacy Center, “Model Law for Assisted Treatment” (2009), § 5.3, [www.treatmentadvocacycenter.org/LegalResources/index.php?option=com\\_content&task=view&id=49&Itemid=78](http://www.treatmentadvocacycenter.org/LegalResources/index.php?option=com_content&task=view&id=49&Itemid=78).

**State Judicial Branch Time Standards.** Two state-level court systems have promulgated time standards relating to civil commitment proceedings.<sup>79</sup> One provides that 80 percent of mental health cases should be disposed within 30 days, 90 percent within 45 days, and 99 percent within 60 days; the other specifies that 90 percent of civil commitment matters should be disposed within 14 days, and 100 percent within 28 days. Some states have statutory requirements for the timing of court hearings.<sup>80</sup> In Florida, for example, “Baker Act” hearings on involuntary treatment must be held within five days, unless a continuance is granted; and in North Carolina, a court hearing must be held within ten days after a respondent has been taken into custody, with the court authorized to grant a continuance of up to five additional days.

**Overall Time Standards.** Since the 1986 recommendation by the Task Force on Guidelines for Involuntary Civil Commitment that there be a court hearing on involuntary treatment within three days after custody or petition, there has been time to observe whether so expeditious a process is workable. The 2009 Model Act allows a longer elapsed time – ten days. The statutory provisions relating to the timing of a court hearing in both Florida and North Carolina explicitly allow for the hearing to be continued. The time standard offered here for civil commitment proceedings seeks to balance the need for a prompt court determination of the need for involuntary treatment with

the practical problem of completing an evaluation and scheduling the court event with adequate prior notice.

**Intermediate Time Standards.** In order to protect the legal rights of a respondent while addressing a possible need for prompt care, the critical intermediate event is the completion and submission of the assessment report regarding the need for care and treatment. The timing for such a report should give sufficient time for it to be reviewed by the respondent and his or her representatives prior to the hearing by the court.

In 98% of cases, assessment reports should be filed within ten days.

<sup>79</sup> See CPTS database, *supra*, note 4.

<sup>80</sup> For a state-by-state summary of statutory provisions on involuntary treatment, see Treatment Advocacy Center, “Home Page>Legal Resources>In Your State,” [www.treatmentadvocacycenter.org/LegalResources/index.php?option=com\\_content&task=view&id=48&Itemid=271](http://www.treatmentadvocacycenter.org/LegalResources/index.php?option=com_content&task=view&id=48&Itemid=271).

## IMPLEMENTATION OF MODEL TIME STANDARDS

By providing goals for judges and other key participants in the court process to meet in managing caseloads, time standards can play an important role in achieving the purposes of courts in society. Yet, the mere promulgation of time standards is not sufficient to assure that courts will provide prompt and affordable justice. It is important for court leaders to create circumstances that will promote the likelihood of success.

Time standards provide a yardstick for measuring court performance and management effectiveness, serving as benchmarks for determining whether the pace of court proceedings is acceptable. Time standards are useful only if judges and other participants in the court process receive information on the extent to which they are being achieved; they should lead to the development of systems for monitoring caseload status and progress toward caseflow management goals.

Moreover, time standards provide a starting point for developing practices and procedures to meet the goals they set forth. These involve the exercise of early and continuous court control of case progress through the application of caseflow management principles and techniques. Success in such an effort requires attention to

two separate levels of concern. First, it is important that judicial leaders at the state level set the tone and provide means to promote statewide compliance. Second, it is critical that prompt and affordable justice in each judicial district or trial jurisdiction be a matter of court policy and not be subject to any substantial differences among individual judges. The policy should be reflected in a published caseflow management plan in each judicial district or individual trial court.

Adoption and implementation of time standards is also likely to have an effect on the use of available resources and the level of resource needs for judges, prosecutors, public defenders, law enforcement and jail personnel, and administrative support personnel. Research has shown that there is more efficient use of the time of judges, lawyers and support staff when trial courts take effective steps to meet time standards in criminal cases.<sup>81</sup> Moreover, taking management steps to reduce wasted time for case participants can affirmatively reduce pressure for more resources.<sup>82</sup> Yet even fast courts can reach a “saturation point,” at which they cannot absorb and process more cases without additional judicial or non-judicial staff resources.<sup>83</sup> In a setting where the court is managing its caseflow, time standards help to highlight the level of its judicial and non-judicial personnel needs.

<sup>81</sup> *Efficiency, Timeliness, and Quality*, *supra*, note 7, at 104-106.

<sup>82</sup> See, for example, David Steelman and Jonathan Meadows, *Ten Steps to Achieve More Meaningful Criminal Pretrial Conferences in the Ninth Judicial Circuit of Florida* (Denver, CO: National Center for State Courts, 2010). In that report, the authors demonstrate how effective felony caseflow management can have a significant and measurable impact by reducing wasted time and thereby moderating the need for more judgeships, prosecution and public defender attorney positions, uniformed law enforcement officer positions, and associated support staff positions.

<sup>83</sup> *Examining Court Delay*, *supra*, note 5, at 30.

## 1. Adoption and Use of Model Time Standards

Establishment and compliance with recognized guidelines for timely case processing has been recognized as a key measure of court performance.<sup>84</sup> Setting or revisiting expectations for timely justice serves (a) to emphasize the need for judges and court personnel to see this as an essential part of their work<sup>85</sup> and (b) to promote public trust and confidence that the courts are committed to expeditious processing of cases.<sup>86</sup> That process both requires and provides an opportunity for the exercise of judicial leadership to generate and maintain broad consensus on what constitutes timely justice and on what must be done for that goal to be achieved within available resources.

Timely justice as defined in the time standards should be available in all kinds of cases and throughout a state. In adopting their own standards based on these national standards, state court leaders should take into account their own statutory requirements, jurisdictional environment, and demographic and geographic factors such as the proportion of judges who must travel from court to court and the amount of their work year devoted to such travel. While the “tailoring” of the model standards to local circumstances may create variation from one state to the next, the process of adjusting to local conditions is necessary for realistic implementation of the standards throughout a diverse nation. Yet courts must respond to the quickening pace of everyday life, and the public is

### Adoption and Use

To emphasize the commitment by judges and all members of the court community to the provision of prompt and affordable justice, court leaders in each state should adopt time standards for all major case types, patterned on the model time standards and actively applied in a consistent fashion throughout the state. Because they serve as a measure of what all citizens in the state can reasonably expect in terms of timely justice, time standards should be developed and promulgated by state court leaders in communication and consultation with all key justice partners.

Time standards should be viewed as a tool of successful court management, and should not be confused with speedy-trial requirements. Time standards should be used as a measure of accountability for both the court system as a whole and for individual court locations and judges. By serving as a measure of what constitutes high court performance, time standards should provide a basis for the courts to exercise ongoing leadership in efforts with their key justice partners to develop appropriate caseflow management measures and assure their active and consistent application by all judicial officers for all case types.

Together, time standards and caseflow management measures should promote justice, both in individual cases and through the effective and efficient use of time and other available resources by all participants in the court process. They should also be used as a means to determine with public funding authorities what level of resources the judicial branch of government requires to achieve high performance of its constitutional functions.

justified in expecting that their legal disputes can be resolved more quickly than they have been in the past. Consequently, any substantial deviations from the model time standards should be justified by the requirements for doing justice in an individual state; they should not be based merely on local disagreement with a national time standard.

<sup>84</sup> See Commission on Trial Court Performance, *Trial Court Performance Standards with Commentary* (Williamsburg, VA: National Center for State Courts, 1990, 1997), Standard 2.1.

<sup>85</sup> See Mahoney, et al., *Changing Times in Trial Courts* (Williamsburg, VA: National Center for State Courts, 1988), p. 202.

<sup>86</sup> See *Trial Court Performance Standards*, *supra*, note 84, at Standard 5.2.

Historically, time standards can be seen as a reflection of public policy considerations akin to those underlying the federal and state constitutional requirements that a criminal defendant be given a speedy and public trial. It is critically important, however, to understand that the provision of prompt and affordable justice means much more than simply avoiding dismissal of a case on speedy-trial grounds. Promptness is a necessary but not sufficient condition for effective justice; speed by itself does not constitute justice. This principle is recognized by the four “administrative principles” emphasized in the “High Performance Court Framework,” which clarifies what court leaders and managers can do to produce high quality in the administration of justice:<sup>87</sup>

- Giving every case individual attention
- Treating cases proportionally
- Demonstrating procedural justice
- Exercising judicial control over the court process

Adoption and promulgation of time standards for the measurement of court performance is only part of what is necessary for achievement of high court performance. First the nature and importance of the standards as performance goals must be communicated to judges and staff throughout the state, as well as to justice system partners. Second, information must be used by court leaders and managers throughout the court system to measure compliance with time standards (see Section 2) in terms of both efficiency

(age of pending caseload) and productivity (times to disposition) and take any necessary corrective action:<sup>88</sup>

- At the state level by the chief justice, court of last resort, and state court administrator to assess system performance by broad case types and by judicial districts.
- In a judicial district or individual court by the chief judge and court administrator to assess the overall status of its calendars and to troubleshoot for problems, bottlenecks or difficulties.
- By each individual judge to manage individual cases and all the cases on his or her docket.

A sizeable body of research shows that meeting the obligation to provide timely and affordable justice calls for courts to monitor and control the progress of cases from initiation to conclusion through consistent application of caseflow management principles. A third step for court leaders to assure successful compliance with time standards is therefore to take a leadership role in collaboration with judges, court managers and staff, lawyers, and others in the court process to develop and maintain broad support and understanding of policies and programs to reduce and avoid delay (as discussed further in Section 3).

Finally, effective use of time standards involves resources. Caseflow management programs can serve as an important way to avoid wasted time for judges and others.<sup>89</sup> If reasonably efficient use of time and other available resources does not result in substantial compliance with

<sup>87</sup> Brian Ostrom and Roger Hanson, *Achieving High Performance: A Framework for Courts* (Williamsburg, VA: National Center for State Courts, 2010). See also National Center for State Courts, *CourTools, Trial Court Performance Measures*, (Williamsburg, VA: NCSC, 2004).

<sup>88</sup> *Caseflow Management*, *supra*, note 11, at 83-84. IAALS, *A Roadmap for Reform: Civil Caseflow Management Guidelines* (2009), [www.du.edu/legalinstitute/pubs/civil\\_caseflow\\_management\\_guidelines.pdf](http://www.du.edu/legalinstitute/pubs/civil_caseflow_management_guidelines.pdf)

<sup>89</sup> See Steelman and Meadows, *Ten Steps to Achieve More Meaningful Criminal Pretrial Conferences*, *supra*, note 82.

applicable resources, this should provide a basis for courts and their justice partners to seek additional resources from public funding authorities. (See Section 4.)

## 2. Measurement of Court Compliance with Time Standards

State court leaders have a duty to hold their organizations accountable to the public and to inter-branch partners by instituting a set of empirical measures and a program of on-going assessment of court outcomes which includes the wide publication of the results of those assessments. Court performance measurement is the evaluation of overall systems and programs rather than individual judicial performance. Time to disposition is one of the important measures courts should adopt as part of their quantitative and qualitative assessment of court effectiveness.<sup>90</sup>

The establishment of a time standard for the disposition of a case type is a first step. A time to disposition standard enables a state to define the concept of backlog and to identify a case “in backlog” as any case older than the standard.<sup>91</sup>

Thus, time standards can be helpful at the local court level to enable the local judge and administrator to focus on cases in backlog, determine whether there is a good reason why that case has not yet been disposed, and then to take appropriate steps to move the case to disposition.

### Measuring Level of Compliance

By establishing time standards, court leaders demonstrate their commitment to court performance, and, in particular, a commitment to meeting the needs of litigants and the public by hearing and resolving cases in a timely manner. By measuring and monitoring compliance with time standards, court leaders demonstrate their commitment to court management and to operating an effective judicial system.

Court leaders should publish the courts’ measures of compliance with their time standards in order to demonstrate their commitment to accountability and transparency and in order to identify methods of improving compliance and performance.

Measurement of compliance with standards must:

- Be consistent from court to court
- Be accomplished in a manner to
  - Encourage timely disposition
  - Encourage judges to take the time needed to do individual justice in cases when additional time is needed
- Be used by
  - Court leaders to identify and apply best practices
  - Judges and administrators to identify and give appropriate attention to cases that are not proceeding in a manner that will ensure their disposition within the time standard

Time standards can also be helpful to enable state and local court leadership and the public to monitor compliance with time standards throughout the jurisdiction, to identify best practices used by courts who meet the standards, and to work with courts not meeting the standards to improve their performance in the future. Court leaders can use these time standards as a tool to monitor and manage active pending cases. To provide a complete picture of a court’s compliance with the time standards, courts need to adopt multiple ways to measure compliance with the adopted standards.

<sup>90</sup> Conference of State Court Administrators, *White Paper on Promoting a Culture of Accountability and Transparency: Court System Performance Measures*, 2008.

<sup>91</sup> J. Greacen, “Backlog Performance Measurement – A Success Story in New Jersey,” *Judges Journal*, Winter, 2007.

- For a particular time period, for instance on a monthly, biannual, or annual basis, determine what percentage of cases disposed during that time period were completed within the applicable time standard.
  - This measure most clearly measures compliance with these standards. Courts can use this approach to measure whether 75 percent, 90 percent or 98 percent of their cases were disposed of within the adopted time standards. However, the measure is not very useful as a way to measure success or failure when a court has just embarked on a caseload reform effort, because in the early stages of the program, disposition times will be skewed by the disposition of old cases in the inventory.<sup>92</sup>
- Count the number of “old cases”-- the number of pending cases that exceed their time disposition guideline age.
  - This measure is helpful to the local judge and administrator. As the number of “old cases” decreases, the court will know that it is on the right track. However, the measure is not helpful to court leadership attempting to compare courts within their jurisdiction and to identify which courts most need attention to improve their backlog. To compare courts, court leadership must compare the number of old cases to the number of cases filed in each court.
- Count the number of “old, old cases,” the number of cases pending for two or three times the time to disposition standard.<sup>93</sup>
  - For reasons stated above, this measure helps judges and administrators to identify those cases that most need attention.
- Count the number of “old cases” and then divide that number by the number of cases filed in the court in the previous year.
  - This backlog percentage enables court leaders to compare courts within their jurisdiction and identify the courts that most need attention
- Determine the number of active pending cases that exceed the 90 percent standard and the number that exceed the 98 percent standard.
  - Judges and court managers can then take steps to ensure that the cases in the reports exceeding the 90 percent standard can be disposed within the 98 percent standard and to ensure progress toward disposition in those cases exceeding the 98 percent standard.

Judicial leaders should demonstrate a commitment to transparency and accountability through the use of these performance measures. To improve public trust and confidence in the courts, judicial leadership should monitor compliance with time to disposition standards, monitor the effectiveness of the steps taken to improve performance and then make this information available as a matter of public record.<sup>94</sup>

For court leaders to be able to publish court compliance with time standards and to be able to compare compliance among the courts within their jurisdiction, it is crucial that the measures are consistent across the jurisdiction.

- Courts need a common definition of a “case.” Courts need to develop consistent and uniform methods for counting multiple criminal charges against one or more defendants; civil cases with multiple defendants and multiple claims; and child custody and child support claims in a divorce case.
- Courts need a common definition of when a case begins. These standards recommend that the time of filing be used as the point of case initiation.

<sup>92</sup> M. Solomon, *Improving Criminal Caseload*, October, 2008.

<sup>93</sup> *Backlog Performance Measurement*, *supra*, note 91.

<sup>94</sup> National Center for State Courts. *Principles for Judicial Administration: Governance, Case Administration, Core Functions and Dispositional alternatives, and Funding*. January, 2011 Draft. IAALS, A Roadmap for Reform: Civil Caseload Management Guidelines (2009), A number of states regularly publish court level performance information including time to disposition. See e.g., [www.utcourts.gov/courttools](http://www.utcourts.gov/courttools); [www.mass.gov/courts/cmabreport.html](http://www.mass.gov/courts/cmabreport.html). [www.superiorcourt.maricopa.gov/MediaRelationsAndCommunityOutreach/docs/annualrep/FY2010AnnualRpt.pdf](http://www.superiorcourt.maricopa.gov/MediaRelationsAndCommunityOutreach/docs/annualrep/FY2010AnnualRpt.pdf). [www.du.edu/legalinstitute/pubs/civil\\_caseload\\_management\\_guidelines.pdf](http://www.du.edu/legalinstitute/pubs/civil_caseload_management_guidelines.pdf)

- Courts need a common definition of when a case is disposed; e.g., at the time of dismissal or sentencing in criminal matters.

It is also crucial that the court’s case management system is viewed as reliable, is in fact reliable, and that the management reports it produces accurately report compliance with time to disposition standards.

### 3. Steps to Promote Compliance with Time Standards

#### A. Statewide Actions

It is important to provide a statewide environment in which the courts emphasize the critical importance of providing justice in a prompt and affordable manner. Assuring high performance throughout the court system through timeliness and affordability in compliance with time standards should therefore be an ongoing theme for leadership by the chief justice, the state Supreme Court, and the state court administrator and his or her office.

**Public accountability.** Statewide commitment by individual courts, judges and court staff members to providing timely and affordable justice in keeping with time standards is difficult or impossible to achieve unless the chief justice and the state Supreme Court regularly emphasize its importance as an element of the purpose and mission of the judicial branch of government. The chief justice and other state court leaders must show their commitment by openly accepting responsibility, and by

#### Promoting Use and Compliance – Statewide

To promote the provision of prompt and affordable justice in compliance with applicable time standards, state-level court leaders should encourage actions at all levels of court. These actions should reflect the requirements of each case type and the differences among metropolitan, urban, suburban, and rural jurisdictions through the state.

Among the actions that should be taken are:

- Dissemination of the state’s time standards to the public.
- Provision of annual reports on court system performance with regard to those standards.
- Promulgation of statewide administrative rules or guidelines calling for the adoption of caseload management plans to provide early and continuous court control of case progress from initiation to conclusion.
- Encouragement and assistance to judges, court managers, and court staff members to participate in national, statewide, and local educational programs on the importance of:
  - prompt and affordable justice
  - time standards
  - caseload management
- Encouragement and support for educational programs for lawyers and other key justice partners on the purposes and use of time standards and caseload management.
- Provision of technical assistance to courts within the state to help them improve their caseload management.

insisting that all judges as government officials accept responsibility for the results they provide for citizens in terms of timeliness and affordability.<sup>95</sup> The High Performance Court Framework calls for well-functioning courts to align their internal operating procedures with service to court customers, as a way to promote public trust and confidence in the legitimacy of the courts and to justify the provision of adequate resources by funding authorities.<sup>96</sup> The commentary to the Trial Court

<sup>95</sup> See D. Osborne and T. Gaebler, *Reinventing Government* (New York: Penguin Books, 1993), pp. 136-165.

<sup>96</sup> *Achieving High Performance*, *supra*, note 87, at Preface, vi and vii.

Performance Standards emphasizes the link between judicial independence and accountability, observing that each court must manage itself by establishing effective leadership, operating effectively, developing and implementing plans of action, measuring its performance, and accounting publicly for its performance.<sup>97</sup>

Emphasis on court system accountability for compliance with time standards is thus something that the chief justice and other state court leaders can link to judicial independence, public trust and confidence, customer service, and adequacy of funding. By requiring all courts in the system to report regularly on their performance in terms of time standards, and by following up with individual courts should any significant performance issues arise, the Supreme Court can regularly reinforce the importance of the time standards. By publishing annual reports of court system performance in terms of the time standards, the Supreme Court can responsibly reiterate its commitment to timeliness and affordability.

**Statewide requirement and support for early and continuous court control.** Differences among individual courts in terms of the communities they serve, as well as the importance of local initiative for acceptance of responsibility and accountability by each court and its individual judges, are considerations that make it difficult and unwise for state-level court leaders to impose a detailed caseflow management approach on every court in a state. Yet it is nonetheless important for state-level leaders to

provide general guidance on the steps that individual courts should take to promote compliance with time standards.

In broadest terms, this can be done by requiring individual courts to show how they will exercise control of cases from initiation through judgment to the conclusion of all post-judgment work. This can include support for case information systems throughout the state that provide judges and court managers with timely and accurate information to monitor case progress.<sup>98</sup> It should also include a requirement that individual courts work in consultation with key stakeholders to develop and implement a written caseflow management plan for the exercise of early and continuous court control of case progress. This requirement should include that the plan be published locally and filed with the Supreme Court, and that each court report at least annually to both the public and the Supreme Court on its performance under the plan.

**Education programs.** While state court leaders should not dictate the specific steps that each court should take to manage case progress for compliance with time standards, the state-level court leaders should provide affirmative information on how to do so. An essential part of the foundation for successful caseflow management is ongoing education. The Supreme Court and the state court administrator's office should provide support for judges, court managers and staff, and lawyers to receive regularly recurring education on time standards and caseflow management through in-person and remote learning

<sup>97</sup> *Trial Court Performance Standards With Commentary*, *supra*, note 84, at Section 4.

<sup>98</sup> See National Consortium for Court Functional Standards, "Court-Specific Standards," [www.ncsc.org/services-and-experts/technology-tools/court-specific-standards.aspx](http://www.ncsc.org/services-and-experts/technology-tools/court-specific-standards.aspx).

programs, whether provided at the local, regional, statewide, or national level.<sup>99</sup>

**Technical assistance.** In addition to providing information on how to manage caseload, state court leaders should also provide means for individual courts and their justice partners to receive affirmative assistance with how to do it. This may be done by technical assistance programs operated by the state court administrator's office, involving judges and court managers with recognized skills, knowledge and experience in caseload management. In addition, assistance may be provided through state-level grants, support for grants from the State Justice Institute or other funding sources, or support for individual court engagement of consultants with expertise in caseload management.

## B. Individual Court Actions

Whatever may be the difference in circumstances from one court to another, the provision of timely and affordable justice in compliance with time standards should be an integral part of the management culture of each court. Both in terms of customer service and internal operating procedures, a court should make compliance with time standards an important indicator of its performance.<sup>100</sup> To reinforce this, the court should make timely and affordable justice a matter of its express court policy, as reflected in the adoption, publication and consistent enforcement of a caseload management plan emphasizing early and

### Promoting Use and Compliance in Individual Courts

In each judicial district or individual trial jurisdiction, caseload management and compliance with time standards should be a matter of court policy and accountability. Each judicial district or individual trial court should express its policy through:

- The adoption and publication of a caseload management plan developed in consultation with lawyers and other key stakeholders.
- Provision of local education programs.
- Regular reports to state court leaders and the public on performance under the plan in terms of the time standards.

The plan should indicate the means by which the court will exercise early and continuous control of cases, including

- Use of reports from the case information system to monitor the age and status of cases on their dockets from initiation through critical litigation stages to conclusion.
- Early court intervention to screen cases for prompt disposition, alternatives to adversarial adjudication, differentiated case management, and scheduling of discovery and other pretrial events.
- Emphasis on meaningful pretrial court events and early attention to prospects for disposition by non-trial means.
- Provision of credible trial dates, including consistent application of a court policy limiting continuances.
- Effective management of jury and nonjury trials.
- Ensure compliance with court orders
- Management of petitions to modify court orders when the court has continuing jurisdiction over a matter.

continuous court control of case progress from initiation to conclusion.

### Leadership and compliance with local court policy.

In any court of two or more judges, there should be reasonably consistent application of caseload management

<sup>99</sup> This may be done with assistance as needed from such organizations as the National Judicial College, the Institute for Court Management of the National Center for State Courts, the National Association for Court Management, the National Association of State Judicial Education, other national organizations, or colleges and universities.

<sup>100</sup> *Achieving High Performance*, *supra*, note 87.

practices and procedures from one judge to the next. Individual judges should be fully accountable to comply with court policy to the greatest extent possible consistent with their obligation to do justice in individual cases. They should actively enforce reasonable compliance by other case participants with caseflow management requirements. When compliance with such requirements cannot be accomplished by an individual judge in individual cases, it should be the responsibility of the chief or presiding judge of a court to confer with the judge and leaders of court-related organizations (such as the prosecutor's office or public defender's office) to address legitimate concerns and promote compliance with caseflow management requirements.

The impact of court leadership and key stakeholders developing coordinated case management policies and practices is not limited solely to the timeliness of case dispositions. It has significant ramifications for the effective and efficient use of limited public resources as well.<sup>101</sup> For example, a 2009 study of felony cases in a mid-sized urban jurisdiction identified one case that closed in 2008 that had 78 scheduled events, and another that had 72 scheduled events. Based on the salaries and fringe benefits of judges, prosecutors, public defenders, uniformed law enforcement officers, prisoner transport staff, and support personnel in all of the organizations involved in the criminal court process, the extra scheduled events in those two cases

alone may have cost the jurisdiction the full-time equivalent of an extra prosecutor or public defender attorney.<sup>102</sup>

Similarly, a 2010 study of criminal and juvenile case processing in a multi-county district including a large urban court, showed that not having meaningful court dates for pretrial conferences and trials in felony, misdemeanor, and juvenile delinquency cases cost the court and its justice partners about \$7 million in personnel time each year, and that the reduction of personnel time from the adoption and implementation of effective caseflow management would yield the equivalent of having two more judges, about ten more line prosecutors, and ten more assistant public defenders, four more courtroom clerks, four more corrections and juvenile detention officers, ten more law enforcement officers, and more support staff for the court, prosecution, public defenders and law enforcement agencies.<sup>103</sup>

The same findings held true in a less-populous jurisdiction. A 2011 study to improve the efficiency of the trial court process concluded that early and continuous court control of criminal case progress would reduce the average monthly population of the jail by almost 10%, and that it would result in a reduction of the number of scheduled criminal court events by about-25%, so that the court, the prosecutor, and the public defender would have more time available to deal more fully with criminal cases needing attention.<sup>104</sup>

<sup>101</sup> Ostrom and Hanson, *supra*, note 7, at 105.

<sup>102</sup> D.C. Steelman, *Improving Criminal Caseflow Management* (NCSC Technical Assistance Report (Denver, CO; NCSC, March 2009).

<sup>103</sup> D. C. Steelman and J. L. Meadows, *Ten Steps to Achieve More Meaningful Criminal Pretrial Conferences* (NCSC, May 2010).

<sup>104</sup> D.C. Steelman, I. Keilitz, M.B. Kirven, N. Raaen, and L. Murphy, *Twelve Steps to Enhance the Efficiency of Court Operations in Lancaster County, Pennsylvania* (Denver, CO: NCSC, April 2011).

**Published caseload management plan.** When a court has decided on the course it will take to maintain timely case disposition, it should articulate its program in a caseload management plan that is published, perhaps by administrative order of the court. The plan should give details about the caseload management techniques that will be employed, include any forms (such as case information sheets to be filed with cases to facilitate differentiated case management), address overall and intermediate time standards, and present a transition plan for achieving the time standards if the court has a pre-existing backlog problem.<sup>105</sup> Having a published plan shows the court's commitment to caseload management, and it serves as a reference for the court and other case participants.

The process of preparing and reviewing drafts of the plan can serve as a means to identify detailed problems and to think through what will be the main tasks, who will be the key individual persons and what will be their specific roles and responsibilities, and the target dates for accomplishment of implementation steps. It is also an opportunity to engage the perspectives and energies of the court's justice partners, including the bar; the court requires the commitment of numerous entities and individual lawyers to accomplish the goal of timely case resolution across all case types. Once completed, the plan can be a key reference for those who seek to understand what the court seeks to accomplish, when and how. Finally, it can serve as

a reference in the evaluation of the implementation effort, as the document in which the goals and expectations for the caseload-management improvement program are set forth.<sup>106</sup>

If caseloads are to be managed effectively in the court, it must be clear who is responsible for their management. The plan for caseload management and its operational implementation should set forth unambiguous lines of accountability. Time standards and goals provide one measure of accountability; specific assignment of responsibility to persons in particular positions is another effective mechanism. If one of the court's problems is a large backlog of pending cases that cannot be addressed within an acceptable period of time, then the improvement plan should include steps for backlog reduction. Once the backlog in the court's prior pending inventory is reduced to more manageable proportions, it should be an ongoing objective of the court to keep its pending inventory at a manageable level.<sup>107</sup>

**Monitoring status of cases and dockets.** To translate "time standards" and "caseload management" from concepts into actual court practice and performance, judges must actually *do* the activity of managing case progress with the aid of court managers. In its simplest terms, "doing" active management involves monitoring the status of cases and dockets in view of overall and intermediate time

<sup>105</sup> See American Bar Association, *Standards Relating to Trial Courts, 1992 Edition*, Section 2.54A; IAALS, *A Roadmap for Reform: Civil Caseload Management Guidelines* (2009), [www.du.edu/legalinstitute/pubs/civil\\_caseload\\_management\\_guidelines.pdf](http://www.du.edu/legalinstitute/pubs/civil_caseload_management_guidelines.pdf)

<sup>106</sup> For a recent guide to evaluation of civil rule and caseload management initiatives, see IAALS, *21st Century Civil Justice System: A Roadmap for Reform* (2010), [www.du.edu/legalinstitute/pdf/MeasuringInnovationforWeb.pdf](http://www.du.edu/legalinstitute/pdf/MeasuringInnovationforWeb.pdf) (a joint product of IAALS and NCSC).

<sup>107</sup> *Changing Times in Trial Courts*, *supra*, note 85, at. 203-204.

standards, and then taking steps to assure that the actions by attorneys and other participants in specific cases actually meet the expectations set forth in time standards and court orders. Using information for monitoring thus provides the management nexus between the expectations reflected in time standards and the action of judges, court managers and others to see that dockets are current and that individual cases progress to just outcomes without undue delay and wasted time.

#### **Early and continuous court control of case progress.**

The essence of caseflow management is for the court to intervene early and then to exercise ongoing control of the movement of cases. It is the court's responsibility to see that justice is done in individual cases, to protect citizens from arbitrary government action, to assure the rights and responsibilities of parties to litigation, and to protect the best interests of children and vulnerable adults. This cannot be done effectively if court processes are controlled by advocates rather than by the court as the disinterested participant in such processes. Court control assures the quality of our adversary process while promoting efficient use of the finite public resources of courts and court-related organizations.<sup>108</sup> Recent surveys of trial attorneys show that the bar in general supports early and active judicial control of the pace of litigation.<sup>109</sup>

“Early court control” should begin with continuous court attention to the age and status of cases from initiation, as is implied in the model time standards. Whether by rule or scheduled hearing, early court intervention should also include any necessary “triage” efforts soon after initiation to identify cases suitable for prompt disposition; referral to diversion, problem-solving court programs, or alternative dispute resolution; and entry of court orders to schedule completion of any discovery and subsequent court events. Where alternatives to adjudication are used, there should be suitable management of such programs to make certain that they promote, rather than hinder, the achievement of prompt and affordable justice.

**Differentiated case management.** Within the broad case types covered by the model time standards, it is predictable that many cases will be relatively simple and straightforward, while a small portion will be so complex and difficult that their timely resolution will require considerable attention from judges, lawyers and other case participants. Differentiated case management (DCM) is a way for a well-performing court to distinguish among individual cases in terms of the amount of time and attention they need so that there can be proportional allocation of finite resources by the court and other case participants.<sup>110</sup> DCM also serves as a court management tool to assure compliance

<sup>108</sup> See, *Efficiency, Timeliness, and Quality*, *supra*, note 7.

<sup>109</sup> Institute for the Advancement of the American Legal System (IAALS), *Excess and Access: Consensus on the American Civil Justice Landscape* (2011), [www.du.edu/legalinstitute/pubs/ExcessandAccess.pdf](http://www.du.edu/legalinstitute/pubs/ExcessandAccess.pdf); IAALS Final Report on the Joint Project of the American College of Trial Lawyers (ACTL) Task Force on Discovery and the Institute for the Advancement of the American Legal System (2009); [www.du.edu/legalinstitute/pubs/ACTL-IAALS%20Final%20Report%20rev%208-4-10.pdf](http://www.du.edu/legalinstitute/pubs/ACTL-IAALS%20Final%20Report%20rev%208-4-10.pdf); IAALS, *Survey of the Arizona Bench & Bar on the Arizona Rules of Civil Procedure* (2010), [www.du.edu/legalinstitute/pdf/IAALSArizonaSurveyReport.pdf](http://www.du.edu/legalinstitute/pdf/IAALSArizonaSurveyReport.pdf); IAALS, *Surveys of the Colorado Bench & Bar* (2010), [www.du.edu/legalinstitute/pdf/16.1FINALForWeb.pdf](http://www.du.edu/legalinstitute/pdf/16.1FINALForWeb.pdf); IAALS, *Civil Litigation Survey of Chief Legal Officers and General Counsel* (2010), [www.du.edu/legalinstitute/pubs/GeneralCounselSurvey.pdf](http://www.du.edu/legalinstitute/pubs/GeneralCounselSurvey.pdf); IAALS, *Survey of the Oregon Bench & Bar on the Oregon Rules of Civil Procedure* (2010), [www.du.edu/legalinstitute/pdf/IAALSOregonSurvey.pdf](http://www.du.edu/legalinstitute/pdf/IAALSOregonSurvey.pdf).

<sup>110</sup> On DCM as a management strategy for proportional treatment of cases, see *Achieving High Performance*, *supra*, note 87, at pp. 13-14.

with the model time standards, providing a framework for 75 percent and 90 percent of all cases in any case type to be disposed with relative expedition, while allowing specially-tailored treatment of the most difficult one to two percent of such cases.

The operation of a DCM program depends on early court cognizance of each case – at the moment of filing (or even before in some kinds of cases, such as delinquency cases and many criminal matters). Based on case information sheets filed by parties, the judge or a court staff member can screen cases for complexity based on criteria established by the court. As a result of the case-screening assessments, cases are assigned to different case-management tracks. Each track has its own specific intermediate event and time standards, as well as different management procedures. There is continuous court monitoring of case progress and compliance with deadlines by parties and counsel.<sup>111</sup> The level of judge involvement in any particular case is determined by its specific track assignment.<sup>112</sup>

**Meaningful court events and prospects for non-trial disposition.** Trials in contested matters are the hallmark of American justice, and they consume an enormous amount of time for judges, court staff and lawyers. In the American court process, however, most cases of any kind (often 95 percent or more) are disposed by negotiation or other non-trial means. While court rules of procedure govern

the preparation of cases for trial, effective management to assure prompt and affordable outcomes in the court process requires attention to achieving non-trial dispositions at the earliest opportunity consistent with justice in the individual circumstances of each case.

To do this, the court must create the realistic expectation that court events will occur as scheduled and that they will be “meaningful” -- in other words, that their expected purpose will be achieved and that they will otherwise contribute substantially to progress toward disposition. Professor Ernest Friesen has famously observed that it is lawyers who settle cases, and not judges; lawyers settle cases when they are prepared; and lawyers prepare for significant and meaningful court events.<sup>113</sup> Providing meaningful court events thus promotes timely justice by assuring that lawyers and parties will be prepared.

To make events meaningful, it is important to address problems of discovery and requests for continuances. Lawyers must be reasonably confident that they have discoverable information required to grasp the essential nature of a case in order to negotiate with opposing counsel without undue risk of malpractice or ineffective assistance of counsel. Unless the court gives timely attention to legitimate discovery issues, the pretrial process in cases may be characterized by frequent rescheduling of court events based on requests for continuances. If events are continued

<sup>111</sup> In some categories of cases, including marital dissolution, child protection and probate guardianships or conservatorships, there can be a requirement for substantial court activity after the initial entry of judgment. For such cases, post-judgment DCM may also be critically important. See below, **Court events and compliance monitoring after entry of judgments.**

<sup>112</sup> See Holly Bakke and Maureen Solomon, “Case Differentiation: An Approach to Individualized Case Management,” 73 *Judicature* (No. 1, 1989) 17.

<sup>113</sup> See Ernest Friesen, “Cures for Court Congestion,” 23 *Judges’ Journal* (No. 4, 1984) 4.

without good cause, then the emotional and financial costs of litigation may be increased for parties because of the need to prepare for and participate in additional court appearances.

**Credible trial dates.** If it is far more likely than not that a court will be prepared to commence a trial on the first-scheduled trial date, then counsel and parties will begin preparation for trial in time to decide whether to go to trial or to reach a negotiated resolution. Since most cases are disposed by plea or settlement, success in providing reasonably firm trial dates has the effect of producing earlier pleas and settlements, while at the same time encouraging trial preparation in cases that cannot be resolved by other means.

National research shows that a court's ability to provide firm trial dates is associated with shorter times to disposition in civil and felony cases in urban trial courts.<sup>114</sup> Furthermore, a court's ability to provide a firm trial date in felony cases has been found to be associated with shorter *civil* jury trial case processing times.<sup>115</sup>

Effective caseflow management calls for a court to take four steps to provide firm and credible trial dates.<sup>116</sup> First, the court should maximize dispositions *before* cases are put

on a trial list. Second, the court should have realistic trial list setting levels that avoid both listing too few cases and having excessive "overbooking" in terms of the portion of cases that will be settled or that must be continued for good cause rather than being tried. Third, the court must create some "backup judge" capacity, so that there is a judge available to help a colleague with two cases ready for trial. Finally, the court should adopt, publish and consistently enforce a written policy to limit continuances without a showing of good cause and in the interest of justice.

**Trial management.** Although only a small proportion of cases actually goes to trial, many judges spend from one-third to one-half of their work time conducting jury trials.<sup>117</sup> Nonjury trials are generally not as time-consuming as jury trials, but they take as much or more of a judge's time in court than almost any other non-trial courtroom event.<sup>118</sup>

Research shows that a large majority of judges and attorneys find no lack of fairness or justice in the courts where trials are actively managed by the court so they can be conducted more rapidly. Judges, civil attorneys and criminal prosecutors overwhelmingly consider it appropriate for judges to control trial length. While criminal defense lawyers expressed the most concern about judicial

<sup>114</sup> See *Examining Court Delay*, *supra*, note 5 (1989), Figure 14, p. 38 (civil cases), and Figure 26, p. 87 (felony cases), and related text. Having firm trial dates has an especially strong correlation with shorter disposition times in felony cases. See *Reexamining the Pace of Litigation*, *supra*, note 5, at Figure 2.7, p. 23. Recent research has shown the same to be true for civil cases in the federal courts. IAALS, *Civil Case Processing in the Federal District Courts: A 21st Century Analysis* (2009) [www.du.edu/legalinstitute/form-PACER-success.html](http://www.du.edu/legalinstitute/form-PACER-success.html).

<sup>115</sup> *Reexamining the Pace of Litigation*, *supra*, note 5, at Figure 4.1 and text on p. 63.

<sup>116</sup> *Caseflow Management*, *supra*, note 11, at 7-11.

<sup>117</sup> B. Ostrom and C. Kauder (eds.), *Examining the Work of State Courts, 1996: A National Perspective from the Court Statistics Project* (1997), pp. 25, 30 and 57.

<sup>118</sup> In a multistate study of trials in nine courts, researchers found that median times for civil nonjury trials were from 4 to 6½ hours, and that average times for criminal nonjury trials ranged from 1 to 8½ hours. See Dale Sipes and M. E. Oram, *On Trial: The Length of Civil and Criminal Trials* (1989), pp. 14-15 and 19-20.

management of trials, many of the criminal defense lawyers in courts with longer trials expressed support for greater judicial controls.<sup>119</sup> The implications of these findings are significant:

- The variability in trial times from one court to another suggests that, through appropriate actions, judges can make trials shorter.
- Making trials shorter need not defeat the court's responsibility to do justice.
- Judicial management of trials has considerable support among members of the bar as well as judges.
- Shorter trials mean that judges are available for other pretrial or trial events – in effect, increasing the availability of judicial resources.
- Shorter trials mean that trial schedules can be more predictable, thereby reinforcing the court's ability to provide credible trial dates.

In 1992, the American Bar Association adopted trial management standards recommended by the National Conference of State Trial Judges. The basic premise of these standards is that judges should aggressively exercise their responsibility to manage trial proceedings.<sup>120</sup> As part of overall caseflow management, the ABA standards observe that trial management should involve a set of steps. These include (a) preparing in advance for trial; (b) scheduling to start trials on time and provide adequate time for them; (c) managing jury selection; (d) maintaining trial momentum; and (e) establishing and enforcing time limits.<sup>121</sup>

### **Court events and compliance monitoring after entry**

**of judgment.** There is a large array of proceedings in a trial court that occur after the entry of an initial disposition, including:

- Motions in divorce cases to enforce or modify custody, visitation and support.
- Placement review, permanency planning, termination of parental rights and adoption proceedings after findings of abuse or neglect.
- Proceedings in probate, guardianship and conservatorship cases after contested or uncontested appointment of a fiduciary.
- Criminal and delinquency compliance reviews to ensure participation in and completion of treatment regimens and adjudication of probation violation allegations.
- Petitions for post conviction review.
- Child support enforcement proceedings after paternity or divorce decisions.
- Proceedings to enforce civil and small claims judgments.
- Enforcement of monetary sanctions in criminal and traffic cases.

Such events as these can consume a great deal of time for parties, judges, court personnel and attorneys. In fact, some types of cases are overwhelmingly post-judgment in nature. To ensure that timely justice is done in these cases, as well as to allocate court resources effectively and efficiently, it is desirable to give appropriate caseflow management attention to post-judgment court events. The steps a court should take to manage cases after judgment:

<sup>119</sup> *Id.* at 66-67.

<sup>120</sup> ABA, *Trial Management Standards* (1992).

<sup>121</sup> In addition to the *Trial Management Standards*, see H.J. Zelliff, "Hurry Up and Wait: A Nuts and Bolts Approach to Avoiding Wasted Time in Trial, 28 *Judges' Journal* (No. 3, Summer 1989) 18; and B. Mahoney, *et al.*, *Planning and Conducting a Course on 'Managing Trials Effectively': A Guide for Judicial Educators* (Williamsburg, VA: National Center for State Courts, 1993).

- Continuing to monitor the status of cases in a post-judgment status as long as there is an ongoing compliance obligation.
- In cases involving vulnerable adults or children, such as in guardianship or conservatorship cases, exercise of “differentiated compliance monitoring” if there is a large estate, a family dispute, or other situations involving a risk of harm to a ward or beneficiary calling for more active oversight.<sup>122</sup>
- Scheduling post-judgment court events to occur in a timely manner, with management of case progress following the same principles as pretrial management, including the exercise of continuous control and the realistic scheduling of meaningful court events.
- Developing and applying time standards such as the model time standards for post-conviction review to guide monitoring and ensure timely case progress to determination.
- Managing the involvement of any party in other cases, as when a new misdemeanor charge in a limited-jurisdiction court may constitute a probation violation in the general-jurisdiction court in the same district, or when a family in divorce proceedings is also involved in a child protection case.

A final element of management after initial disposition involves the determination of when all court work is done in a case. In a civil case, final closure may depend on the filing of a notice that the matter has been “settled and satisfied.”

#### 4. Relationship between Time Standards and Resources

Courts must have an adequate and stable source of funding to execute their constitutional and statutory duties: to protect citizens’ constitutional rights, to provide procedural due process, to provide timely justice, and to preserve the rule of law. As a matter of principle, “Courts should be funded so that cases can be resolved in accordance with recognized time standards by judges and court personnel functioning in accordance with adopted workload standards.”<sup>123</sup>

##### Resources for Providing Prompt and Affordable Justice

In order to dispose of the court’s caseload within established time standards, courts must have a sufficient number of judicial officers and administrative and courtroom staff, and must have the facilities, equipment and technology needed to schedule, hear, monitor and dispose of cases. The inability of courts to dispose of cases within the adopted time standards can be used as an indicator of the need for additional resources, but may also be the result of ineffective case management practices. Therefore, courts should use their inability to resolve cases within their time standards as justification for their request for additional resources only after they have assured themselves that they are managing their available resources in an efficient and effective manner.

<sup>122</sup> See *National Probate Court Standards*, *supra*, note 69, at Standards 3.3.14 and 3.4.15, relating to the periodic filing of reports by guardians or conservators, *at least* on an annual basis.

<sup>123</sup> National Center for State Courts. *Principles for Judicial Administration: Governance, Case Administration, Core Functions and Dispositional alternatives, and Funding*. January, 2011 Draft.

<sup>124</sup> *Id.*

While the judiciary is a separate branch of government, it cannot function completely independently. Courts depend upon elected legislative bodies to determine their level of funding. Judicial leaders have the responsibility to justify what funding level is necessary and to establish administrative structures and management processes that demonstrate they are using the taxpayers' money wisely.<sup>124</sup>

Courts need an adequate number of judges in order to hear and dispose of cases in accordance with the adopted time standards. The failure to comply with standards can be an indicator that the court does not have a sufficient number of judges. However as suggested in the commentary to Standard 3.B, to justify a request for more judges, judicial leadership must first be able to demonstrate that they have looked at other potential reasons for the court's backlog:

- Judicial leadership could compare the caseload management plan in the court that is not in compliance with those that are in compliance to determine whether the court is exercising the necessary early and continuous control of cases. See Standard 3B on page 42.
- Judicial leadership could compare the number of total cases disposed of per judge in the court having a backlog with the dispositions per judge in the other courts in the jurisdiction.
- Judicial leadership could contract for a weighted caseload study to examine how much time a judge needs to devote to each type of case in order to identify the number of judges needed to provide quality dispositions of the number and type of cases in the court.

- Judicial leadership could use the weighted caseload study to determine whether the judges in the court are working to capacity and by examining whether other courts in the jurisdiction are providing quality resolution of cases while devoting less judge-time to the same number and type of cases. [fn For example, If judges in one judicial district in a state take 400 minutes to handle a serious felony that their colleagues in a similarly situated judicial district next door can handle in 200 minutes, or if there is a great difference between the two districts in the percentage of pending or disposed cases over the time standards, then it is important for court leaders to look more closely at the processes and practices in those courts. Unless the 400-minute judges had a disproportionately large number of murder cases, or had several judicial positions open during the assessment period, or had a much larger geographical area to cover (causing judges to have a lot more “windshield time”), or some other sensible explanation, then it appears that the differences between the 400-minute judicial district and the 200-minute judicial district can be attributed to caseload management issues.
- Judicial leadership should ensure that the court system is organized to minimize redundancies in court structures, procedures and personnel. Every effort should be taken to avoid overlapping or duplicative jurisdiction among the courts.<sup>125</sup>

Judicial officers are not the only resource that courts need in order to meet time standards. The clerks' offices need an adequate number of administrative and clerical staff and the equipment necessary to enable them to open cases, make docket entries, store and retrieve files, schedule and notice hearings, and prepare orders. Courtrooms must be

<sup>125</sup> *Id.*

available, with sufficient support staff and equipment to provide security and to make the record. Courts must have the technology needed to make the time of the judges and staff productive and to provide judges and staff with the management reports that will enable them to identify which cases need their attention.

As with deciding whether to request additional judges, judicial leaders should be in a position of demonstrating that they have thoroughly examined whether they are making the best use of their available staff, whether court procedures are simple, clear and streamlined, and whether they are making the best use of their equipment and technology before they decide that they must request additional resources to reduce the backlog.

Measuring compliance with established time standards is a critical foundation for building evidence-based requests for additional resources. It ties budget proposals to the mission of meeting agreed-upon goals.<sup>126</sup> Courts that adopt model time standards, measure compliance, take steps to promote compliance, and take steps to effectively govern, organize, administer and manage their court system are well positioned to request and justify the resources needed to enable the courts to hear and dispose of cases in a timely manner.

<sup>126</sup> *CourTools*, *supra*, note 87.



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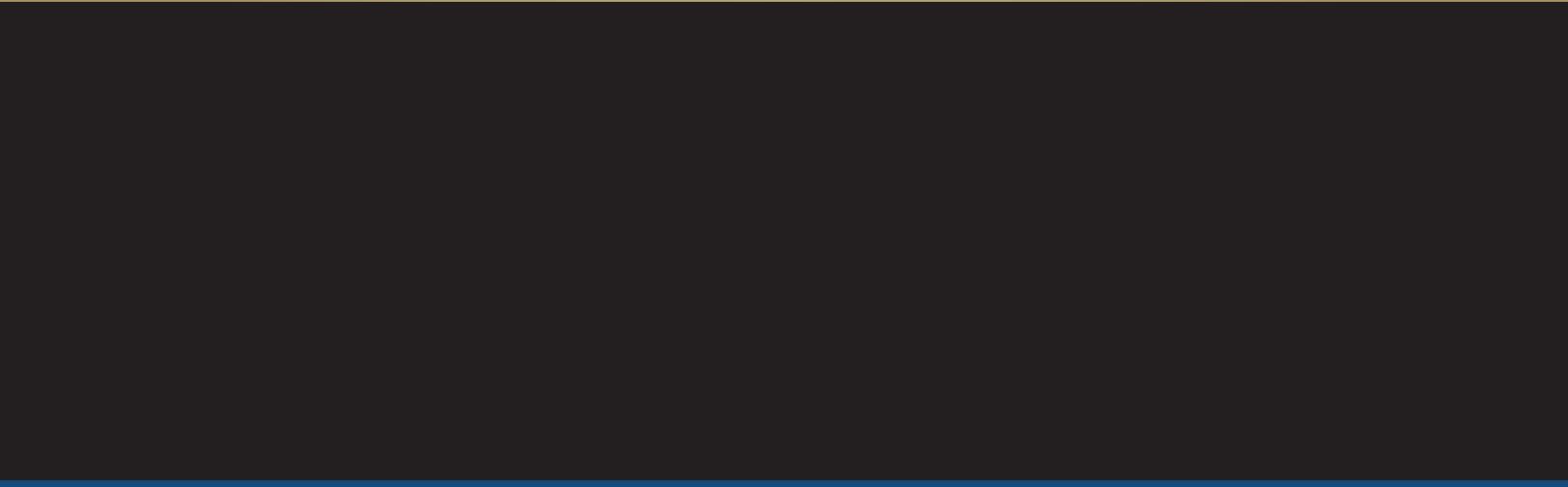
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# Overview

# Case Processing Standards Path to Approval



## Follow-Up Steps:

- Identify and draft changes to rules and statutes
- Identify best practices in existing courts
- Develop education and training sessions
- Determine automation reporting capacity



**ARIZONA CASE PROCESSING STANDARDS SUMMARY ANALYSIS  
PRELIMINARY RECOMMENDATIONS BASED ON  
ANALYSIS OF STATUTES AND RULES**

CASE CATEGORY	ARIZONA RULES AND STATUTES COMPORT WITH NATIONAL MODEL
Civil Superior Court Cases	X
Civil Justice Court Cases	X Same standards as general civil/superior court.
Civil Traffic	standard for criminal traffic and local ordinances
Civil Small Claims and Civil Local Ordinances – exclude eviction actions	X
Civil Eviction Actions (separate case category for Arizona)	Initial analysis of Arizona law suggests a faster standard.
Probate Administration of Estates	X
Probate Guardianship/Conservator of Incapacitated Adults	X
Probate Mental Health Cases	X
Criminal Post Conviction Relief	X
Criminal Misdemeanor- exclude DUI and include criminal traffic and criminal local ordinances	X
Misdemeanor DUI (separate case category for Arizona)	Retain existing Arizona standard
Criminal Felony	X
Family Law Post Judgment Motions	X
Family Law-Dissolution, Legal Separation, Paternity	X (See Analysis for Intermediate Goals)
Family Law-Protection Order Cases	Initial analysis suggest an Arizona specific standard.
Juvenile Termination of Parental Rights	X
Juvenile Delinquency and Status Offense	Initial analysis of Arizona law suggests a faster standard.
Juvenile Neglect and Abuse	Initial analysis of Arizona law suggests a faster standard.



## HIGH LEVEL SUMMARY ANALYSIS OF CASE TYPES

Case Category and Case Type	National Model Time Standards	Preliminary Analysis and Recommendations for Arizona Proposed Case Processing Standards
CRIMINAL - Felony-	75% w/in 90 days 90% w/in 180 days 98% w/in 365 days	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows: 75% w/in 90 days 90% w/in 180 days 98% w/in 365 days Death penalty cases are part of the 2% disposed after 365 days.</p> <p><b>Measurement:</b> Filing of initial complaint through disposition (e.g. dismissal, acquittal, sentencing) The following time will be excluded from measurement: warrant time, Rule 11 competency issues, diversion and special action/appeals.</p> <p><b>Discussion Points:</b> Current statistics show a significant gap between the national standard and current statistics for 2011. Process or business practices that improve the time to disposition need to be identified and developed through collaborative efforts.</p> <p><b>Question: Measurement to start from filing date, transmittal date or arraignment date</b></p>
CRIMINAL- Misdemeanor	75% w/in 60 days 90% w/in 90 days 98% w/in 180 days	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows: 75% within 60 days 90% within 90 days 98% within 180 days</p> <p><b>Criminal traffic and criminal local ordinance cases are included. DUI cases are excluded, they have a separate case processing standard.</b></p> <p><b>Measurement:</b> The following time will be excluded from measurement: warrant time, Rule 11 competency issues, diversion and special action/appeals.</p>
Misdemeanor DUI Is included with Misdemeanors in the national model.		<p><b>Include in adoption of case processing goals. Retain Existing Case Processing Goals for Arizona: 85% w/in 120 days 93% w/in 180 days</b></p>
CRIMINAL- Habeas Corpus and Post Conviction Proceedings	98% w/in 180 days	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows: 98% within 180 days Capital cases will be included as part of the 2% disposed after 180 days.</p> <p><b>Measurement:</b> Filing of Petition for Post Conviction Relief through disposition (e.g. dismissed/denied or relief granted.)</p>

## HIGH LEVEL SUMMARY ANALYSIS OF CASE TYPES

Case Category and Case Type	National Model Time Standards	Preliminary Analysis and Recommendations for Arizona Proposed Case Processing Standards
<p><b>CIVIL- Traffic (non-criminal offenses)</b></p>	<p>75% w/in 30 days 90% w/in 60 days 98% w/in 90 days</p>	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows: 75% within 30 days 90% within 60 days 98% within 90 days Civil local ordinance cases will not be included.</p> <p><b>Measurement:</b> Filing of Arizona Traffic Ticket and complaint or by long form complaint through disposition (e.g. dismissal, judgment) The following time will be excluded from measurement: diversion and special actions.</p>
<p>CIVIL-Superior Court Cases</p>	<p>75% within 180 days/6 months 90% within 365 days/12 months 98% within 540 days/18 months</p>	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows: 75% within 180 days/6 months 90% within 365 days/12 months 98% within 540 days/18 months Justice Court civil cases under \$10,000.00 will NOT be included Complex cases will be included as part of the 2% of cases disposed after 540 days</p> <p><b>Measurement:</b> Filing of initial complaint through disposition (e.g. dismissal, judgment.) The following time will be excluded from measurement: stay for special actions and bankruptcy.</p> <p><b>Discussion Points:</b> Current statistics show a significant gap between the national standard and current statistics for 2011. Process or business practices that improve the time to disposition need to be identified and developed through collaborative efforts.</p>
<p><b>CIVIL-Justice Court Cases</b></p>	<p>75% within 180 days/6 months 90% within 365 days/12 months 98% within 540 days/18 months (Same standard as General Civil/Superior Cases.)</p>	<p><b>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:</b> <b>75% within 180 days/6 months</b> <b>90% within 365 days/12 months</b> <b>98% within 540 days/18 months</b> Justice Court civil cases under \$10,000.00 will be included</p> <p><b>Measurement:</b> Filing of initial complaint through disposition (e.g. dismissal, judgment.) The following time will be excluded from measurement: stay for special actions and bankruptcy.</p>

## HIGH LEVEL SUMMARY ANALYSIS OF CASE TYPES

Case Category and Case Type	National Model Time Standards	Preliminary Analysis and Recommendations for Arizona Proposed Case Processing Standards
CIVIL - Small Claims and Civil Local Ordinances.	75% w/in 60 days 90% w/in 90 days 98% w/in 180 days	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows: 75% within 60 days 90% within 90 days 98% within 180 Days <b>Arizona will establish a new goal for evictions</b></p> <p><b>Measurement:</b> Filing of initial complaint through disposition (e.g. dismissal, judgment.) The following time will be excluded from measurement: stay for special actions and bankruptcy.</p>
<b>CIVIL -Eviction Actions</b>	Included in Summary Civil Matters. No national model.	<p><b>Initial analysis of Arizona law suggests a faster standard:</b> <b>90 % within 15 days</b> <b>98% within 30 days</b> <b>Summary Analysis includes Forcible detainers, Mobile Home residential and residential.</b></p> <p><b>Measurement:</b> Filing of initial complaint through disposition (e.g. dismissal, judgment.) The following time will be excluded from measurement: stay for special actions and bankruptcy.</p>
FAMILY LAW -Protection Orders	<p>In 100% of the cases ex parte hearings should be concluded within the period specified by law.</p> <p>90% w/in 10 days 98% w/in 30 days</p>	<p><b>Initial analysis suggest an Arizona specific standard:</b> <b><u>Ex Parte Hearing:</u></b> <b>95% within 24 hours.</b></p> <p><b>Measurement:</b> Filing of petition for protective order to issuance or denial of protective order.</p> <p>Analysis suggests that Arizona comport with the national model: <b><u>Contested Hearing:</u></b> 90% within 10 days 98% within 30 days</p> <p><b>Measurement:</b> Filing of request for hearing to modification, affirmation or quashing of protective order.</p>

## HIGH LEVEL SUMMARY ANALYSIS OF CASE TYPES

Case Category and Case Type	National Model Time Standards	Preliminary Analysis and Recommendations for Arizona Proposed Case Processing Standards
<p>FAMILY LAW -Dissolution with and without children (includes paternity and non-divorce custody, support or visitation proceedings)</p>	<p>75% w/in 120 days 90% w/in 180 days 98% w/in 365 days</p> <p>Intermediate Goal: 98% - temporary orders should be issued within 60 days</p>	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows: 75% w/in 120 days 90% w/in 180 days 98% w/in 365 days Includes legal separation and annulments. Excludes adoption cases. <b>Measurement:</b> Measurement is the date of filing to the date of disposition by entry of judgment or order. <b><u>Proposed Arizona Intermediate Case Processing Goal for Temporary Orders</u></b> ✓ <b>Arizona will adopt the national model:</b> 98% temporary orders should be issued within 60 days. <b>Measurement:</b> Measurement is the receipt of filing a verified motion for temporary orders with the court to the date of disposition by entry of temporary orders. <b>Discussion Points:</b> Current statistics show a significant gap between the national standard and current statistics for 2011. Process or business practices that improve the time to disposition need to be identified and developed through collaborative efforts. <b>Question: Intermediate goal to be included and suggest adoption of national model.</b> <b>Other suggested Arizona case processing standards were as follows:</b> <b>90% - temporary orders should be issued within 60 days</b> <b>98% - temporary orders should be issued within 120 days</b></p>
<p>FAMILY LAW -Post Judgment Motions (Modifications of child support, spousal support, custody and visitation)</p>	<p>98% w/in 180 days</p>	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows: 98% within 180 days (6 months)</p> <p><b>Measurement:</b> Measurement is the date of filing a post-decree or post-judgment petition to the date of disposition by entry of judgment or order.</p>
<p>JUVENILE -Delinquency &amp; Status Offense</p>	<p>Youth in detention: 75% w/in 30 days 90% w/in 45 days 98% w/in 90 days Youth not in detention: 75% w/in 60 days 90% w/in 90 days 98% w/in 150 days</p>	<p><b>Initial analysis of Arizona law suggests a faster standard:</b> <b><u>Youth in detention:</u></b> <b>98% within 45 days</b> <b><u>Youth not in detention:</u></b> <b>98% within 60 days</b> <b>Measurement:</b> Filing of petition through adjudication of delinquency or incorrigibility. The following time will be excluded from measurement: diversion and warrant time.</p>

## HIGH LEVEL SUMMARY ANALYSIS OF CASE TYPES

Case Category and Case Type	National Model Time Standards	Preliminary Analysis and Recommendations for Arizona Proposed Case Processing Standards
JUVENILE -Neglect and Abuse	Adjudicatory Hearing: 98% w/in 90 days of removal. Permanency Hearing: 75% w/in 270 days of removal. 98% w/in 360 days of removal.	<p><b>Initial analysis of Arizona law suggests a faster standard:</b>  <b>Adjudication Hearing:</b>  <b>98% within 90 days of removal</b>  <b>Measurement:</b> Date of removal through a finding of dependency.  <b>Permanency Hearing:</b>  <b>98% of children under 3 years of age within 180 days/6 months of removal</b>  <b>98% of all other cases within 360 days of removal</b></p> <p><b>Measurement:</b> Date of removal through issuance of a permanency plan  <b>Question:</b> Measurement from date of removal or service of the petition?</p>
JUVENILE -Termination of Parental Rights	90% w/in 120 days after filing petition. 98% w/in 180 days after filing petition.	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:                      90% within 120 days                      98% within 180 days</p> <p><b>Measurement:</b> Filing of Motion for Termination of Parental Rights through entry of order terminating parental rights</p>
PROBATE -Administration of Estates	75% w/in 360 days 90% w/in 540 days 98% w/in 720 days	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:                      75% within 360 days                      90% within 540 days                      98% within 720 days</p> <p><b>Measurement:</b> Filing of application/petition through closing of estate.</p>
PROBATE -Guardianship/ Conservator of Incapacitated Adults	98% w/in 90 days	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:                      98% within 90 days after filing petition</p> <p><b>Measurement:</b> Filing of petition through denial of the petition or issuance of a court order appointing a fiduciary.</p>
PROBATE -Civil Commitment (i.e. mental health cases)	98% w/in 15 days	<p>Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:                      98% within 15 days after filing petition</p> <p><b>Measurement:</b> Filing of petition for court-ordered treatment through disposition (e.g. patient released or issuance of a court order for treatment)</p>

**Civil**

**CASE PROCESSING STANDARDS ANALYSIS  
CIVIL - SUPERIOR COURT CASES**

**National Center for State Courts Model Time Standards:**

- 75% within 180 days/6 months
- 90% within 365 days/12 months
- 98% within 540 days/18 months

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)

**Arizona Civil - Superior Court Cases**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

- 75% within 180 days/6 months**
- 90% within 365 days/12 months**
- 98% within 540 days/18 months**

✓ Complex cases will be included as part of the 2% of cases disposed after 540 days

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)  
The following time will be excluded from measurement: stay for special actions and bankruptcy.

Arizona Rules and Statutes	Timelines under Rule
<b>Initial Complaint Filed:</b>	<b>(Measurement Starts Here)</b>
<b>Service of Process:</b>	
Rule 4(i), ARCP <sup>1</sup>	<b><u>No Service-Dismissal:</u></b> Action dismissed without prejudice if summons and complaint not served upon defendant within <b>120 days</b> of filing of complaint.
Rule 12(a)(1)(B), ARCP	<b><u>Waiver of Service:</u></b> If service made pursuant to request to waive service of summons, must file and serve answer <b>60 days</b> from date Request to Waive Service was sent, or <b>90 days</b> if addressed to defendant outside of United States.
Rule 12(a), ARCP	<b><u>Service in Arizona:</u></b> If defendant served in Arizona by personal service, the answer must be filed within <b>20 days</b> from date of service.
Rule 4.2(b), (c) and (m), ARCP	<b><u>Out-of-State Service:</u></b> If defendant personally served outside of state, must file answer within <b>30 days</b> from completion of service. If served by registered mail <b>30 days</b> after date on return receipt.
Rule 4.1(n), Rule 12(a), Rule 4.2(f) and (m), ARCP	<b><u>Service by Publication:</u></b> Answer is due <b>50 days</b> from date of first publication if within Arizona or <b>60 days</b> if out of state.

<sup>1</sup> Arizona Rules of Civil Procedure

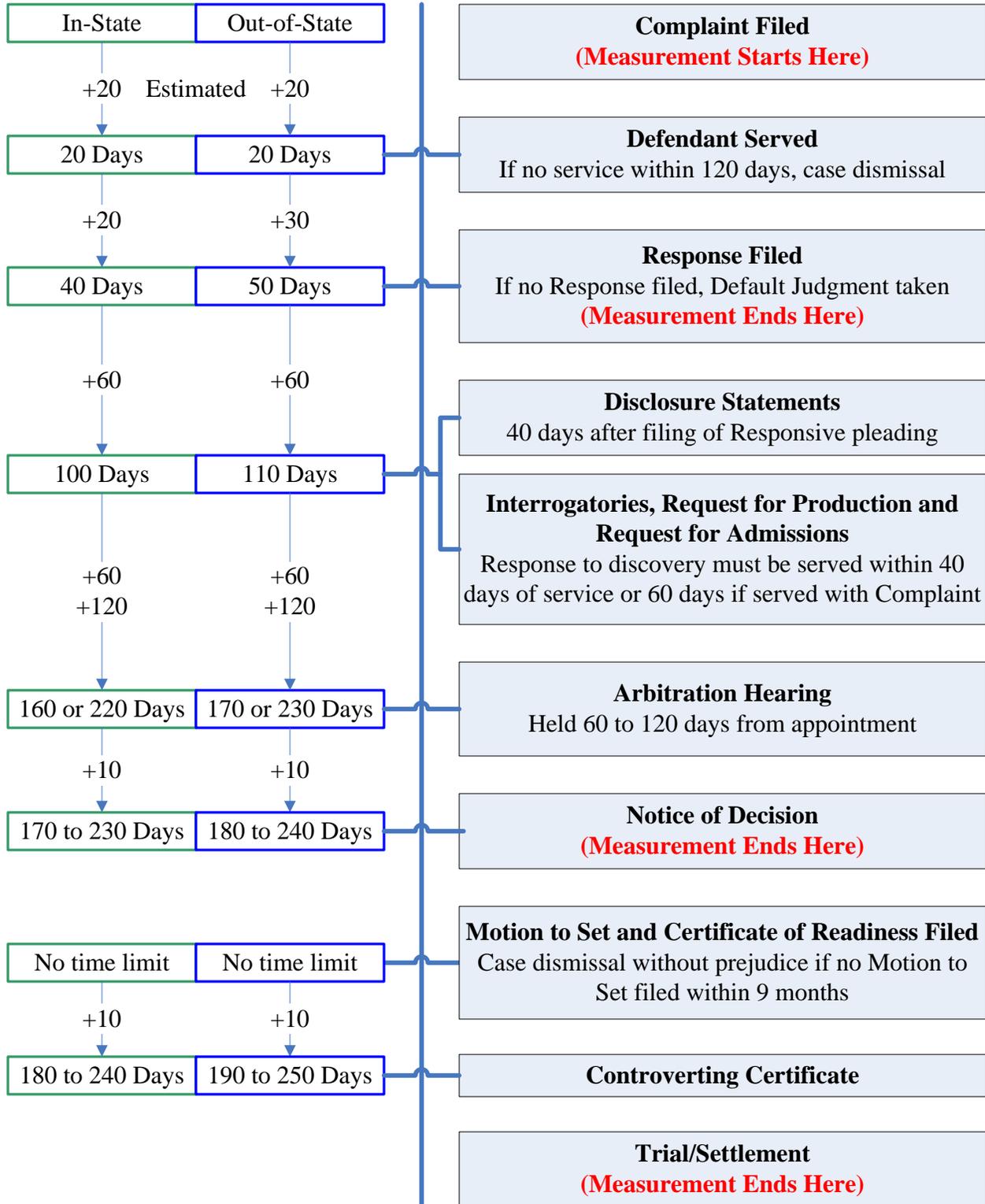
<p><b>Motions Filed Prior to Answer:</b> Rule 7.1(a), ARCP</p> <p>Rule 55(a), ARCP</p>	<p><b>Response and Reply:</b> Party opposing a motion shall have <b>10 days</b> after service to file a response. Moving party has <b>5 days</b> to file a reply.</p> <p><b>Default Judgment:</b> Default entered by the clerk effective <b>10 days</b> after filing of application for entry of default</p>
<p><b>Discovery and Disclosure:</b> Rule 26.1(b), ARCP</p> <p>Rule 26.1(b)(2), ARCP</p> <p>Rule 33(a), Rule 34 (b), Rule 36(a) and (b), ARCP</p> <p>Rule 26(b)(5), ARCP</p> <p>Rule 15(a)(1), (2) and (3), ARCP</p> <p>Rule 56(a), (b), (c) and (f), ARCP</p>	<p><b>Disclosure Statements:</b> Must serve disclosure statements within <b>40 days</b> after filing of responsive pleading.</p> <p>Continuing duty to disclose but not within 60 days of trial date without leave of court.</p> <p><b>Interrogatories, Request for Production of Documents and Request for Admissions:</b> Responses to discovery must be served within <b>40 days</b> of service except that a defendant has <b>60 days</b> if discovery request is served with complaint.</p> <p><b>Non- Parties at Fault:</b> Must identify non-parties at fault at time of filing motion to set or controverting certificate, if applicable, or within <b>150 days</b> of filing answer, whichever is earlier.</p> <p><b>Amendment to Pleadings:</b> Pleadings may be amended within <b>20 days</b> after pleading to be amended is served. If granted, must serve amended pleading within 10 days of order granting motion to amend. Response to amended pleading must be made within <b>10 days</b> after service.</p> <p><b>Summary Judgment:</b> Plaintiff may file a motion for summary judgment after the expiration of <b>20 days</b> from the date of service, but no sooner than the date the answer is due. Neither party can file the motion later than 90 days before the date set for trial.</p> <p>Response to motion for summary judgment is due within <b>30 days</b> after service of motion. Reply is due within <b>15 days</b> of service of the response.</p>
<p><b>Arbitration:</b> A.R.S.<sup>2</sup> § 12-133 Rule 72, ARCP</p> <p>Rule 73(c)(2), ARCP</p>	<p><b>Arbitration of Claims:</b> Jurisdictional amount set by Superior Court up to \$65,000.00. (See local court rules for jurisdictional amount of each county.)</p> <p><b>Timing of Assignment:</b> Arbitration shall take place as soon as possible after answer and controverting certificate are filed and no</p>

<sup>2</sup> Arizona Revised Statutes

<p>Rule 74(b), ARCP</p> <p>Rule 76(a), ARCP</p> <p>Rule 76(b), ARCP</p> <p>Rule 76(e), ARCP</p> <p>A.R.S. § 12-3023</p>	<p>later than <b>120 days</b>.</p> <p><b>Hearing Date:</b> Arbitrator shall commence the hearing not fewer than <b>60 nor more than 120 days</b> after appointment to the case. Arbitrator must give written notice to the parties at least <b>30 days</b> before the hearing unless waived by parties.</p> <p><b>Notice of Decision:</b> Within <b>10 days</b> of completion of the hearing, the arbitrator shall notify the parties of the decision and file the notice of decision with the court.</p> <p>Unless formal award or stipulation for entry of another form of relief is filed with the court within <b>50 days</b> from the filing of the notice of decision. The notice of decision will constitute the award of the arbitrator.</p> <p><b>Referral to Judge:</b> If arbitrator does not file award with <b>145 days</b> after first appointment, case is assigned to judge for appropriate action.</p> <p><b>Vacating Arbitration Award:</b> Motion must be filed within <b>90 days</b> of receiving notice of award.</p>
<p><b>Trial:</b></p> <p>Rule 38.1(b), ARCP</p> <p>Rule 38.1(a)(3)(i), ARCP</p> <p>Rule 38.1(d) ARCP</p>	<p><b>Motion to Set and Certificate of Readiness:</b> Must file controverting certificate within <b>10 days</b> of filing motion to set.</p> <p><b>Completion of pre-trial discovery:</b> In counties where rule applies, discovery must be completed <b>60 days</b> from the date of filing the motion to set.</p> <p><b>Inactive Calendar:</b> If a motion to set has not been filed within <b>9 months</b>, the case will be set on an inactive calendar by the clerk. If case remains on calendar for <b>2 months</b>, case shall be dismissed without prejudice.</p> <p style="text-align: center;"><b>(Measurement Stops Here)</b></p>

## SUPERIOR COURT CIVIL TIMELINE

NCSC Model Time Standards  
75% with in 180 days – 90% within 365 days – 98% within 540 days





**CASE PROCESSING STANDARDS ANALYSIS  
CIVIL - JUSTICE COURT CASES**

**National Center for State Courts Model Time Standards:**

- 75% within 180 days/6 months
- 90% within 365 days/12 months
- 98% within 540 days/18 months

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)

**Arizona Civil - Justice Court Cases**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

- 75% within 180 days/6 months**
- 90% within 365 days/12 months**
- 98% within 540 days/18 months**

✓ Justice Court civil cases under \$10,000.00 will be included

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)  
The following time will be excluded from measurement: stay for special actions and bankruptcy.

Arizona Rules and Statutes	Timelines under Rule
<b>Initial Complaint Filed:</b>	<b>(Measurement Starts Here)</b>
<b>Service of Process:</b> Rule 113(i), JCRCP <sup>1</sup>	<b><u>No Service-Dismissal:</u></b> Action dismissed without prejudice if summons and complaint not served upon defendant within <b>120 days</b> of filing of complaint.
Rule 114(a), JCRCP	<b><u>Service in Arizona:</u></b> If defendant is served in Arizona by personal service, the answer must be filed within <b>20 days</b> from date of service.
Rule 114(a), JCRCP	<b><u>Out-of-State Service:</u></b> If defendant is personally served or served by certified mail outside of state, the answer must be filed within <b>30 days</b> from date of service.
Rule 113(d), JCRCP	Service by certified mail is complete on the date that defendant signed the return receipt. If there is no date on the receipt or if it is not legible, then service is complete on the date the affidavit is filed.
Rule 113(c)(9), Rule 113(e)(2), JCRCP	<b><u>Service by Publication:</u></b> Answer is due <b>50 days</b> from date of first publication if within Arizona or <b>60 days</b> if out of state.
<b>Motions Filed Prior to Answer:</b> Rule 128(e), JCRCP	<b><u>Response and Reply:</u></b> Party opposing a motion shall have <b>10 days</b>

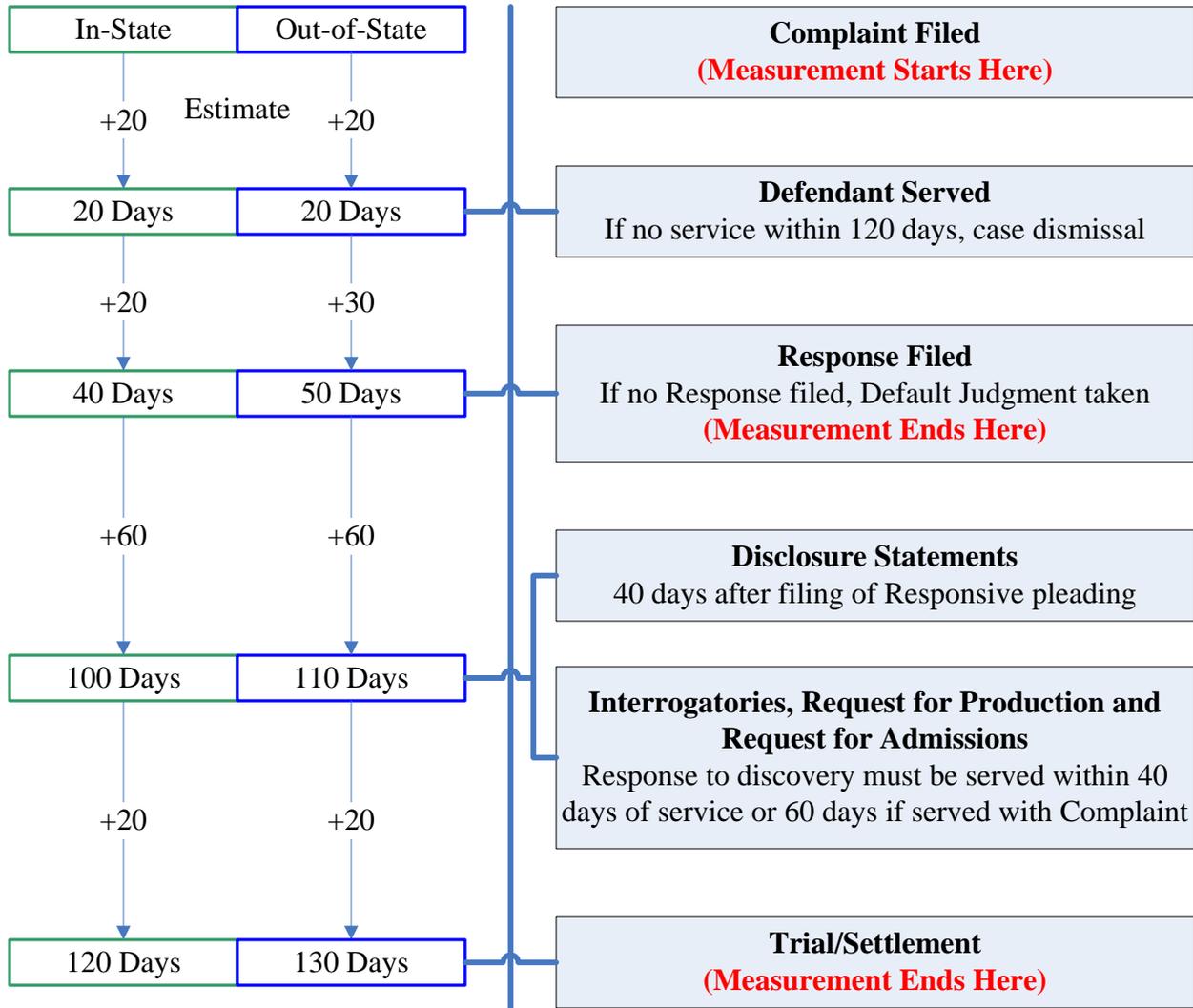
<sup>1</sup> Justice Court Rules of Civil Procedure

<p>Rule 140(d), JCRCP</p>	<p>after service to file a response. Moving party has <b>5 days</b> to file a reply.</p> <p><b><u>Default Judgment:</u></b> Default entered by the clerk effective <b>10 days</b> after filing of application for entry of default</p>
<p><b>Discovery and Disclosure:</b>  Rule 123(b), JCRCP</p> <p>Rule 121(a), JCRCP</p> <p>Rule 121(b), JCRCP</p> <p>Rule 124(b), Rule 125(c), and Rule 126(b), JCRCP</p> <p>Rule 126(c), JCRCP</p> <p>Rule 122(f)(5), JCRCP</p> <p>Rule 119(a), JCRCP</p> <p>Rule 129(b), JCRCP</p>	<p><b><u>Depositions:</u></b> Depositions can be taken <b>30 days</b> after the party being deposed was served. A witness can be deposed <b>60 days</b> after an opposing party has appeared in a lawsuit.</p> <p><b><u>Disclosure Statements:</u></b> Must serve disclosure statements within <b>40 days</b> after defendant has filed an answer or at a time set by the court.</p> <p>Continuing duty to disclose until the lawsuit is over.</p> <p><b><u>Interrogatories, Request for Production of Documents and Request for Admissions:</u></b>  Responses to discovery must be served within <b>40 days</b> of service except that a defendant has <b>60 days</b> if discovery request is served with complaint.</p> <p>A second notice that provides an additional <b>15 day</b> grace period for a response on a request for admissions is required.</p> <p><b><u>Non-Parties at Fault:</u></b> Must identify non-parties at fault within <b>60 days</b> from the filing of the answer.</p> <p><b><u>Amendment to Pleadings:</u></b> A party may amend a pleading one time before a response has been provided. If no response is required, a party may amend a pleading within <b>20 days</b> after the pleading was filed.</p> <p><b><u>Summary Judgment:</u></b> A party may file a motion for summary judgment no sooner than the date that the answer is filed or is due and no later than <b>90 days</b> before the date set for trial.</p> <p>Response to motion for summary judgment is due within <b>30 days</b> after service of motion. Reply is due within <b>15 days</b> of service of the response.</p>
<p><b>Optional Mediation</b>  Rule 130, JCRCP</p> <p>Rule 130(f), JCRCP</p>	<p><b><u>Optional Mediation:</u></b> Justice courts may establish a mediation program.</p> <p><b><u>Settlement at Mediation Conference:</u></b> If court notified by mediator that lawsuit was settled, the court may dismiss the lawsuit, with notice to the parties, <b>30 days</b> after the date of the mediation conference. If during that 30 day period, a party notifies the court that the terms of the settlement agreement have not been fulfilled, the court may set the lawsuit for a pretrial conference or a trial.</p>



## JUSTICE COURT CIVIL TIMELINE

NCSC Model Time Standards  
75% with in 180 days – 90% within 365 days – 98% within 540 days





**CASE PROCESSING STANDARDS ANALYSIS  
SUMMARY CIVIL - EVICTION CASES**

**National Center for State Courts Model Time Standards for Summary Civil Matters:**

- 75% within 60 days
- 90% within 90 days
- 98% within 180 Days

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)

**Arizona Summary Civil – Eviction Actions**

Initial analysis suggests that Arizona rules and statutes require standards that are faster than the National Standards:

- 90 % within 15 days**
- 98% within 30 days**

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)  
The following time will be excluded from measurement: stay for special actions and bankruptcy.

Arizona Rules and Statutes	Timelines under Rule
<b>Petition Filed:</b> Rule 5, RPEA <sup>1</sup>  A.R.S. <sup>2</sup> § 33-361  A.R.S. § 33-381	<p style="text-align: center;"><b>(Measurement Starts Here)</b></p> Summons and Complaint for Eviction Actions  An action for recovery of possession shall be commenced, conducted, and governed as provided for actions for forcible entry or detainer and shall be tried not less than <b>5 days</b> nor more than <b>30 days</b> after commencement.  A.R.S. § 33-381, Chapter 3, applies to all landlord–tenant relationships except for landlord-tenant relationships arising out of the rental of Residential dwelling units and Mobile Home Parks Residential dwelling units.
<b>Service:</b> A.R.S. § 12-1175(A) and (C) (Forcible Entry and Detainer)  A.R.S § 33-1377(B) (Residential) and A.R.S § 33-1485(B) (Mobile Home Parks Residential)  A.R.S § 33-1377(C),	A summons for a complaint for forcible entry or forcible detainer filed in superior or justice court shall issue no later than the <b>next judicial day after filing</b> . The summons shall be served at least <b>2 days</b> before the return day, and return made thereof on the day assigned for trial.  Summons shall be issued on the day the complaint is filed and shall command the person to appear at the time and place named, which shall <b>not be more than 6 nor less than 3 days</b> from the date of the summons. The summons shall be served at least 2 days before the return day and the return day made on the day assigned for trial.  For good cause shown supported by an affidavit, the trial may be

<sup>1</sup> Arizona Rules of Procedure for Eviction Actions

<sup>2</sup> Arizona Revised Statutes

<p>A.R.S § 33-1485(C)</p> <p>A.R.S § 33-1377(E)</p>	<p>postponed for not more than <b>3 days in justice court and 5 days in superior court.</b></p> <p><b>Material and irreparable breach:</b> trial date and return date shall be set no later than the <b>3<sup>rd</sup> day</b> following the filing of the complaint.</p>
<p><b>Answer and Continuances:</b></p> <p>Rule 7, RPEA</p> <p>Rule 11(b)(2), RPEA</p> <p>Rule 9(b), RPEA</p> <p>Rule 10(b), RPEA</p> <p>Rule 11(c), RPEA</p>	<p><b>Answer:</b> On or before the initial return date, the defendant shall answer, indicating whether the defendant admits or denies allegations of the complaint. The defendant’s answer shall also state any defenses the defendant may want to assert.</p> <p>Defendant shall not be required to file an answer until the initial appearance. At the initial appearance, if the trial is not continued, the defendant may file an oral answer on the record.</p> <p><b>Responses and Replies:</b> The filing of motions, responses and replies shall not delay the times set by statute for proceeding with an eviction action, except for continuances granted for good cause shown or by stipulation of the parties.</p> <p><b>Disclosure:</b> Upon good cause shown, the court may order the taking of depositions, inspection of the premises, or the production of other pertinent documents in a manner that will not delay the times set by statute for proceeding with an eviction action, except for continuances granted for good cause shown or by stipulation of the parties.</p> <p><b>Continuances:</b> Whenever possible the trial should be held on the initial return date. The court may order the continuance of a trial date by up to <b>3 court days</b> in justice court or <b>10 days</b> in superior court for good cause shown or to accommodate the demands of the calendar. No additional continuances may be granted unless both parties agree.</p>
<p><b>Trial:</b></p> <p>Rule 11(d), RPEA</p> <p>A.R.S § 12-1176(A)</p> <p>A.R.S § 12-1177(C)</p> <p>Rule 13, RPEA</p>	<p><b>Jury Trial:</b> Plaintiff can request jury trial in complaint or defendant can request at initial appearance. To proceed to a jury trial, there must be material issues of fact for the jury to decide or else the case will proceed to a trial by judge.</p> <p>The trial date shall be no more than <b>5 judicial days</b> after the complaint was filed.</p> <p>For good cause, the trial may be postponed not to exceed <b>3 calendar days</b> in justice court or <b>10 calendar days</b> in superior court.</p> <p>Entry of Judgment and Relief Granted.</p> <p style="text-align: center;"><b>( Measurement Stops Here )</b></p>
<p><b>Post-Judgment:</b></p> <p>Rule 14(b)(1), RPEA</p>	<p><b>Writ of Restitution:</b> A party who obtains a judgment for possession in an eviction action shall have up to <b>45 days</b> to apply for a writ of restitution.</p>



**CASE PROCESSING STANDARDS ANALYSIS  
SUMMARY CIVIL CASES –  
SMALL CLAIMS AND CIVIL LOCAL ORDINANCE**

**National Center for State Courts Model Time Standards for Summary Civil Cases:**

- 75% within 60 days
- 90% within 90 days
- 98% within 180 Days

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)

**Arizona Civil - Small Claims and Civil Local Ordinance**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

- 75% within 60 days**
- 90% within 90 days**
- 98% within 180 Days**

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)  
The following time will be excluded from measurement: stay for special actions and bankruptcy.

Arizona Rules and Statutes	Timelines under Rule
<b>Petition Filed:</b>	<b>(Measurement Starts Here)</b> Small Claims Petition filed Complaint filed for violation of a local ordinance.
<b>Service of Process:</b> A.R.S. <sup>1</sup> § 22-514	<b><u>Small Claims:</u></b> Defendant to file an answer within <b>20 days</b>
<b>Discovery and Continuances:</b> A.R.S. § 22-515  A.R.S. § 22-516	<b><u>Small Claims</u></b> <b>Continuances:</b> In small claims cases continuances granted only for most serious reasons.  <b>Discovery:</b> Parties are not bound by formal rules of procedure, pleading or evidence. Discovery proceedings shall not be used in the small claims procedures.
<b>Trial:</b> A.R.S. § 22-515(A)  A.R.S. § 22-520(A)  A.R.S. § 22-520(D)	<b><u>Small Claims:</u></b> <b>Hearing date:</b> Upon the filing of an answer by the defendant, a hearing date shall be set for a date within <b>60 days</b> .  Judgment rendered <b>10 days</b> from close of trial.  Judgment is due and payable after the judgment is rendered by the justice of the peace. <b><u>Civil Local Ordinance</u></b> See local ordinance for procedures. <b>(Measurement Stops Here)</b>

<sup>1</sup> Arizona Revised Statutes



**CASE PROCESSING STANDARDS ANALYSIS  
CIVIL - TRAFFIC**

**National Center for State Courts Model Time Standards for Criminal Traffic and Local Ordinance:**

- 75% within 30 days
- 90% within 60 days
- 98% within 90 days

**Measurement:** Filing of complaint form through disposition (e.g., dismissal, judgment)

**Arizona Civil - Traffic**

Initial analysis suggests that Arizona rules and statutes for civil traffic comport with the National Standards for criminal traffic and local ordinances as follows:

- 75% within 30 days**
- 90% within 60 days**
- 98% within 90 days**

✓ Civil local ordinance cases will not be included.

**Measurement:** Filing of Arizona Traffic Ticket and Complaint (ATTC) or by long-form complaint through disposition (e.g., dismissal, judgment)

The following time will be excluded from measurement: diversion and special actions.

Arizona Rules and Statutes	Timelines under Rule
<b>Commencement of Action:</b> A.R.S. <sup>1</sup> § 28-1592(B)(1)  A.R.S. § 28-1592(B)(2)  A.R.S. § 28-1592(B)(2) and (4)	If a case is commenced by issuance, it shall be issued within <b>60 days</b> of the alleged violation.  If a case is commenced by filing, it shall be filed within <b>60 days</b> of the alleged violation and shall be served within <b>90 days</b> from the filing date.  Within <b>180 days</b> of the alleged violation if the alleged violation is under investigation in conjunction with a traffic accident. Within <b>1 year</b> if in conjunction with a traffic accident resulting in death.
<b>Traffic Ticket/Complaint Filed:</b>	<b>(Measurement starts when traffic ticket/complaint filed with court)</b>
<b>Entry of Plea:</b> Rule 22, Ariz.R.P. Civil Traf. <sup>2</sup>  Rule 10(a), Ariz.R.P. Civil Traf.	<b><u>Failure to Appear:</u></b> If defendant fails to appear as required, allegations deemed admitted, judgment entered for state, sanction imposed and reported to Department of Transportation. Photo enforcement violations are not reported. <b>(Measurement Stops Here)</b> <b>OR</b> <b><u>Admit Responsibility:</u></b> Enter plea in person or by mail, judgment entered for state, sanction imposed and reported to Department of Transportation. Photo enforcement violations are not reported.

<sup>1</sup> Arizona Revised Statutes

<sup>2</sup> Arizona Rules of Procedure in Civil Traffic and Civil Boating Violation Cases

<p>Rule 10(b), Ariz.R.P. Civil Traf.</p>	<p><b>(Measurement Stops Here)</b>  <b>OR</b>  <u><b>Deny Responsibility:</b></u> In person or notification in writing. Upon notice, court shall set a hearing and notify parties.</p>
<p><b>Notice and Discovery:</b>  Rule 11, Ariz.R.P. Civil Traf.</p> <p>Rule 12, Ariz.R.P. Civil Traf.</p> <p>Rule 13, Ariz.R.P. Civil Traf.</p> <p>Rule 15, Ariz.R.P. Civil Traf</p>	<p><u><b>Notice of Right to Counsel and Waiver:</b></u> If defendant denies allegations contained in the complaint and requests a hearing, the court shall promptly provide the defendant written notice of a hearing date. Notice of hearing shall also state that the right to be represented by counsel at the hearing is waived unless the court and state are notified in writing at least <b>10 calendar days</b> prior to the hearing date.</p> <p><u><b>Representation by the State:</b></u> State need not be represented by counsel at the hearing. Absent extraordinary circumstances, the state’s right to be represented by counsel at the hearing is waived unless, at least <b>10 calendar days</b> prior to the hearing date or within <b>10 days</b> of receipt of notice that the defendant will be represented by counsel, whichever is later, the state notifies the defendant of its election to be represented by counsel.</p> <p><u><b>Discovery:</b></u> No pre-hearing discovery shall be permitted absent extraordinary circumstances. Immediately prior to hearing, both parties shall produce for inspection any prepared exhibits, and written or recorded statements of any witness.</p> <p><u><b>Continuances:</b></u> Court may continue hearing for a period not to exceed <b>60 days</b>.</p>
<p><b>Hearing:</b>  Rule 21, Ariz.R.P. Civil Traf</p> <p>Rule 22, Ariz.R.P. Civil Traf</p> <p>Rule 24, Ariz.R.P. Civil Traf</p>	<p><u><b>Default by State at Hearing:</b></u> If no witness excluding defendant appears at the time set for hearing, the court shall dismiss the complaint and return any deposit, unless the court for good cause shown continues the hearing to another date.  <b>(Measurement Stops Here Unless Continued)</b></p> <p><u><b>Default by Defendant at Hearing:</b></u> Defendant fails to appear as required, allegations deemed admitted, judgment entered for state, sanction imposed and reported to Department of Transportation. Photo enforcement violations are not reported.</p> <p><u><b>Finding or Responsible or Not Responsible:</b></u> If defendant found responsible, court shall enter judgment for the state and impose a civil sanction. If defendant found not responsible, the court shall enter judgment for defendant and return any deposit.  <b>(Measurement Stops Here)</b></p>

**Criminal**

**CASE PROCESSING STANDARDS ANALYSIS  
CRIMINAL-FELONY**

**National Center for State Courts Model Time Standards:**

- 75% within 90 days
- 90% within 180 days
- 98% within 365 days

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, acquittal, sentencing)

**Arizona Criminal-Felony**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

- 75% within 90 days**
- 90% within 180 days**
- 98% within 365 days**

✓ Death Penalty cases will be included as part of the 2% disposed after 365 days.

**Measurement:** Filing of initial complaint through disposition (e.g., dismissal, acquittal, sentencing)  
The following time will be excluded from measurement: warrant time, Rule 11 competency issues, diversion and special action/appeals.

**Discussion Points:** Current statistics show a significant gap between the national standard and current statistics for 2011. Process or business practices that improve the time to disposition need to be identified and developed through collaborative efforts.

Arizona Rules and Statutes	Timelines under Rule
<p><b>Complaint Filed</b> Rule 3.1(a), Ariz.R.Crim.P.<sup>1</sup></p>	<p style="text-align: center;"><b>(Measurement Starts Here in AJACS)</b></p> <p><b>Arrest warrant or summons issued:</b> Upon presentment of a complaint signed by a prosecutor, the court shall promptly issue a summons or notice of supervening indictment under rule 12.7(c) or, after a finding of probable cause, issue a warrant.</p>
<p>Rule 3.2, Ariz.R.Crim.P</p>	<p><b>Summons:</b> The defendant will be summoned to appear within <b>30 days</b> after the filing of an indictment, information or complaint.</p>
<p><b>Indictment:</b> Rule 12.7, Ariz.R.Crim.P and Rule 3.1(a), Ariz.R.Crim.P</p>	<p>The indictment shall be returned in open court by the foreman in the presence of the grand jury and the prosecutor. If defendant has previously had an initial appearance under Rule 4.2, the court shall prepare and send to the defendant and defendant’s counsel a notice of supervening indictment in lieu of issuing a warrant or summons.</p>
<p><b>Information Filed</b> Rule 13.1(c), Ariz.R.Crim.P</p>	<p>An information shall be filed in Superior Court within <b>10 days</b> after determination of probable cause or the defendant’s waiver of a preliminary hearing.</p>

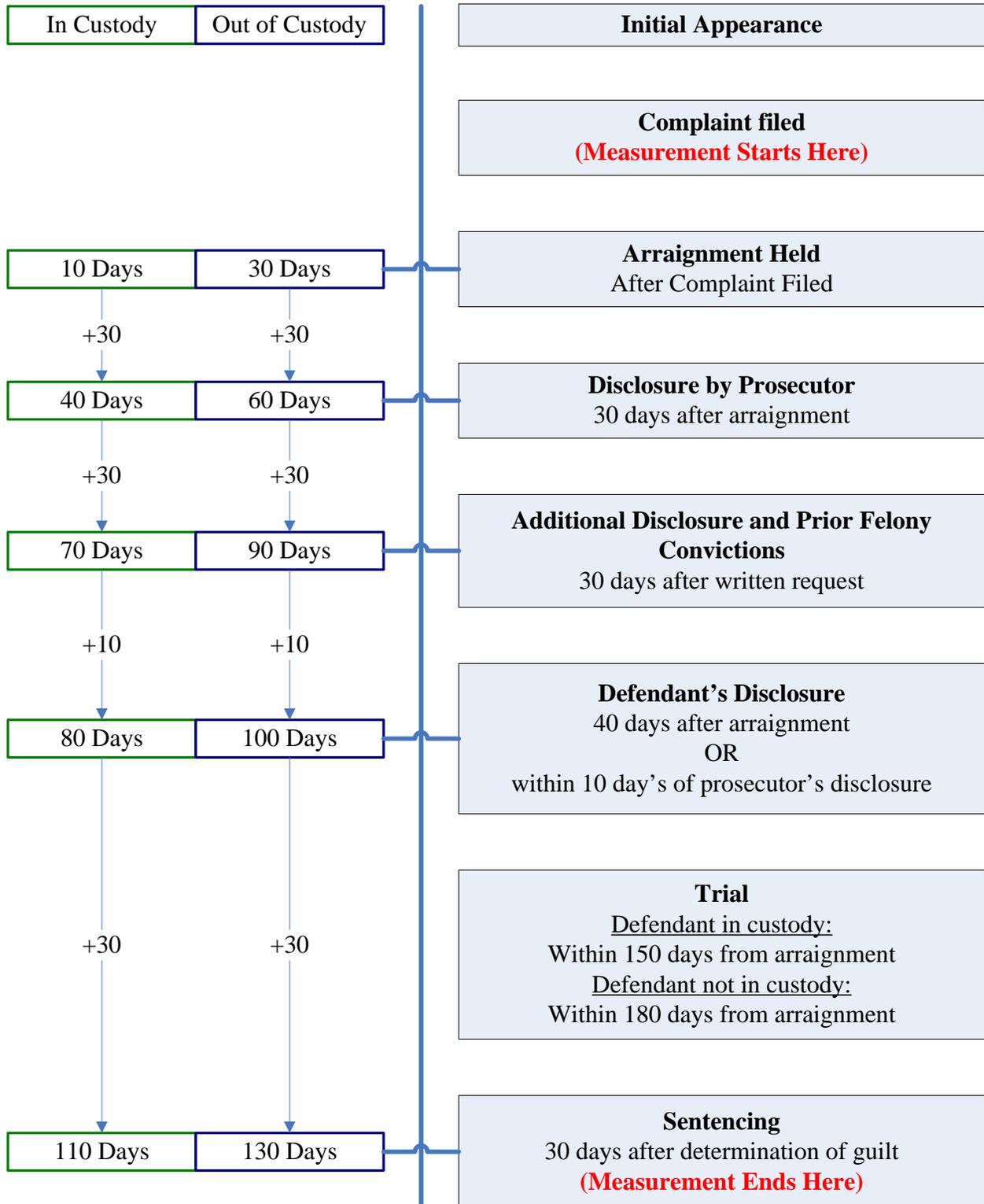
<sup>1</sup> Arizona Rules of Criminal Procedure

<p><b>Initial Appearance:</b> Rule 4.1(a), Ariz.R.Crim.P.</p> <p>Rule 4.1(b), Ariz.R.Crim.P.</p>	<p>Initial Appearance held within <b>24 hours</b> of arrest.</p> <p><b>Arrest without a warrant:</b> If complaint has not already been filed, a complaint shall be promptly prepared and filed. If a <b>complaint</b> is not <b>filed within 48 hours from the time of the initial appearance</b> before the magistrate, the defendant shall be released from jail, and the preliminary hearing date, if any, shall be vacated.</p> <p style="text-align: center;"><b>(Measurement Starts Here in AJACS)</b></p>
<p><b>Preliminary Hearing:</b> Rule 5.1(a), Ariz.R.Crim.P.</p> <p>Rule 5.1(c), Ariz.R.Crim.P.</p>	<p><b>Defendant in custody:</b> When a complaint is filed, a preliminary hearing shall be held within <b>10 days</b> following defendant’s initial appearance.</p> <p><b>Defendant not in custody:</b> When a complaint is filed, a preliminary hearing shall be held within <b>20 days</b> following defendant’s initial appearance.</p> <p><b>Postponement:</b> Upon a finding of extraordinary circumstances, the preliminary hearing may be postponed beyond the 20-day limit.</p>
<p><b>Arraignment:</b> Rule 14.1, Ariz.R.Crim.P.</p>	<p style="text-align: center;"><b>(Measurement Starts Here for Speedy Trial Rules)</b></p> <p><b>Defendant in custody:</b> Arraignment held within <b>10 days</b> after filing of indictment, information, or complaint.</p> <p><b>Defendant not in custody:</b> Arraignment held within <b>30 days</b> after filing of indictment, information, or complaint.</p>
<p><b>Discovery:</b> Rule 15.1 (b), Ariz.R.Crim.P.</p> <p>Rule 15.1(d), Ariz.R.Crim.P.</p> <p>Rule 15.1(e), Ariz.R.Crim.P.</p> <p>Rule 15.2(d), Ariz.R.Crim.P.</p>	<p><b>Supplemental Disclosure</b> of evidence by the Prosecutor must occur:</p> <ul style="list-style-type: none"> <li>• <u>In Superior Court:</u> <b>30 days</b> after arraignment.</li> <li>• <u>In Limited Jurisdiction Courts:</u> at the first pre-trial conference.</li> </ul> <p><b>Prior Felony Convictions:</b> At least <b>30 days</b> prior to trial or <b>30 days</b> after request from defendant.</p> <p><b>Additional disclosure upon request:</b> Prosecutor shall provide within <b>30 days</b> upon written request.</p> <p><b>Time for disclosure by defendant:</b></p> <ul style="list-style-type: none"> <li>• <u>In Superior Court:</u> <b>40 days</b> after arraignment or within <b>10 days</b> after prosecutor’s disclosure pursuant to Rule 15.1(b), whichever occurs first.</li> <li>• <u>In Limited Jurisdiction Courts:</u> <b>20 days</b> after prosecutor’s disclosure pursuant to Rule 15.1(b).</li> <li>•</li> </ul>
<p><b>Trial:</b> Rule 8.2 Ariz.R.Crim.P. [Excluded time, such as a competency determination, are specified in Rule 8.4]</p>	<p><b>Defendant in custody:</b> Within <b>150 days</b> from arraignment.</p> <p><b>Defendant not in custody:</b> Within <b>180 days</b> from arraignment.</p> <p><b>Complex cases:</b> Within <b>270 days</b> from arraignment.</p> <p><b>Capital cases:</b> Within <b>24 months</b> from filing of a notice of intent to seek the death penalty.</p>

<p><b>Sentencing:</b> Rule 26.3(a), Ariz.R.Crim.P.</p>	<p><b><u>In Superior Court:</u></b> Upon determination of guilt, the court shall set a date for sentencing. Sentence shall be pronounced <b>not less than 15 nor more than 30 days</b> after determination of guilt unless the court, after advising the defendant of the right to a pre-sentence report, grants the request that sentence be pronounced earlier.</p>
<p>Rule 26.3(a), Ariz.R.Crim.P.</p>	<p><b><u>In Limited Jurisdiction Courts:</u></b> Sentence may be pronounced immediately upon determination of guilt unless the court on its own motion or upon request of the party or victim, orders that sentence should be pronounced at a later date, not more than <b>30 days</b> after determination of guilt.</p>
<p>Rule 26.3(b), Ariz.R.Crim.P.</p>	<p>If a pre-sentencing hearing is requested under Rule 26.7 or if good cause is shown, the trial court may reset the date of the sentencing within <b>60 days</b> after determination of guilt. <b>(Measurement Stops Here)</b></p>

## SUPERIOR COURT FELONY TIMELINE

NCSC Model Time Standards  
75% within 90 days - 90% within 180 days - 98% within 365 days





**CASE PROCESSING STANDARDS ANALYSIS  
CRIMINAL - MISDEMEANORS**

**National Center for State Courts Model Time Standards for Misdemeanors:**

- 75% within 60 days
- 90% within 90 days
- 98% within 180 days

**Measurement:** Filing of complaint through disposition (e.g., dismissal, sentencing)

**Arizona Criminal - Misdemeanors**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

- 75% within 60 days**
- 90% within 90 days**
- 98% within 180 days**

- ✓ Criminal traffic is included.
- ✓ Criminal local ordinances are included.
- ✓ DUI cases are excluded; these cases have separate case processing goals.

**Measurement:** Filing of complaint through disposition (e.g., dismissal, sentencing)

The following time will be excluded from measurement: warrant time, Rule 11 competency issues, diversion and special action/appeals.

<b>Arizona Rules and Statutes</b>	<b>Timelines under Rule</b>
<b>Complaint Filed:</b>	<b>(Measurement Starts Here if Complaint has been filed)</b>
<b>Initial Appearance:</b> Rule 4.1, Ariz.R.Crim.P. <sup>1</sup>  Rule 4.2(b), Ariz.R.Crim.P.  Rule 14.1(e), Ariz.R.Crim.P.	Initial Appearance held within <b>24 hours</b> of arrest  <b>Initial Appearance and Arraignment:</b> At initial appearance defendant may be arraigned in the manner prescribed by Rule 14, if counsel is present or waived.  <b>Combined Proceedings:</b> When the first court appearance occurs after the filing of the complaint, the arraignment may be held in conjunction with the initial appearance before the magistrate, if the initial appearance is held in the trial court. If the initial appearance is not held in trial court, the defendant shall be ordered to appear for arraignment in the trial court within <b>10 days</b> , and written notice of the arraignment date shall be delivered to defendant.
<b>Arraignment:</b> Rule 14.1(a), Ariz.R.Crim.P.  Rule 14.1(c), Ariz.R.Crim.P.	<b>Defendant in custody:</b> Arraignment shall be held within <b>10 days</b> after filing of complaint. <b>Defendant not in custody:</b> Arraignment shall be held within <b>30 days</b> after filing of complaint.  <b>Exceptions:</b> An arraignment need not be held in cases where:

\* **Timelines or rules are different for superior court.**

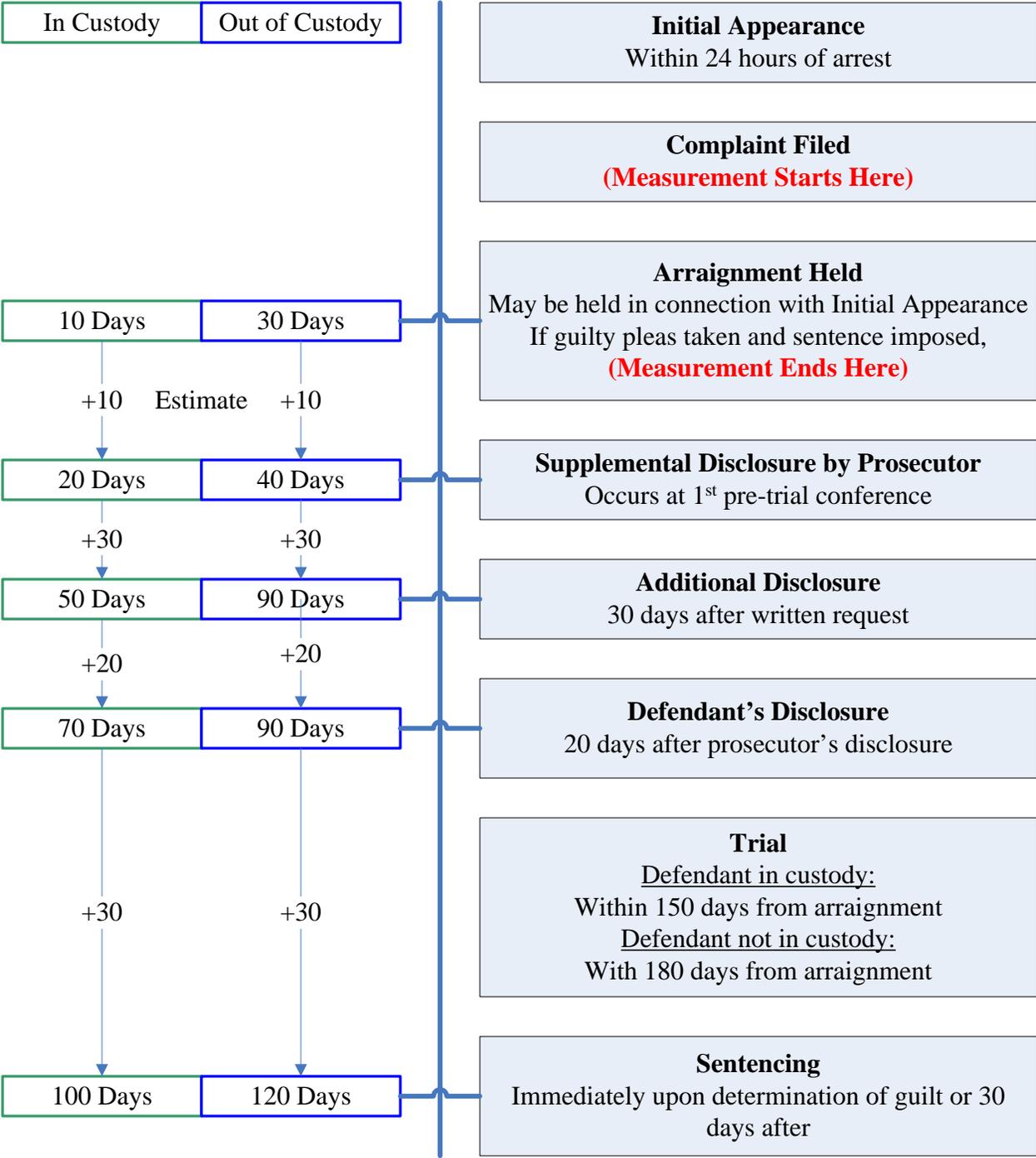
<sup>1</sup> Arizona Rules of Criminal Procedure

	The defendant's attorney has appeared and entered a plea of not guilty, or the court permits a defendant to enter a plea of not guilty by mail and receive a court date by mail.*
<b>Pre-Trial Conference:</b> Rule 16.5, Ariz.R.Crim.P.  Rule 17.1, Ariz.R.Crim.P.  Rule 17.1(a)(3), Ariz.R.Crim.P.  Rule 17.1(a)(4), Ariz.R.Crim.P.	<p>The purpose of the pretrial conference is to provide a forum for the fair and orderly disposition of cases without trial. If the case cannot be disposed without a trial the court may set a date certain for trial.</p> <p>A plea of guilty or no contest may be accepted by a court having jurisdiction to try the offense. Such plea shall be accepted only when made by the defendant personally, unless the defendant is a corporation, in which case the plea may be entered by counsel or a corporate officer.</p> <p><b>Telephonic Pleas:</b> The court may accept a telephonic plea of guilty or no contest. *</p> <p><b>Pleas by Mail:</b> The courts can accept pleas by mail to a misdemeanor or petty offense if the court is satisfied that a personal appearance by the defendant would constitute an undue hardship.*</p>
<b>Discovery:</b> Rule 15.1 (c), Ariz.R.Crim.P.  Rule 15.1(e), Ariz.R.Crim.P.  Rule 15.2(d)(2), Ariz.R.Crim.P.  Rule 10.1(a), Ariz.R.Crim.P.	<p><b>Supplemental Disclosure:</b> of evidence by the prosecutor must occur at the first pre-trial conference.*</p> <p><b>Additional Disclosure Upon Request:</b> Prosecutor shall provide within <b>30 days</b> upon written request.</p> <p><b>Time for Disclosure by Defendant:</b> <b>20 days</b> after prosecutor's disclosure pursuant to Rule 15.1(b).*</p> <p><b>Change of Judge:</b> Prior to the commencement of a hearing or trial, the state or any defendant shall be entitled to a change of judge if a fair and impartial hearing or trial cannot be had by reason of the interest or prejudice of the assigned judge.</p>
<b>Trial:</b> Rule 8.2, Ariz.R.Crim.P. [Excluded time, such as a competency determination, are specified in Rule 8.4]	<p><b>Defendant in custody:</b> Within <b>150 days</b> from arraignment</p> <p><b>Defendant not in custody:</b> Within <b>180 days</b> from arraignment</p>
<b>Sentencing:</b> Rule 26.3(a), Ariz.R.Crim.P.  Rule 26.3(b), Ariz.R.Crim.P.	<p>Sentence may be pronounced immediately upon determination of guilt unless the court on its own motion, or upon request of the party or victim, orders that sentence should be pronounced at a later date, not more than <b>30 days</b> after determination of guilt.*</p> <p><b>Pre-Sentence Hearing:</b> If a pre-sentencing hearing is requested under Rule 26.7, or if good cause is shown, the trial court may reset the date of the sentencing within <b>60 days</b> after determination of guilt.  <b>(Measurement Stops Here)</b></p>

\* **Timelines or rules are different for superior court.**

## SUPERIOR COURT MISDEMEANOR TIMELINE

NCSC Model Time Standards  
75% with in 60 days – 90% within 90 days – 98% within 180 days





**CASE PROCESSING STANDARDS ANALYSIS  
CRIMINAL - POST CONVICTION RELIEF**

**National Center for State Courts Model Time Standards:**

98% within 180 days

**Measurement:** Filing of Petition for Post Conviction Relief through disposition.

**Arizona Criminal - Post Conviction Relief**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

**98% within 180 days**

✓ Capital cases will be included as part of the 2% disposed after 180 days.

**Measurement:** Filing of Petition for Post Conviction Relief through disposition  
(e.g., dismissed/denied or relief granted)

Arizona Rules and Statutes	Timelines under Rule
<p><b>Notice Filed:</b> Rule 32.4(a), Ariz.R.Crim.P.<sup>1</sup> A.R.S.<sup>2</sup> § 13-4234</p> <p>Rule 32.4(c)(2), Ariz.R.Crim.P. A.R.S. § 13-4234(F)</p>	<p><b>Notice Filed:</b> Notice of post conviction relief proceeding must be filed within 90 days after entry of judgment or sentence or <b>30 days</b> after final order or mandate by court of appeals.</p> <p><b>Appointment of Counsel:</b> If defendant is determined to be indigent, counsel will be appointed within <b>15 days</b> if requested. Defendant shall have <b>60 days</b> from the appointment of counsel to file the petition for post conviction relief.</p> <p><b>Defendant's Extension:</b> Defendant may get a <b>30-day</b> extension on a showing of "good cause." Additional extensions are allowed on a showing of "extraordinary circumstances."</p>
<p><b><u>Petition for Post Conviction Relief Filed:</u></b> Rule 32.5, Ariz.R.Crim.P. A.R.S. § 13-4235</p>	<p><b>(Measurement Starts Here)</b></p> <p>Defendant shall include every ground known to him or her for vacating, reducing or correcting the judgment or sentence imposed.</p>
<p><b>Response and Reply:</b> Rule 32.6(a), Ariz.R.Crim.P. A.R.S. § 13-4236(A)</p> <p>Rule 32.6(b), Ariz.R.Crim.P. See also: A.R.S. § 13-4236(B)</p>	<p><b>Response:</b> State is to file a response <b>45 days</b> after petition is filed.</p> <p><b>State Extension:</b> State may get a <b>30-day extension</b> on a showing of "good cause." Additional extensions are allowed on a showing of "extraordinary circumstances."</p> <p><b>Defendant's Reply:</b> Defendant may file a reply within <b>15 days</b> of receipt of response.</p>
<p><b>Adjudication:</b> Rule 32.6(c), Ariz.R.Crim.P. A.R.S. § 13-4236(C)</p> <p>Rule 32.8(d), Ariz.R.Crim.P. A.R.S. § 13-4238(D)</p>	<p><b>Summary Disposition:</b> The court shall review the petition within <b>20 days</b> after defendant's reply was due. If petition is not dismissed, the court will set a hearing within <b>30 days</b> on those claims that present a material issue of fact or law.</p> <p><b>Evidentiary Hearing Decision:</b> The court shall rule within <b>10 days</b> after the hearing except in extraordinary circumstances where the volume of the evidence or the complexity of the issues require additional time.</p> <p style="text-align: center;"><b>(Measurement Stops Here)</b></p>

<sup>1</sup> Arizona Rules of Criminal Procedure

<sup>2</sup> Arizona Revised Statutes



**CASE PROCESSING STANDARDS ANALYSIS  
FAMILY LAW - DISSOLUTION/DIVORCE/ALLOCATION OF PARENTAL  
RESPONSIBILITY CASES**

**National Center for State Courts Model Time Standards for Dissolution/Divorce/Allocation of Parental Responsibility Cases:**

- 75% within 120 days (4 months)
- 90% within 180 days (6 months)
- 98% within 365 days (12 months)

**Measurement:** Measurement is the date of filing to the date of disposition by dismissal or entry of judgment or order.

**Arizona Family Law – Dissolution/Divorce/Allocation of Parental Responsibility Cases**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

- 75% within 120 days (4 months)**
- 90% within 180 days (6 months)**
- 98% within 365 days (12 months)**

- ✓ Includes legal separation and annulment cases.
- ✓ Excludes adoption cases.

**Measurement:** Measurement is the date of filing to the date of disposition by entry of judgment/decree or order.

**Discussion Points:** Current statistics show a gap between the national standard and current statistics for 2011. Process or business practices that improve the time to disposition need to be identified and developed through collaborative efforts.

**INTERMEDIATE GOAL**

**National Center for State Courts Intermediate Time Standards for Temporary Orders:**

98% temporary orders should be issued within 60 days

**Measurement:** Measurement is the receipt of filing a verified motion for temporary orders with the court to the date of disposition by entry of temporary orders.

**Arizona Intermediate Case Processing Goal for Temporary Orders**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

- 98% of temporary orders should be issued within 60 days**

**Measurement:** Measurement is the receipt of filing a verified motion for temporary orders with the court to the date of disposition by entry of temporary orders.

**Temporary Order Time Goals:** The NCSC Model Time Standards offer additional time standards for key intermediate points in the process that should establish timely goals against the delivery of judicial services by the courts that should be measured. Arizona agrees that the most important pre-trial step is

the issuance of a temporary order to stabilize the financial and parenting situation pending final judgment. It is important for the safety, security and well-being of the spouses and children that an order be established early on to address child support, spousal maintenance, legal decision-making (custody) and parenting time. There are other matters that may need to be resolved early, such as use of the dwelling and, if not resolved through a domestic violence proceeding, orders to protect the safety of either spouse.

Arizona Rules and Statutes	Relevant Timelines
<b>Petition Filed:</b>	<b>(Measurement Starts Here)</b>
<p><b>Service of Process:</b> Rule 40(I), ARFLP<sup>1</sup></p> <p>Rule 40(F), ARFLP</p> <p>Rule 32(A), ARFLP</p> <p>Rule 42(C) and (J), ARFLP</p> <p>Rules 41(M) and 42(D), ARFLP</p>	<p><b><u>No Service- Dismissal:</u></b> Action dismissed without prejudice if summons and complaint not served upon defendant within <b>120 days</b> of filing of complaint.</p> <p><b><u>Service; Acceptance or Waiver; Voluntary Appearance:</u></b> Waiver, acceptance or appearance has the same force and effect as if a summons had been issued and served. Filing of a responsive pleading constitutes an appearance.</p> <p><b><u>Service in Arizona:</u></b> If defendant served in Arizona the answer must be filed within <b>20 days</b> from date of service. Personal service is required for issues requiring personal jurisdiction over the parties i.e., paternity, child support, spousal maintenance, division of marital property.</p> <p><b><u>Out of State Service:</u></b> If defendant personally served outside of state, must file answer within <b>30 days</b> from completion of service. If by registered mail 30 days after date on return receipt.</p> <p><b><u>Service by Publication:</u></b> Answer is due <b>50 days</b> from date of first publication if within Arizona or <b>60 days</b> if out of state.</p>
<p><b>Motions Filed Prior to Answer:</b> Rule 35(A), ARFLP</p> <p>Rule 32(A)(2), ARFLP</p> <p>Rule 44(A)(2), ARFLP</p>	<p><b><u>Response and Reply:</u></b> Party opposing a motion shall have <b>10 days</b> after service to file any answering memorandum. Moving party has <b>5 days</b> to file a reply.</p> <p><b><u>Extension of Time for Filing Answer:</u></b> If the court denies the motion or postpones its decision until trial, the responsive pleading shall be served within <b>10 days</b> after notice of the court's action.</p> <p><b><u>Default Decree:</u></b> Default entered by the clerk is effective <b>10 days</b> after filing of application for entry of default.</p>

<sup>1</sup> Arizona Rules of Family Law Procedure

<p><b>Servicemembers protections:</b> Sec. 201 [50 U.S.C. App. 521]</p> <p>Sec. 202 [50 U.S.C. App. 522]</p> <p>Sec. 204 [50 U.S.C. App. 524]</p>	<p>Servicemembers Civil Relief Act<sup>2</sup></p> <p><b><u>Protection of servicemembers against default judgments:</u></b> This provision applies to any civil action or proceeding in which the defendant (respondent) does not make an appearance. The court must grant a stay of proceedings for a <b>minimum period of 90 days</b> upon application of counsel, or on the court's own motion if the court determines that: 1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant (respondent), and 2) after due diligence, counsel has been unable to contact the defendant (respondent) or otherwise determine if a meritorious defense exists.</p> <p><b><u>Stay of proceedings when servicemember has notice:</u></b> This provision applies to any civil action or proceeding in which the plaintiff or defendant (respondent) at the time of filing is in the military or is within 90 days after termination of or release from military service; and has received notice of the action or proceeding. The court may on its own motion and shall, upon application by the servicemember, stay the action for a period of <b>not less than 90 days</b>, if conditions are met. (Conditions include a letter from servicemember and commanding officer indicating military duty requirements materially affecting the servicemember's ability to appear, date when available to appear and that military leave is not authorized for the servicemember at the time of the letter.) The servicemember may also apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear.</p> <p><b><u>Stay or vacation of execution of judgments, attachments, and garnishments:</u></b> If servicemember is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember 1) stay the execution of any judgment or order entered against servicemember; and 2) vacate or stay an attachment or garnishment of property, money, or debts in possession of the servicemember whether before or after judgment.</p>
<b>(Measurement for Intermediate Goal Starts Here)</b>	
<p><b>Temporary Orders:</b> Rule 47(A) and (B), ARFLP</p> <p>Rule 47(D), ARFLP</p> <p>Rule 47(E), ARFLP</p>	<p><b><u>Motions for Pre-Decree or Pre-Judgment Temporary Orders:</u></b> A party seeking temporary orders shall do so by filing a separate verified motion with the court after or concurrently with the initial petition.</p> <p><b><u>Order to Appear:</u></b> Upon receipt of Motion for Temporary Orders, court shall issue an Order to Appear for a pretrial conference, RMC or evidentiary hearing to be set not later than <b>30 days</b> from receipt of motion. If court holds a pretrial conference or RMC, an evidentiary hearing on remaining issues shall occur not later than <b>30 days</b> thereafter.</p> <p><b><u>Service:</u></b> The moving party must serve the Motion for Temporary Orders, Order to Appear and required documents at least <b>10 judicial days</b> prior to the date of the scheduled conference or hearing.</p>

<sup>2</sup> SCRA (As amended through February 1, 2006) Public Law 108-189 (enacted December 19, 2003: 117 Stat.2835) restated, clarified, and revised this Act as then in existence. 50 U.S.C. App. §§ 521, 522 and 524  
10/03/2012

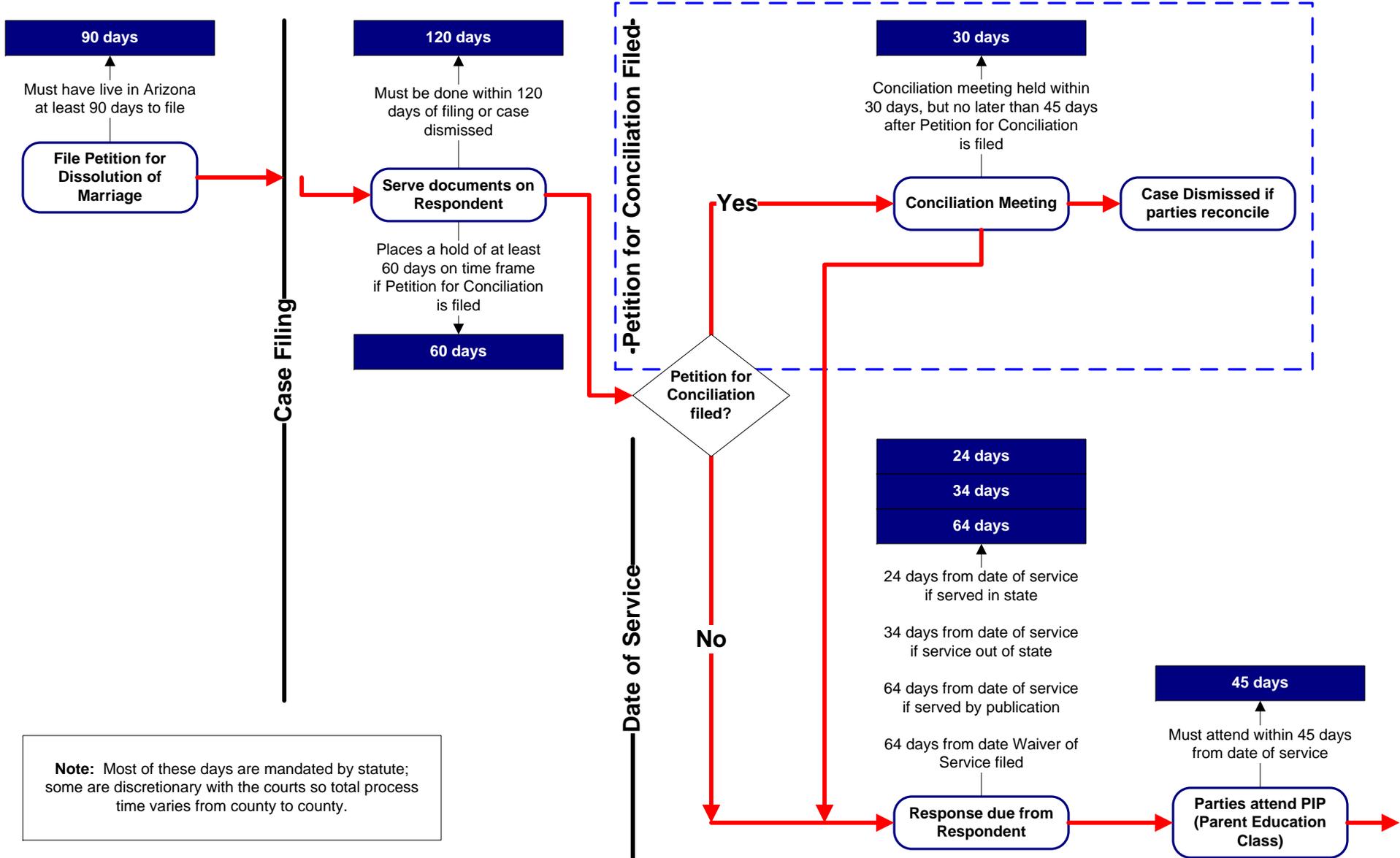
<p>Rule 47(F), ARFLP</p> <p>Rule 47(G), ARFLP</p> <p>Rule 47(I), ARFLP</p>	<p><b><u>Response:</u></b> A party served with a Motion for Temporary Orders generally not required to respond unless child support is at issue and if so, must file and serve completed Child Support Worksheet not later than <b>3 days</b> prior to hearing or conference.</p> <p><b><u>Requirements Prior to Conference or Hearing:</u></b> If court has set the motion for a conference, RMC or hearing, the parties are required to comply with disclosure rules and to meet and discuss issues not less than <b>5 days</b> prior to the date set for the conference, RMC or hearing. At least <b>3 judicial days</b> prior to hearing, parties must exchange list of witnesses and exhibits.</p> <p><b><u>Simplified Child Support Order:</u></b> If Simplified Child Support Order petition is filed, opposing party must file response and child support worksheet with <b>20 days</b> of in-state service, or <b>30 days</b> if out-of-state service. Court may enter temporary child support order if no response, without prejudice.</p> <p style="text-align: center;"><b>(Measurement for Intermediate Goal Stops When Temporary Order Entered)</b></p>
<p><b>Discovery and Disclosure:</b> Rule 49, ARFLP</p> <p>Rule 49(I), ARFLP</p> <p>Rule 57, ARFLP</p> <p>Rule 57, ARFLP</p> <p>Rules 60(A), 62(B) and 64(A)</p> <p>Rule 51(D), ARFLP</p> <p>Rule 34(A)(1), ARFLP</p> <p>Rule 34(A)(2), ARFLP</p>	<p><b><u>Disclosure Statements/Resolution Statement:</u></b> Must serve disclosure statements or Resolution Statement within <b>40 days</b> after filing of responsive pleading.</p> <p>Continuing duty to disclose whenever new or different information is discovered. Additional or amended disclosures must be made not more than <b>30 days</b> after information is discovered by disclosing party.</p> <p><b><u>Depositions upon Oral Examination</u></b> Leave of court required if plaintiff wishes to take deposition prior to expiration of 30 days after service of complaint.</p> <p><b><u>Notice of Examination</u></b> A party must provide a <b>10-day</b> written notice of taking a deposition absent stipulation of all parties or court order authorizing shorter notice.</p> <p><b><u>Interrogatories, Request for Production of Documents and Request for Admissions:</u></b> Answers and objections to discovery must be served within <b>40 days</b> of service except that a defendant has <b>60 days</b> if discovery request is served with complaint. Add <b>5 days</b> if mailed.</p> <p><b><u>Supplementation of Responses</u></b> Parties under a duty to supplement any response to a request for discovery, and in any event not later than <b>30 days</b> prior to trial.</p> <p><b><u>Amendment to Pleadings:</u></b> Pleadings may be amended within <b>20 days</b> after pleading to be amended is served. If granted, must serve amended pleading within <b>10 days</b> of order granting motion to amend.</p>

<p>Rule 34(A)(3), ARFLP</p> <p>Rule 46(B), ARFLP</p> <p>Rule 79(A), ARFLP</p> <p>Rule 79(C), ARFLP</p>	<p>Response to amended pleading must be made within <b>10 days</b> after service.</p> <p><b><u>Involuntary Dismissal</u></b>  <b>120 days</b> after filing a petition the court may issue a notice that the matter will be dismissed by the court in not less than <b>60 days</b> without further notice, unless a proper motion to set or request for hearing is filed.</p> <p><b><u>Summary Judgment:</u></b> Plaintiff can move for summary judgment after the expiration of <b>20 days</b> from the date of service, but no sooner than the date the response is due. All motions for summary judgment shall not be filed later than <b>60 days</b> prior to trial.</p> <p>Response to Motion for Summary Judgment is due within <b>30 days</b> after service of Motion. Reply is due within <b>15 days</b> of service of the Response.</p>
<p><b>Settlement and Alternative Dispute Resolution (ADR):</b>  Rule 66(D), ARFLP</p> <p>Rule 66(E), ARFLP</p> <p>Rule 67(B)(7), ARFLP</p>	<p><b><u>Duty to Consider ADR:</u></b> No later than <b>90 days</b> following the first appearance of a respondent, parties shall confer about settlement and resolution of the case.</p> <p><b><u>Duty to Attempt Settlement, Agree on ADR and Report to Court:</u></b> Within <b>30 days</b> after the attorneys or unrepresented parties met to confer or at the Resolution Management Conference, (RMC), whichever is earlier, the parties report to the court using a Joint ADR Statement form.</p> <p><b><u>Reports to the Court:</u></b> The parties notify the court that the mediation has concluded and advise the court of any agreements reached with <b>10 days</b> after the conclusion of the mediation and not later than <b>10 days</b> prior to the date set for trial or hearing.</p>
<p><b>Pre-Trial and Trial Procedures:</b>  Rule 76(A), ARFLP</p>	<p><b><u>Resolution Management Conference (RMC):</u></b> Upon written request of any party, the court shall, or upon its own motion the court may, schedule one or more RMCs that shall be held within <b>60 days</b> of receipt of written request by the court, unless extended for good cause. Not less than <b>5 judicial days</b> prior to the RMC, parties shall meet and confer to resolve as many issues as possible.</p> <p>The court may, among other things, enter temporary orders, order services or special procedures needed to properly manage the case; schedule an evidentiary hearing, a trial date and other hearings or conferences; refer a matter for settlement conference; order other ADR processes, and set a date for filing the joint pretrial statement.</p>
<p><b>Conciliation Court Services:</b>  A.R.S. § 25-381.09  Rule 68(A), ARFLP</p>	<p><b><u>Petition invoking jurisdiction or for transfer of action to conciliation court:</u></b> Prior to filing for annulment, dissolution, or legal separation, either</p>

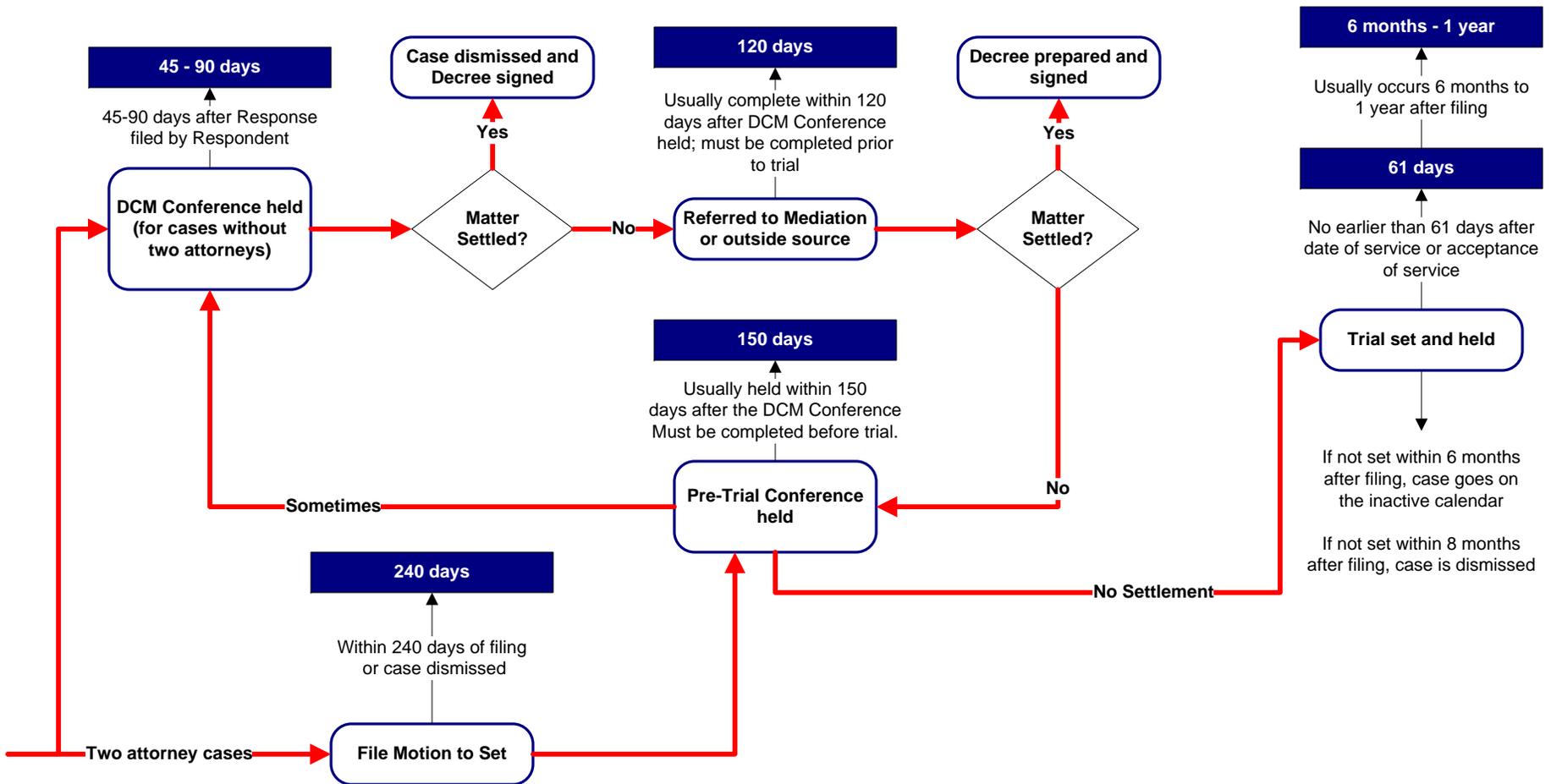
<p>A.R.S. § 25-381.14 Rule 68(A)(2)(a)</p> <p>Rule 68(A)(2)(b)</p> <p>Rule 68(A)(2)(c) A.R.S. § 25-381.18(B)</p>	<p>spouse, or both spouses, may file in conciliation court a petition invoking the jurisdiction of the court. Where an action for annulment, dissolution, or legal separation has been filed, either party may by petition filed therein have the cause transferred to conciliation court for proceedings as though action had been instituted in conciliation court in the first instance.</p> <p><b><u>Hearing; time; place; notice; citation; witnesses:</u></b> Judge of conciliation court to fix a time and place for hearing to be held within <b>30 days</b> of the date of the filing of the petition, unless the court for good cause orders the hearing to be held within <b>45 days</b> from the date of filing the petition.</p> <p><b><u>Period of Jurisdiction; Stay of Proceedings; Temporary Orders; Extension:</u></b> No more than one stay during any twelve-month period in any case.</p> <p>A party may petition the court for an extension of the stay of proceedings. The court may grant a reasonable extension of up to <b>120 days</b> if the moving party establishes good cause for the extension. The court shall not grant an extension if the other party objects with good cause.</p>
<p><b>Custody: (Legal decision-making)</b> A.R.S. § 25-407</p>	<p><b><u>Custody hearings; priority:</u></b> Custody hearings shall receive priority in being set for hearing.</p>
<p><b>Paternity/Maternity:</b> A.R.S. § 25-806(A)</p> <p>A.R.S. § 25-806(D)</p> <p>A.R.S. § 25-807(A)</p> <p>A.R.S. § 25-807(B)</p>	<p><b><u>Petition:</u></b> Paternity proceedings are commenced by the filing of a verified petition.</p> <p>If the respondent does not file a response or if the respondent files a written response admitting paternity or maternity, the court may immediately enter a judgment of paternity or maternity. The court will resolve all relevant issues pursuant to ARFLP rules.</p> <p><b><u>Precedence of maternity and paternity proceedings delay for paternity tests:</u></b> The case shall be set for trial within <b>60 days</b> from the filing of an answer by the respondent.</p> <p>A delay in determining paternity in an action commenced before the birth of the child shall be granted until after the birth of the child for purposes of paternity tests if any party to the proceeding requests.</p>
<p><b>Pre-Trial and Trial Procedures:</b> Rule 76(A), ARFLP</p>	<p><b><u>Resolution Management Conference (RMC):</u></b> Upon written request of any party, the court shall, or upon its own motion the court may, schedule one or more RMCs that shall be held within <b>60 days</b> of receipt of written request by the court, unless extended for good cause. Not less than <b>5 judicial days</b> prior to the RMC, parties shall meet and confer to resolve as many issues as possible.</p> <p>The court may, among other things, enter temporary orders, order services</p>

	<p>or special procedures needed to properly manage the case; schedule an evidentiary hearing, a trial date and other hearings or conferences; refer a matter for settlement conference; order other ADR processes, and set a date for filing the joint pretrial statement.</p>
<p><b>Trial:</b> A.R.S. § 25-329</p> <p>Rule 77(A) and (B), ARFLP</p> <p>Local Rules, Maricopa County 6.8(a)</p> <p>Local Rules, Maricopa County Rule 6.8(g)</p>	<p><b><u>Waiting Period:</u></b> Court shall not consider a submission of a motion supported by affidavit or hold a trial or hearing on an application for a decree of dissolution of marriage or legal separation until 60 days after the date of service of process or the date of acceptance of service of process.</p> <p><b><u>Setting of Cases for Trial:</u></b> A trial date may be secured by filing a Motion to Set or, a trial date may be set by the court at the RMC. Any party may request additional time by motion made no less than <b>45 days</b> before the scheduled trial date.</p> <p><b><u>Completion of pre-trial discovery:</u></b> Rule does not mention discovery deadlines in regard to Motion to Set. Maricopa County requires all discovery to be completed at the time of filing a Motion to set in family court cases.</p> <p><b><u>Inactive Calendar:</u></b> If a motion to set has not been filed within <b>6 months</b> the case will be set on an inactive calendar by the clerk. If case remains on calendar for <b>2 months</b> case shall be dismissed without prejudice.</p> <p style="text-align: center;"><b>(Measurement Stops Here)</b></p>

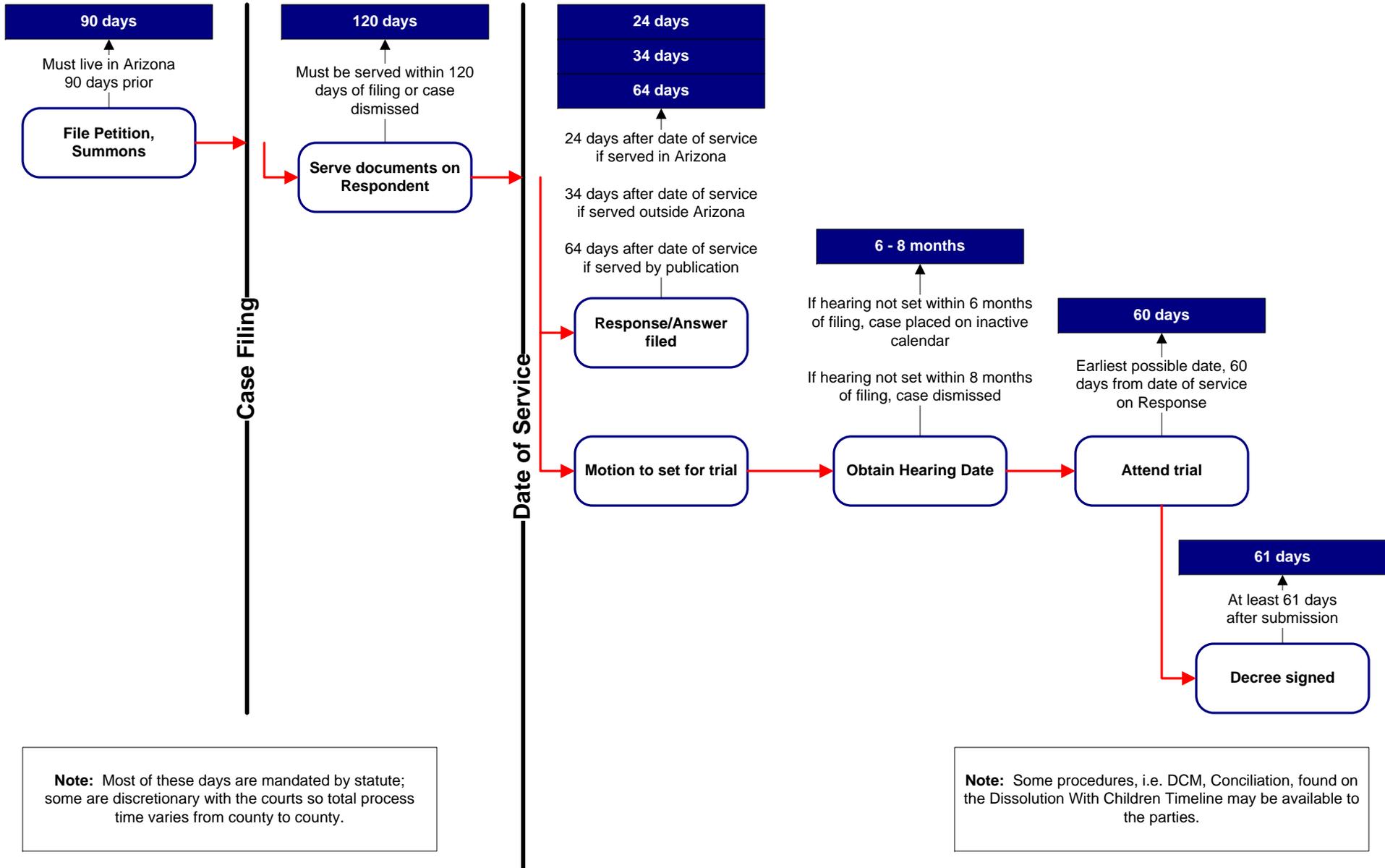
# DISSOLUTION WITH CHILDREN Non-Covenant TIME LINE



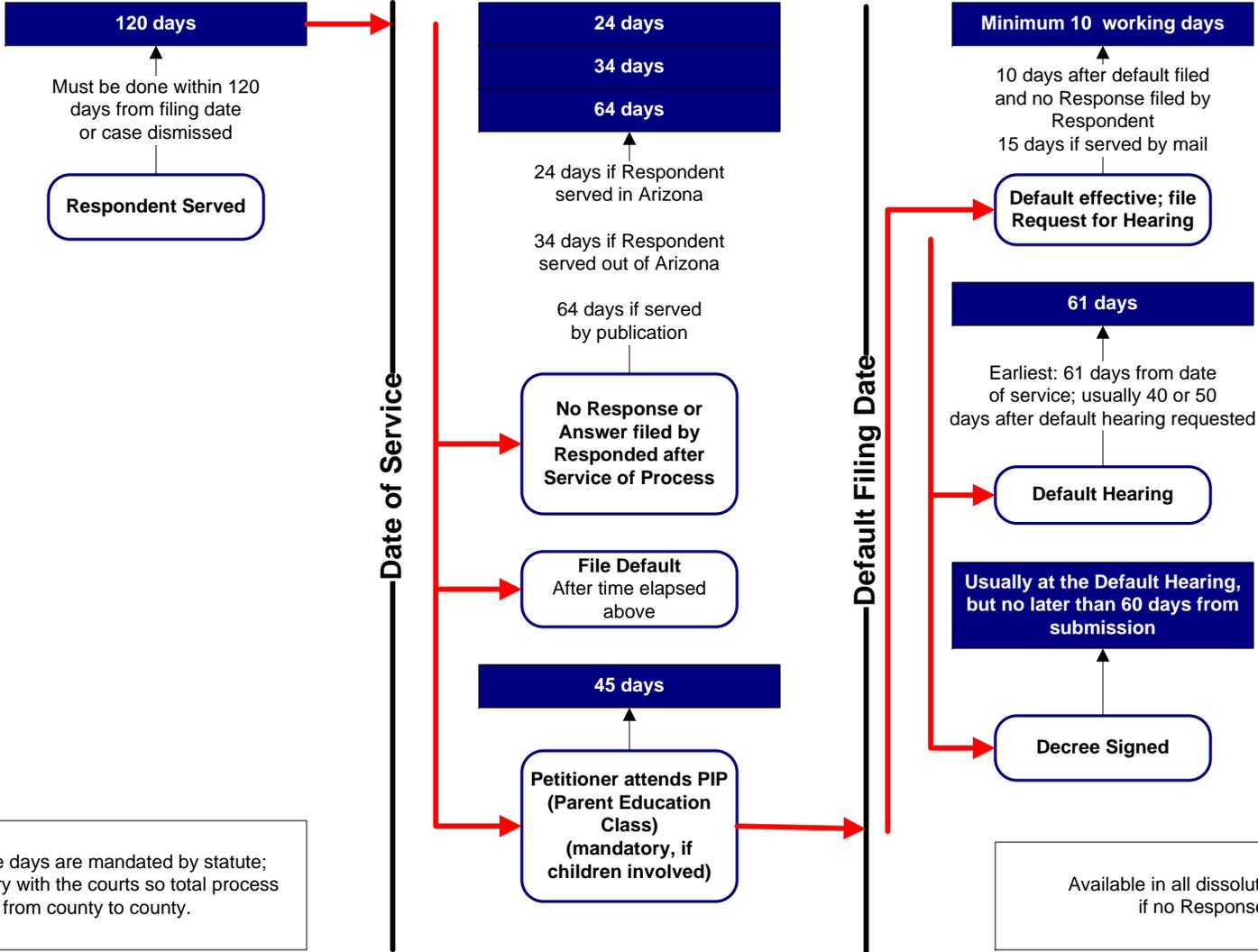
**Note:** Most of these days are mandated by statute; some are discretionary with the courts so total process time varies from county to county.



# DISSOLUTION WITHOUT CHILDREN (Non-Covenant) TIME LINE



# DEFAULT PROCEEDING DISSOLUTION OF MARRIAGE (Non-Covenant) TIME LINE



**Note:** Most of these days are mandated by statute; some are discretionary with the courts so total process time varies from county to county.

Available in all dissolution proceedings if no Response is filed



**CASE PROCESSING STANDARDS ANALYSIS  
FAMILY LAW - POST-JUDGMENT MOTIONS**

**National Center for State Courts Model Time Standards for Post-Judgment Motions:**

98% within 180 days (6 months)

**Measurement:** Measurement is the date of filing a post-decree or post-judgment petition to the date of disposition by entry of judgment or order.

**Arizona Family Law - Post-Judgment Motions**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

**98% within 180 days (6 months)**

**Measurement:** Measurement is the date of filing a post-decree or post-judgment petition to the date of disposition by entry of judgment or order.

Arizona Rules and Statutes	Timelines under Rule
<p><b>Motions Filed:</b> Rule 91(B), ARFLP Rule 91(L), ARFLP Rule 91(C), ARFLP Rule 91(E), ARFLP</p> <p>Rule 91(M), ARFLP</p> <p>Rule 91(D), ARFLP</p>	<p style="text-align: center;"><b>(Measurement Starts Here)</b></p> <p><b><u>Petitions for Modification and Enforcement of Spousal Maintenance or Child Support, Relocate or Prevent Relocation, Modification and Clarification of Parenting Time or Visitation – Time for Service:</u></b> Moving party to serve documents and the issued Order to Appear on opposing party at least <b>10 days</b> prior to the scheduled conference or hearing, unless another specific time is ordered by the court.</p> <p><b><u>Responses; Time for Response:</u></b> All responses and affidavits required to be filed shall be filed and served within <b>10 days</b> after service of the petition on the party but in no event less than <b>3 judicial days</b> prior to the scheduled hearing, unless another specific time is ordered by the court.</p> <p><b><u>Petition to Modify Child Custody (will change to Legal Decision-Making terminology, effective January 1, 2012):</u></b> No hearing shall be set unless compliance with A.R.S. § 25-411. No sooner than <b>5 days</b> after expiration of the time permitted for filing of the response or controverting affidavits, either party shall provide the Request for Order Granting or Denying Custody Hearing to the assigned division. Court will determine whether a custody hearing should be granted. If so the court shall schedule a RMC or evidentiary hearing.</p>
<p><b>Service of Process:</b> Rule 40(I), ARFLP<sup>1</sup></p> <p>Rule 40(F), ARFLP</p>	<p><b><u>No Service- Dismissal:</u></b> Action dismissed without prejudice if summons and complaint not served upon defendant within <b>120 days</b> of filing of complaint.</p> <p><b><u>Service; Acceptance or Waiver; Voluntary Appearance:</u></b> Waiver,</p>

<sup>1</sup> Arizona Rules of Family Law Procedure

<p>Rule 32(A), ARFLP</p> <p>Rule 42(C) and (J), ARFLP</p> <p>Rules 41(M) and 42(D), ARFLP</p>	<p>acceptance or appearance has the same force and effect as if a summons had been issued and served. Filing of a responsive pleading constitutes an appearance.</p> <p><b><u>Service in Arizona:</u></b> If defendant served in Arizona, the answer must be filed within <b>20 days</b> from date of service. Personal service is required for issues requiring personal jurisdiction over the parties, i.e., paternity, child support, spousal maintenance, division of marital property.</p> <p><b><u>Out-of-State Service:</u></b> If defendant personally served outside of state, must file answer within <b>30 days</b> from completion of service. If by registered mail 30 days after date on return receipt.</p> <p><b><u>Service by Publication:</u></b> Answer is due <b>50 days</b> from date of first publication if within Arizona or <b>60 days</b> if out of state.</p>
<p><b>Servicemembers protections:</b></p> <p>Sec. 201 [50 U.S.C. App. 521]</p> <p>Sec. 202 [50 U.S.C. App. 522]</p> <p>Sec. 204 [50 U.S.C. App. 524]</p>	<p>Servicemembers Civil Relief Act<sup>2</sup></p> <p><b><u>Protection of servicemembers against default judgments:</u></b> This provision applies to any civil action or proceeding in which the defendant (respondent) does not make an appearance. The court must grant a stay of proceedings for a minimum period of <b>90 days</b> upon application of counsel or on the court's own motion if the court determines that: 1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant (respondent), and 2) after due diligence, counsel has been unable to contact the defendant (respondent) or otherwise determine if a meritorious defense exists.</p> <p><b><u>Stay of proceedings when servicemember has notice:</u></b> This provision applies to any civil action or proceeding in which the plaintiff or defendant (respondent) at the time of filing is in the military or is within <b>90 days</b> after termination of or release from military service; and has received notice of the action or proceeding. The court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than <b>90 days</b>, if conditions are met. (Conditions include a letter from servicemember and commanding officer indicating military duty requirements materially affecting the servicemember's ability to appear, date when available to appear and that military leave is not authorized for the servicemember at the time of the letter.) The servicemember may also apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear.</p> <p><b><u>Stay or vacation of execution of judgments, attachments, and garnishments:</u></b> If servicemember is materially affected by reason of</p>

<sup>2</sup> SCRA (As amended through February 1, 2006) Public Law 108-189 (enacted December 19, 2003: 117 Stat.2835) restated, clarified, and revised this Act as then in existence. 50 U.S.C. App. §§ 521, 522 and 524

<p>A.R.S. § 25-411(B) and (I)</p>	<p>military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember 1) stay the execution of any judgment or order entered against servicemember; and 2) vacate or stay an attachment or garnishment of property, money, or debts in possession of the servicemember whether before or after judgment.</p> <p><b><u>Modification of custody decree; affidavit; contents; military families:</u></b> In cases where a parent with whom the parent’s child resides majority of the time receives temporary duty, deployment or mobilization orders that requires moving a substantial distance away from the parent’s residence, the court shall not enter a final order modifying parental rights and responsibilities and parent-child contact in an existing order until <b>90 days</b> after deployment ends, unless a modification is agreed to by the deploying parent.</p>
<p><b>Discovery and Disclosure:</b> Rule 49, ARFLP</p> <p>Rule 91(R), ARFLP</p>	<p><b><u>Disclosure:</u></b> In modification and enforcement proceedings, required documentation and information shall be served in such a manner as to assure their receipt as soon as possible after the initiation of proceedings, but in no event less than <b>3 judicial days</b> prior to the scheduled hearing.</p> <p><b><u>Dismissal of Petition for Lack of Prosecution:</u></b> <b>120 days</b> after filing a petition, the court may issue a notice that the matter will be dismissed by the court in not less than <b>60 days</b> without further notice unless service is completed and further hearing is requested. If a petition to enforce or modify a prior family court decree, judgment or order is filed but not presented in proper form within <b>1 year</b> after filing or is otherwise abandoned, the court may dismiss the petition without prejudice and without further notice.</p>
<p><b>Mediation:</b> Rule 91(O), ARFLP</p>	<p>The court may require that the parties submit to mediation before any issues of custody, parenting time or visitation may be heard.</p> <p><b>(Measurement Stops When Judgment or Order Entered)</b></p>



**CASE PROCESSING STANDARDS ANALYSIS  
FAMILY LAW - PROTECTION ORDER CASES**

**National Center for State Courts Model Time Standards:**

- 100% of *ex parte* hearing to be held and orders issued in compliance with state law
- 90% within 10 days
- 98% within 30 days

**Measurement:** Filing of initial petition through disposition (entry of judgment)

**Arizona Family Law – Protection Order Cases**

Initial analysis suggests that Arizona will require its own standard:

**Ex Parte Hearing:**  
**95% within 24 hours.**

**Measurement:** Filing of petition for protective order to issuance or denial of protective order.

**Contested Hearing:**  
**90% within 10 days**  
**98% within 30 days**

**Measurement:** Filing of request for hearing to modification, affirmation or quashing of protective order.

*Ex parte* hearings typically are conducted on the same day the plaintiff files the petition. At the close of the *ex parte* hearing, regardless of whether the request is granted or denied, the case is completed. However, the law allows the court to schedule a pre-issuance hearing in situations where the judge feels there is inadequate information on which to base the order and wants to hear from both parties. Statute requires pre-issuance hearings to be scheduled within 10 days with reasonable notice to the defendant. As pre-issuance hearings are permitted by state law, Arizona courts should be able to meet the standard for *ex parte* hearings unless pre-issuance hearings are being scheduled farther out than 10 days.

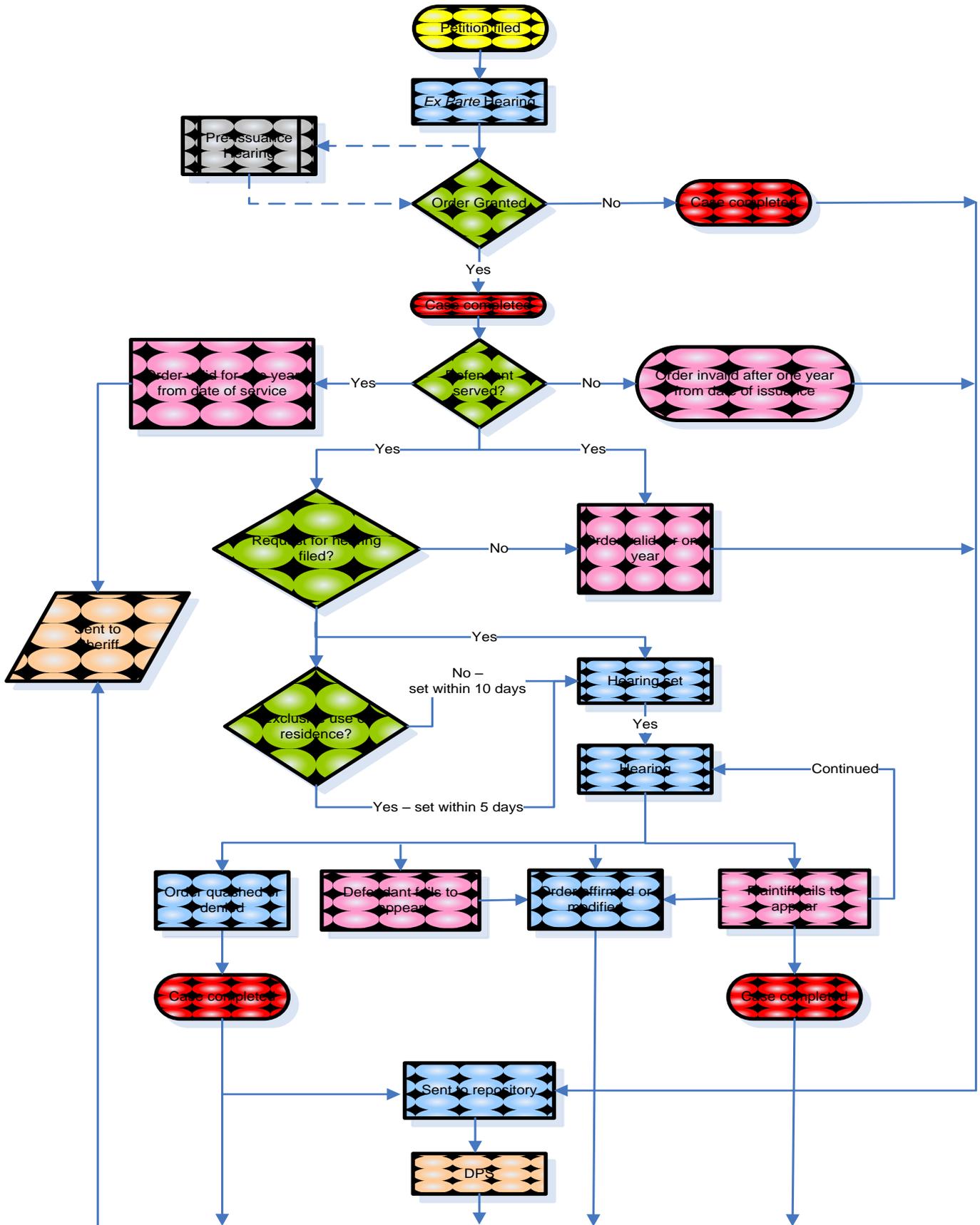
Arizona’s protective order laws are significantly different than those of most other states. First, Arizona law allows the plaintiff up to a year to have the order served on the defendant. Some orders are served immediately, others weeks or months later, and others never. Second, in Arizona, there is no final hearing automatically scheduled at the time the initial order is issued. Most states require both parties to appear in court within a relatively short time (10-15 days) at which time testimony is taken and the court decides whether to keep the order in place for an extended time. Under Arizona law, a second hearing occurs only if the defendant asks for one. The defendant can make this request at any time while the order is in effect. If the defendant does request a hearing, it must be conducted within 5 or 10 days, depending on whether exclusive use of the parties’ residence is at issue. With this statutory timetable, Arizona courts should be able to achieve disposition of 98% of its protective order cases within 30 days unless continuances are extended beyond this time period.

Arizona Rules and Statutes	Timelines under Statute and Rule
<p><b><i>Ex Parte</i> Hearing</b> Rule 6(B), ARPOP<sup>1</sup></p>	<p><b>(Measurement Starts Here for Ex Parte Hearing)</b> <b><u>Priority for Protective Orders:</u></b> A judicial officer shall expeditiously schedule an <i>ex parte</i> hearing for a protective order involving a threat to personal safety even if previously scheduled matters are interrupted.</p>

<sup>1</sup> Arizona Rules of Protective Order Procedure

Arizona Rules and Statutes	Timelines under Statute and Rule
<p><b>Pre-Issuance Hearing</b> A.R.S. §§ 12-1809(E), 12-1810(E), 13-3602(F)</p> <p>Rule 6(C)(7), 6(E)(5), 6(F)(5), ARPOP</p>	<p><b><u>Denial of an Order of Protection, Injunction Against Harassment, or Injunction Against Workplace Harassment:</u></b> If after the <i>ex parte</i> hearing, the judicial officer has insufficient information to grant the order, the judicial officer may deny the request or set a hearing within <b>10 days</b> with reasonable notice to the defendant.</p> <p style="text-align: center;"><b>(Measurement Stops Here for Ex Parte Hearing)</b></p>
<p><b>Service of Process</b></p> <p>A.R.S. §§ 12-1809(J)-(K), 12-1810(I)-(J), 13-3602(K)-(L)</p> <p>Rule 1(M)(5), ARPOP</p>	<p><b><u>Service:</u></b> A copy of the petition and the order must be served on the defendant within <b>1 year</b> from the date the order is signed. An order that is not served on the defendant within one year expires. A modified order is effective on service and expires one year after service of the initial order and petition.</p> <p><b><u>Return of Service:</u></b> Server (private process or law enforcement) has <b>7 business days</b> to return proof of service to the court.</p> <p><b><u>Notice to Sheriff:</u></b> Court has <b>24 hours</b> to forward proof of service to the holder of record (usually the county sheriff).</p>
<p><b>Hearing</b></p> <p>A.R.S. § 13-3602(I)</p> <p>Rule 8(A)(1)(a), 8(A)(1)(b), ARPOP</p>	<p style="text-align: center;"><b>(Measurement Starts Here for Contested Hearing)</b></p> <p><b><u>Contested Hearing:</u></b> At any time during the period during which the order is in effect, a party who is under the protective order is entitled to one hearing on written request. The hearing must be held within <b>10 days</b> from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing must be held within <b>5 days</b> from the date requested.</p>
<p><b>Motions</b></p> <p>Rule 7(A), ARPOP</p> <p>Rule 7(B), ARPOP</p>	<p><b><u>Dismiss or Quash:</u></b> A plaintiff may request that a protective order be dismissed or quashed at any time during the term of the order. If the plaintiff and defendant appear jointly on a Motion to Dismiss or Quash, the judicial officer may interview the plaintiff separately only when the defendant has been served but has not requested a hearing. If the plaintiff requests that an order be dismissed and the defendant is not present, the judicial officer may take action without notice to the defendant. Within <b>24 hours</b> of the dismissal, the court must notify the sheriff in the county where the order was issued.</p> <p><b><u>Modify:</u></b> A plaintiff may request that a protective order be modified at any time during the term of the order. The judicial officer may interview the plaintiff separately only when the defendant has been served but has not requested a hearing. A motion to modify made after a hearing cannot be granted without setting a hearing and giving notice to the defendant. Within <b>24 hours</b> of service of a modified order, the court must forward a copy of the order and proof of service to the sheriff in the county where the order was originally issued.</p> <p style="text-align: center;"><b>(Measurement Stops Here for Contested Hearing)</b></p>

Arizona Rules and Statutes	Timelines under Statute and Rule
<p><b>Orders</b></p> <p>Rule 1(I)(1)(c), ARPOP</p> <p>Rule 4(A)(4)(a), ARPOP</p> <p>Rule 1(I)(1)(c), ARPOP</p>	<p><b><u>Conflicting:</u></b> If different judicial officers issue protective orders that grant conflicting relief involving the same parties, these orders shall be set for hearing within <b>5 days</b> after the judicial officers discover the conflict.</p> <p><b><u>Transferred between LJ and GJ:</u></b> Within <b>24 hours</b> of being notified of a pending family law case, the LJ court shall transfer all case documents to the superior court where the action is pending.</p> <p><b><u>Transferred between any courts:</u></b> The originating court transferring a protective order shall within <b>24 hours</b> notify its sheriff's office in writing of the transfer and update information in that court's protective order repository.</p>



**Juvenile**

**CASE PROCESSING STANDARDS ANALYSIS  
JUVENILE - DELINQUENCY AND STATUS OFFENSE**

**National Center for State Courts Model Time Standards:**

**Youth in detention:**

75% w/in 30 days  
90% w/in 45 days  
98% w/in 90 days

**Youth not in detention:**

75% w/in 60 days  
90% w/in 90 days  
98% w/in 150 days

**Measurement:** Filing of petition through adjudication

**Arizona Juvenile – Delinquency and Status Offense**

Initial analysis suggests that Arizona will require its own standard:

**Youth in detention:**

**98% within 45 days**

**Youth not in detention:**

**98% within 60 days**

**Measurement:** Filing of petition through adjudication of delinquency or incorrigibility.

The following time will be excluded from measurement: diversion and warrant time.

Arizona Rules and Statutes	Timelines under Rule
<b>Petition to be filed:</b> Rule 25(B)(1), ARJP <sup>1</sup>  Rule 25(B)(2), ARJP  Rule 25(C), ARJP	<p><b><u>Detained Youth:</u></b> Petition filed within <b>24 hours</b> of detention.</p> <p><b><u>Non-Detained Youth:</u></b> Petition filed within <b>45 days</b> of submission of the referral to the prosecutor. The time for filing a petition is extended for an additional <b>30 days</b> pending further investigation by the prosecutor. Only one <b>30-day extension</b> is granted unless good cause shown.</p> <p><b><u>Diversion:</u></b> The time limit for filing the petition is tolled during the term required to comply with diversion. A petition shall be filed not later than <b>30 days</b> after the matter is resubmitted to the prosecutor for action.</p>
<b>Advisory Hearing:</b> Rule 28(B)(1), ARJP  Rule 28(B)(2), ARJP  Rule 28(E), ARJP	<p style="text-align: center;"><b>(Measurement Starts When Petition Filed)</b></p> <p><b><u>Detained Youth:</u></b> Advisory hearing shall be held within <b>24 hours</b> of filing petition</p> <p><b><u>Non-Detained Youth:</u></b> Advisory hearing shall be held within <b>30 days</b> of filing petition</p> <p><b><u>Disposition Hearing:</u></b> Following an admission, the court shall adjudicate the juvenile delinquent or incorrigible and proceed with disposition hearing or set a disposition hearing.</p>
<b>Adjudication Hearing:</b> Rule 29(B)(1), ARJP	<p><b><u>Detained Youth:</u></b> Adjudication hearing held within <b>45 days</b>.</p>

<sup>1</sup> Arizona Rules of Juvenile Procedure

Rule 29(B)(2), ARJP	<b><u>Non-Detained Youth:</u></b> Adjudication hearing held within <b>60 days</b> . <b>(Measurement Stops Here)</b>
<b>Disposition Hearing:</b> Rule 30(B)(1)(a), ARJP	<b><u>Detained Youth:</u></b> Disposition hearing held within <b>30 days</b> of adjudication of delinquency or incorrigibility
Rule 30(B)(1)(a), ARJP	<b><u>Non-Detained Youth:</u></b> Disposition hearing held within <b>45 days</b> of adjudication of delinquency or incorrigibility



**CASE PROCESSING STANDARDS ANALYSIS  
JUVENILE - NEGLECT AND ABUSE**

**National Center for State Courts Model Time Standards:**

Adjudication Hearing: 98% within 90 days of removal  
 Permanency Hearing: 75% within 270 days of removal  
 98% within 360 days of removal

**Measurement:** Date of removal through adjudication

**Arizona Juvenile – Neglect and Abuse**

Initial analysis suggests that Arizona will require its own standard:

**Adjudication Hearing:**  
**98% within 90 days of removal**

**Measurement:** Date of removal through a finding of dependency.

**Permanency Hearing:**  
**98% of children under 3 years of age within 180 days/6 months of removal**  
**98% of all other cases within 360 days of removal**

**Measurement:** Date of removal through issuance of a permanency plan.

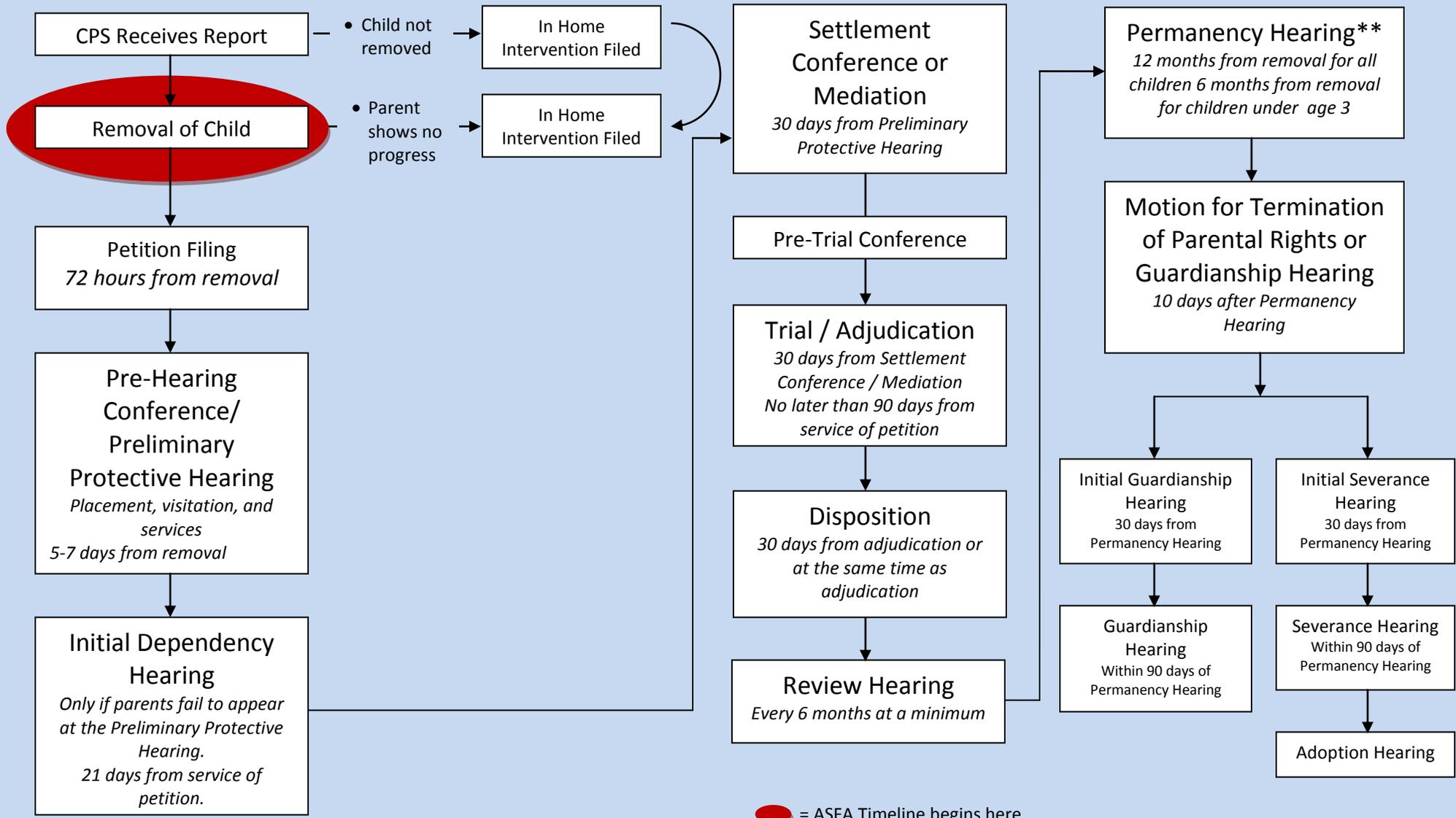
Arizona Rules and Statutes	Timelines under Rule
<p><b>Petition Filed:</b>                      A.R.S.<sup>1</sup> § 823(B)(6)</p> <p>A.R.S. § 824(A)                      Rule 50, ARJP<sup>2</sup></p> <p>A.R.S. § 8-842(A)                      Rule 52, ARJP</p> <p>A.R.S. § 8-844(A)                      Rule 53 and 54, ARJP</p>	<p style="text-align: center;"><b><u>(Measurement Starts Here)</u></b></p> <p><b><u>Petition filed 72 hours from removal:</u></b> If a child is taken into temporary custody, a written statement must be provided to the parents that the child will be returned within <b>72 hours</b> unless a dependency petition is filed.</p> <p><b><u>Preliminary Protective Hearing:</u></b> Held within <b>5-7 days</b> of removal.</p> <p><b><u>Initial Dependency Hearing:</u></b> Only held if parents fail to appear at the preliminary protective hearing. Must be held <b>21 days</b> from service of petition.</p> <p><b><u>Settlement or Pretrial Conference or Mediation:</u></b> A settlement conference may be held for the purpose of identifying and resolving issues in a non-adversarial manner. If settlement is not reached, a pretrial conference may be held prior to the dependency adjudication hearing.</p>
<p><b>Adjudication Hearing:</b>                      A.R.S. § 8-842(C)                      Rule 55(B) ARJP</p> <p>A.R.S. § 8-845                      Rule 56(B) ARJP</p>	<p><b><u>Adjudication Hearing:</u></b> The dependency adjudication hearing shall be completed within <b>90 days</b> of service of the petition. Hearing may be extended <b>30 days</b> for good cause shown.</p> <p><b><u>Disposition Hearing:</u></b> Shall be held within <b>30 days</b> of the dependency adjudication or in conjunction with the hearings above.</p> <p style="text-align: center;"><b><u>(Measurement Stops Here for Adjudication Hearing.)</u></b></p>

<sup>1</sup> Arizona Revised Statutes

<sup>2</sup> Arizona Rules of Juvenile Procedure

<p><b><u>Permanency Hearing:</u></b> A.R.S. § 8-862(A) Rule 60 (C), ARJP</p>	<p><b><u>Permanency Hearing:</u></b></p> <ul style="list-style-type: none"><li>• Within 30 days of disposition if no reunification services ordered.</li><li>• Within <b>6 months</b> of removal if child is under 3 years of age</li><li>• Within <b>12 months</b> of removal on all other cases</li></ul> <p><b>(Measurement Stops Here for Permanency Hearing.)</b></p>
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# Arizona Dependency Process





**CASE PROCESSING STANDARDS ANALYSIS  
JUVENILE - TERMINATION OF PARENTAL RIGHTS**

**National Center for State Courts Model Time Standards:**

90% within 120 days after filing petition

98% within 180 days after filing petition

**Measurement:** Filing of motion/petition through termination of parental rights.

**Arizona Juvenile – Termination of Parental Rights**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

**90% within 120 days**

**98% within 180 days**

**Measurement:** Filing of Motion/Petition for Termination of Parental Rights through entry of order terminating parental rights.

Arizona Rules and Statutes	Timelines under Rule
<p><b>Motion/Petition Filed:</b> Rule 64(A), ARJP<sup>1</sup> A.R.S.<sup>2</sup> § 8-862(D)(1)</p> <p>Rule 64(B), ARJP</p>	<p><b><u>Motion for Termination of Parental Rights:</u></b> Motion to terminate parental rights should be <b>filed within 10 days after the permanency hearing</b> if the court finds that it is in the best interest of the child to terminate parental rights at the permanency hearing.</p> <p><b><u>Petition for Termination of Parental Rights:</u></b> If child is not a dependent child or is a dependent child who was the subject of a dependency petition filed prior to July 1, 1998, the petitioner shall file a petition for termination of parental rights, pursuant to A.R.S. § 8-534 and shall state whether a child is an Indian child as defined by the Child Welfare Act.</p>
<p><b>Adjudication:</b> Rule 65(B), ARJP A.R.S. § 8-862(D)(2)</p> <p>Rule 65(C)(6)(b), ARJP</p>	<p style="text-align: center;"><b>(Measurement Starts When Motion/Petition is Filed)</b></p> <p><b><u>Initial Termination Hearing:</u></b> If a <b>motion</b> for termination of parental rights is filed, the <b>initial hearing</b> must be held within <b>30 days</b> of the permanency hearing.</p> <p>If a <b>petition</b> for termination was filed, the hearing shall be held no sooner than <b>10 days</b> from the completion of service.</p> <p><b><u>Denial of allegations:</u></b> If parent, guardian or Indian custodian denies allegations in the motion for termination of parental rights, the court shall <b>set the matter for trial within 90 days of the permanency hearing</b>. The court may schedule a settlement conference, pretrial conference or mediation if appropriate.</p> <p>If a petition for termination was filed, the court may schedule mediation and shall set a pretrial conference or status conference.</p>

<sup>1</sup> Arizona Rules of Juvenile Procedure

<sup>2</sup> Arizona Revised Statutes

Rule 66(B), ARJP

**Termination Adjudication Hearing:** Hearing shall be held no later than **90 days** after the permanency hearing. The court may **continue** the hearing beyond the 90-day time limit for a period of **30 days** if necessary for the full, fair and proper presentation of evidence, and the best interests of the child will not be adversely affected. Any continuances beyond 30 days shall only be granted upon a finding of extraordinary circumstances.

**(Measurement Stops Here)**

# Probate

**CASE PROCESSING STANDARDS ANALYSIS  
PROBATE - ADMINISTRATION OF ESTATES**

**National Center for State Courts Model Time Standards:**

- 75% within 360 days
- 90% within 540 days
- 98% within 720 days

**Measurement:** Filing of petition through closing of estate.

**Arizona Probate - Administration of Estates**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

- 75% within 360 days**
- 90% within 540 days**
- 98% within 720 days**

**Measurement:** Filing of application/petition through closing of estate.

Arizona Rules and Statutes	Timelines under Rule
<p><b>Petition/Application Filed:</b> Rule 4(A)(1)(b), ARPP<sup>1</sup></p> <p>A.R.S.<sup>2</sup> § 14-3301 A.R.S. § 14-3402</p>	<p style="text-align: center;"><b>(Measurement Starts Here)</b></p> <p>A probate proceeding is commenced by filing a petition or, in the case of an informal probate of a will or informal appointment of a personal representative, by filing an application.</p> <p>Application for informal probate and appointment proceedings.</p> <p>Petition for formal probate of a will or for adjudication of intestacy with or without request for appointment of a personal representative.</p>
<p><b>Notice:</b> A.R.S. § 14-3306</p> <p>A.R.S. § 14-3306(B)</p>	<p>On issuance of a statement of informal probate, the applicant must within <b>30 days</b> give written information to all heirs and devisees of the admission of the will to probate, together with a copy of the will.</p> <p>Heir has <b>4 months</b> from receipt of information within which to commence a formal testacy proceeding if the heir wishes to contest the probate.</p>
<p><b>Hearing:</b> A.R.S. § 14-3403</p>	<p>Upon commencement of a formal testacy proceeding, the clerk shall fix a time and place of hearing. Notice shall be given in the manner prescribed by § 14-1401 by the petitioner to the persons specified in this section and to any additional person who has filed a demand for notice under § 14-3204. Notice shall be given to the following persons: The surviving spouse, children and other heirs of the decedent, the devisees and executors named in any will that is being, or has been, probated, or offered for informal or formal probate. In addition the petitioner shall give notice by publication one time at</p>

<sup>1</sup> Arizona Rules of Probate Procedure

<sup>2</sup> Arizona Revised Statutes

	least <b>14 days</b> before the hearing.
<b>Creditor's Claim:</b> A.R.S. § 14-3801(A)  A.R.S. § 14-3801(B)  A.R.S. § 14-3807	<p>Unless notice has already been given under this section, at the time of appointment a personal representative shall publish a notice to creditors <b>once a week for 3 consecutive weeks</b> in a newspaper of general circulation. The notice shall state that creditors of the estate must present their claims within <b>4 months</b> after the date of first publication of the notice or be forever barred. If a known creditor is mailed or delivered the notice, the creditor's claim must be presented within <b>60 days</b> after the mailing or other delivery or <b>4 months</b> after the date of first publication or be forever barred.</p> <p><b>Payment of Claims.</b> On the expiration of the earlier of the time limitations prescribed in §14-3803 for the presentation of claims, the personal representative shall proceed to pay the claims allowed against the estate in order of priority.</p>
<b>Closing of Estate:</b> A.R.S. § 14-3933  Rule 4(A)(1)(b), ARPP  Rule 15.2, ARPP	<p>Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing a verified statement with the court no earlier than <b>4 months</b> after the date of original appointment of a general personal representative for the estate.</p> <p>A decedent's estate case continues from the date the petition or application is filed until either the court has entered an order closing the estate or <b>1 year</b> after the personal representative has filed a closing statement in accordance with statute.</p> <p>If there has been no action on a case after <b>2 years</b> after initiation of the case, the court will issue a notice to the parties of pending dismissal and then proceed to close/dismiss the case.</p> <p style="text-align: center;"><b>(Measurement Stops Here)</b></p>



**CASE PROCESSING STANDARDS ANALYSIS  
PROBATE - GUARDIANSHIP/CONSERVATOR OF INCAPACITATED ADULTS**

**National Center for State Courts Model Time Standards:**

98% within 90 days after filing petition

**Measurement:** Filing of petition through adjudication

**Arizona Probate - Guardianship/Conservator of Incapacitated Adults**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

**98% within 90 days after filing petition**

✓ Excludes guardianship of a minor and elder abuse cases.

**Measurement:** Filing of petition through denial of the petition or issuance of a court order appointing a fiduciary on a non-temporary basis.

Arizona Rules and Statutes	Timelines under Rule
<p><b>Petition Filed:</b> Rule 4(A)(2)(a), ARPP<sup>1</sup> A.R.S.<sup>2</sup> § 14-5303(A)</p> <p>A.R.S. § 14-5404</p> <p>A.R.S. § 14-5405(B) A.R.S. § 14-5309(B)</p> <p>Rule 17(C), ARPP A.R.S. § 14-5303(C) A.R.S. § 14-5407(B)</p> <p>Rule 19, ARPP A.R.S. § 14-5303(C) A.R.S. § 14-5407(B)</p>	<p style="text-align: center;"><b>(Measurement Starts Here)</b></p> <p><b><u>Petition to appoint guardian:</u></b> The alleged incapacitated person or any person interested in that person’s affairs or welfare may petition for the appointment of a guardian or for any other protective order.</p> <p><b><u>Petition to appoint conservator:</u></b> The person allegedly in need of protection, any person who is interested in that person’s estate or affairs, including that person’s parent, guardian or custodian may petition for the appointment of a conservator or for any other appropriate protective order.</p> <p><b><u>Service:</u></b> At least <b>14 days</b> before the hearing the person allegedly in need of protection shall be personally served and that person’s spouse and parents if they can be found.</p> <p><b><u>Hearing:</u></b> Upon a filing of a petition, the petitioner shall obtain a hearing date and time. The petitioner shall serve all interested parties with a copy of petition and notice of hearing and shall file proof of service at or before the hearing.</p> <p><b><u>Appointment of attorney, medical professional and investigator:</u></b> Attorney to be appointed if protected person does not have counsel. Court shall appoint an investigator to interview person to be protected and medical professional to evaluate the alleged incapacitated person. Written reports shall be submitted to the court before the hearing date.</p>
<p><b>Pretrial Procedures:</b> Rule 28, ARPP</p>	<p><b><u>Scheduling Conference:</u></b> If a matter is contested, unless the parties agree otherwise, the court shall set a scheduling conference that shall</p>

<sup>1</sup> Arizona Rules of Probate Procedure

<sup>2</sup> Arizona Revised Statutes

Rule 28(B), ARPP	<p>occur promptly after the date of the initial hearing on the petition. The scheduling conference may be held at the time set for the initial hearing on the petition.</p> <p><b><u>Discovery and Disclosure:</u></b> Rules 26 through 37(f) Arizona Rules of Civil Procedure shall apply to discovery and disclosure in contested probate cases.</p>
<p><b>Adjudication:</b> Rule 25, ARPP</p> <p>Rule 26, ARPP</p>	<p><b><u>Order to Fiduciary:</u></b> Letters of guardianship or conservatorship shall not be issued until the proposed conservator or guardian has signed and the court has entered an order to the guardian or conservator.</p> <p><b><u>Issuance of Letters:</u></b> The clerk of court shall not issue letters of guardianship, conservatorship, personal representative or special administrator until the fiduciary has filed the bond or other security, if a bond or other security is required by the court.</p> <p style="text-align: center;"><b>(Measurement Stops Here)</b></p>
<p>Rule 4(2)(a) ARPP</p> <p>Rule 4(2)(b) ARPP</p>	<p>A probate case relating to a guardianship continues from the date the petition is filed until the court has entered an order terminating the guardianship, or, in accordance with A.R.S. § 14-5306, the guardianship is terminated by operation of law.</p> <p>A probate case relating to a conservatorship continues from the date the petition is filed until the court has entered an order terminating the conservatorship or, if the conservator is granted the powers of a personal representative, after the protected person’s death. The case continues until the court has entered an order closing the estate or <b>1 year</b> after the conservator has filed a closing statement in accordance with statute.</p>



**CASE PROCESSING STANDARDS ANALYSIS  
PROBATE - MENTAL HEALTH CASES**

**National Center for State Courts Model Time Standards:**

98% within 15 days after filing petition

**Measurement:** Filing of petition through disposition (e.g., patient released or issuance of a court order.)

**Arizona Probate - Mental Health Cases**

Initial analysis suggests that Arizona rules and statutes comport with the National Standards as follows:

**98% within 15 days after filing petition**

**Measurement:** Filing of petition for court-ordered treatment through disposition (e.g., patient released or issuance of a court order for treatment)

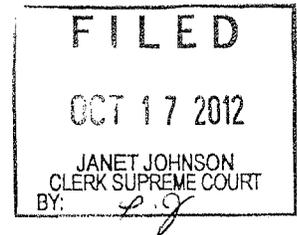
Arizona Rules and Statutes	Timelines under Rule
<p><b>Petition Filed:</b> A.R.S.<sup>1</sup> § 36-535(A)</p> <p>A.R.S. § 36-535(B)</p>	<p style="text-align: center;"><b><u>(Measurement Starts Here)</u></b></p> <p><b><u>Detention of Patient:</u></b> If the patient is not already detained in an agency when the petition for court-ordered treatment is filed, the court shall order the detention of the patient in the agency that conducted the evaluation. This determination is based on whether the patient is likely to present a danger to self or others before conclusion of the hearing or is not likely to appear at the hearing on the petition if not detained.</p> <p><b><u>Hearing:</u></b> The court shall order the hearing to be held within <b>6 business days</b> after the petition is filed. For good cause shown the hearing can be continued for a maximum of <b>30 days</b> by the patient. The hearing may be continued a maximum of <b>3 business days</b> at the request of the petitioner.</p>
<p><b>Service:</b> A.R.S. § 36-536(A)</p>	<p>At least <b>72 hours</b> before the court conducts the hearing on the petition for court-ordered treatment, a copy of the petition, affidavits in support and notice of hearing shall be served on the patient. The patient will be informed of the purpose of the hearing and the right to consult counsel.</p> <p>If counsel has not been employed, counsel will be appointed by the court at least <b>3 days before the hearing</b>.</p>
<p><b>Discovery and disclosure:</b> A.R.S. § 36-537(B)(1)</p> <p>A.R.S. § 36-537(B)(2)</p>	<p>Within <b>24 hours</b> of appointment, the attorney shall conduct an interview with the patient and explain the patient's rights.</p> <p>At least <b>24 hours</b> before the hearing the attorney will review the petition for evaluation, prepetition screening report, evaluation report, petition for treatment, patient's medical records and the list of</p>

<sup>1</sup> Arizona Revised Statutes

<p>A.R.S. § 36-537(B)(3) and (4)</p> <p>A.R.S. § 36-538</p>	<p>alternatives to court ordered treatment.</p> <p>At least <b>24 hours</b> before the hearing, the attorney will interview the petitioner and the petitioner’s supporting witnesses, if known and available, interview the physicians or the psychiatric and mental health practitioner who will testify at the hearing, and investigate the possibility of alternatives to court-ordered treatment.</p> <p>The patient has a right to an independent evaluator for an analysis of his or her mental condition.</p>
<p><b>Disposition:</b> A.R.S. § 36-540</p>	<p><b><u>Entry of Order:</u></b> The court shall order the patient to undergo treatment if it finds that by clear and convincing evidence that the proposed patient, as a result of a mental disorder, is a danger to self, is a danger to others, is acutely disabled or is gravely disabled and in need of treatment and is either unwilling or unable to accept voluntary treatment.</p> <p style="text-align: center;"><b>(Measurement Stops Here)</b></p>

## Steering Committee

IN THE SUPREME COURT OF THE STATE OF ARIZONA



In the Matter of: )  
 )  
ESTABLISHMENT OF THE )  
STEERING COMMITTEE ON )  
ARIZONA CASE PROCESSING )  
STANDARDS )  
\_\_\_\_\_ )

Administrative Order  
No. 2012 - 80

Part of the vision for Arizona’s Judicial Branch, as set forth in its Justice 2020 Strategic Agenda, is to strengthen the administration of justice. Timely justice promotes public trust and confidence in the courts. The establishment of case processing time standards emphasizes the need for judicial officers and court personnel to renew focus on this essential part of their work.

Development of case processing standards for Arizona will provide a reasonable set of expectations for courts, lawyers, and for the public. The time standards serve as benchmarks for determining whether the pace of court proceedings is achievable in Arizona courts.

In 2011, the National Center for State Courts published the “Model Time Standards for State Trial Courts.” These standards for the disposition of cases in the state courts were developed and adopted by the Conference of State Court Administrators, the Conference of Chief Justices, the American Bar Association House of Delegates, and the National Association for Court Managers.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED as follows:

1. The Steering Committee on Arizona Case Processing Standards is established.
2. PURPOSE: The Committee shall review the national time standards for processing all major case types in limited and general jurisdiction courts and develop and recommend state case processing standards for Arizona. The Committee will take into account statutory requirements, court rules, court jurisdiction, and any other relevant factors in recommending statewide case processing standards. The Committee may also make high-level recommendations for implementing the case processing standards.
3. MEMBERSHIP: The membership of the Committee is attached as Appendix A. The Chief Justice may appoint additional members as may be necessary.

4. MEETINGS: All meetings shall comply with the Arizona Code of Judicial Administration § 1-202: Public Meetings. Committee meetings shall be scheduled at the discretion of the Committee Chair.
5. REPORTS: The Committee shall submit a report of its findings and recommendations to the Arizona Supreme Court for approval no later than December 2013.
6. STAFF: Under the general direction of its Administrative Director, the Administrative Office of the Courts shall provide staff to assist the Committee and, as feasible, to conduct or coordinate research and consult with external experts as requested by the Committee.

Dated this 17 day of October, 2012.



REBECCA WHITE BERCH  
Chief Justice

## APPENDIX A

### MEMBERSHIP LIST STEERING COMMITTEE ON ARIZONA CASE PROCESSING STANDARDS

#### *Chair*

Hon. Robert M. Brutinel  
Arizona Supreme Court

#### *Justice and Municipal Courts*

Hon. Jill Davis  
Mohave County, Presiding Justice of the Peace

Hon. Sherry Geisler  
Apache County, Presiding Justice of the Peace

Mr. Don Jacobson  
Flagstaff Municipal Court, Administrator

Hon. Eric Jeffery  
Phoenix Municipal Court, Assistant Presiding Judge

Hon. Steven McMurry  
Encanto Justice Court, Judge

Hon. Antonio Riojas  
Tucson City Court, Judge

#### *Public and Bar Members*

Mr. James Haas  
Maricopa County, Public Defender

Ms. Michelle Matiski  
Aetna Insurance, Head of Corporate Legal Group

Ms. Jane Nicoletti-Jones  
Coconino County Attorney's Office, Senior Charging Attorney

Mr. John W. Rogers  
Perkins Coie LLP, Partner

Mr. William Verdini  
Arizona University, Professor Emeritus

#### *Superior Courts*

Mr. Kent Batty  
Pima Superior Court, Administrator

Hon. Peter Cahill  
Gila County Superior Court, Presiding Judge

Hon. Richard Fields  
Pima Superior Court, Judge

Hon. Pamela Frasher Gates  
Maricopa Superior Court, Judge

Hon. Kenton Jones  
Yavapai Superior Court, Judge

Hon. Sandra Markham  
Yavapai Superior Court, Clerk of Court

Hon. Mark Moran  
Coconino Superior Court, Presiding Judge

Hon. Rosa Mroz  
Maricopa Superior Court, Judge

Hon. John Rea  
Maricopa Superior Court, Judge

Hon. Sally Simmons  
Pima Superior Court, Presiding Judge

**WORKGROUP ASSIGNMENT FOR STEERING COMMITTEE MEMBERS**

ARIZONA CASE TYPES	WORKGROUP ASSIGNMENTS
<b>JUSTICE AND MUNICIPAL COURTS</b>	
<b>Municipal and Justice Court Cases:</b> 1) Criminal Misdemeanor 2) Civil – Traffic 3) Family Law Protection Orders	Judge Tony Riojas (Chair) Judge Eric Jeffery Judge Sherry Geisler Judge Jill Davis Judge Steven McMurry Don Jacobson, Court Administrator Jane Nicoletti-Jones, County Attorney’s Office James Haas, Public Defender’s Office
<b>Justice Court Cases:</b> 4) Civil Cases in Justice Court 5) Civil Small Claims and Local Ordinances 6) Civil Eviction Actions	Judge Jill Davis (Chair) Judge Sherry Geisler Judge Steven McMurry Bill Verdini, Public Member
<b>SUPERIOR COURTS</b>	
1) Juvenile Delinquency and Status Offense 2) Juvenile Neglect and Abuse 3) Juvenile Termination of Parental Rights	Judge Peter Cahill (Chair) Justice Brutinel Judge Sally Simmons Sandra Markham, Clerk of Court Jane Nicoletti-Jones, County Attorney’s Office James Haas, Public Defender’s Office
1) Criminal Felony 2) Criminal Post Conviction Relief	Judge Richard Fields (Chair) Judge Mark Moran Kent Batty, Court Administrator Jane Nicoletti-Jones, County Attorney’s Office James Haas, Public Defender’s Office
3) Civil Cases in Superior Court	Judge John Rea (Chair) Judge Richard Fields Judge Kenton Jones John Rogers, Perkins Coie LLP Michelle Matiski, AETNA Corp Bill Verdini, Public Member
4) Family Law Dissolution 5) Family Law Post-Judgment Motions	Judge Pam Gates (Chair) Judge John Rea Judge Mark Moran Kent Batty, Court Administrator John Rogers, Perkins Coie LLP
6) Probate Administration of Estates 7) Probate Guardianship/Conservator 8) Probate Mental Health Cases	Judge Rosa Mroz (Chair) Judge Kenton Jones Judge Peter Cahill Michelle Matiski, AETNA Corp John Rogers, Perkins Coie LLP

# *Steering Committee on Arizona Case Processing Standards Membership List*

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## Minutes



# Intermediate Standards for 98% of civil cases that go to trial.

Judgment Entered

Trial initiated

Discovery completed

Response filed

Defendants served

Case Filed

60 days

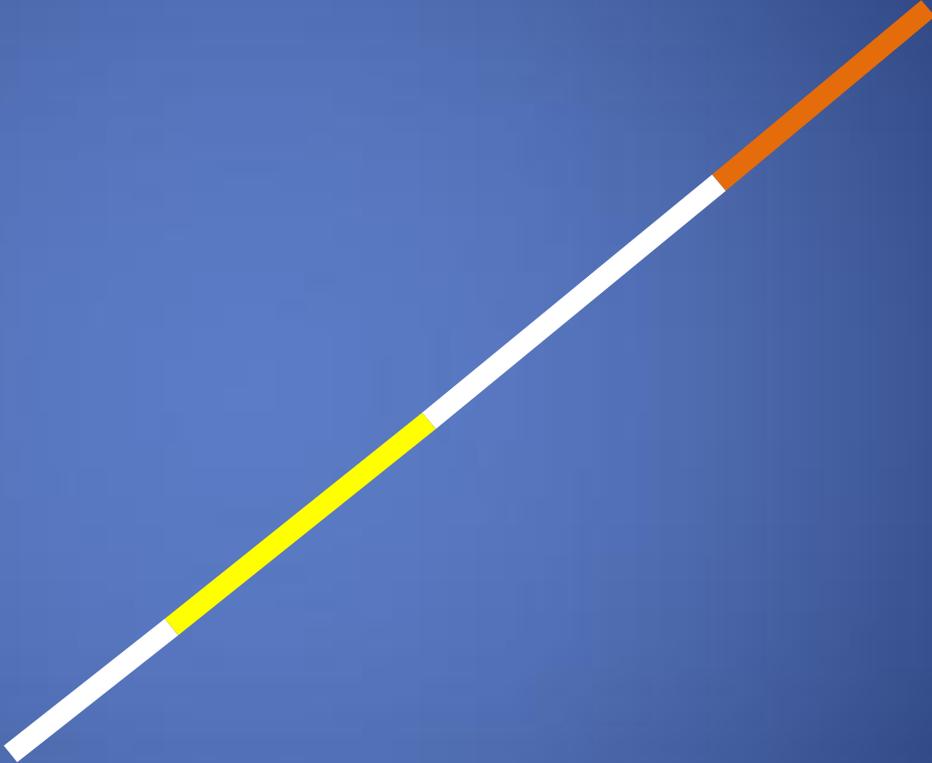
90 days

300 days

480 days

540 days

Definition: Time goals for completing critical milestones during the life of a case, prior to final case resolution.



# Family Law Dissolution Cases: 98% of Temporary Orders to be issued within 60 days.

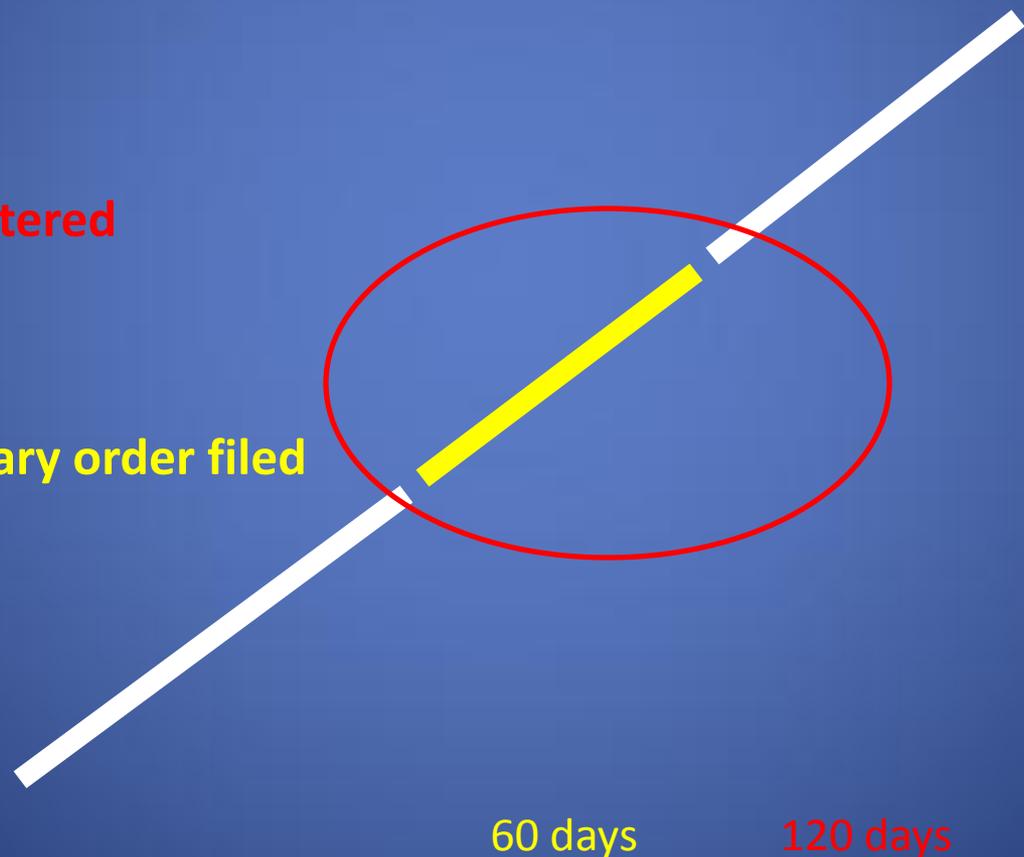
Decree Entered

Temporary order entered

Request for temporary order filed

Defendants served

Case Filed

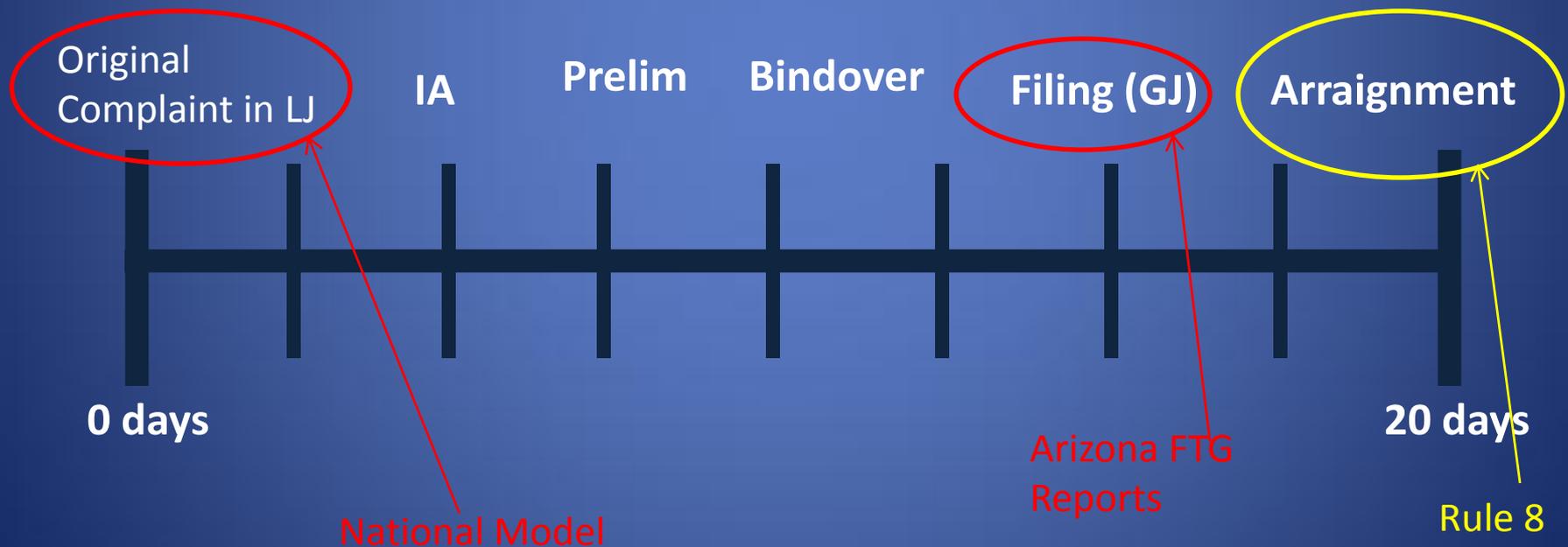


60 days

120 days

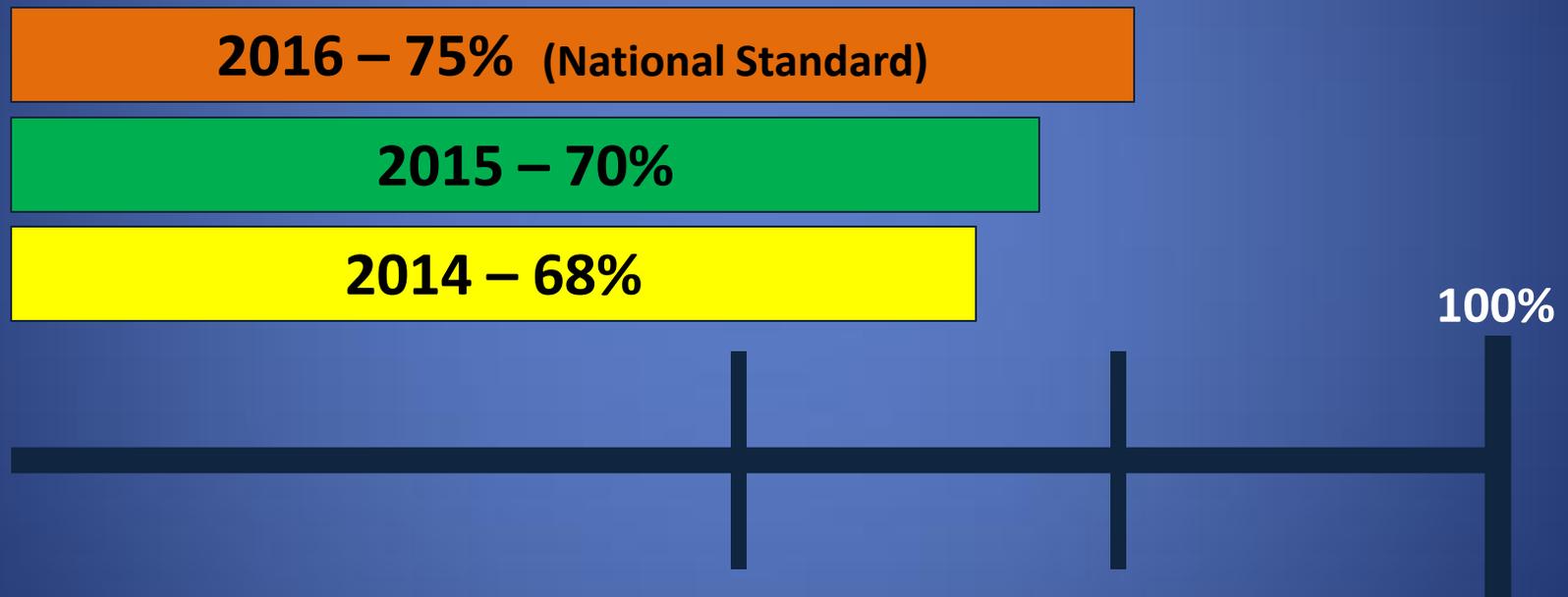
# Measurement: Felony Case Time Commencement

Where should the clock start?



# Example of Interim Civil Case Processing Goals

Goal of 180 days to Civil Case Disposition



# Intermediate Standards for 98% of civil cases that go to trial.

Judgment Entered

Trial initiated

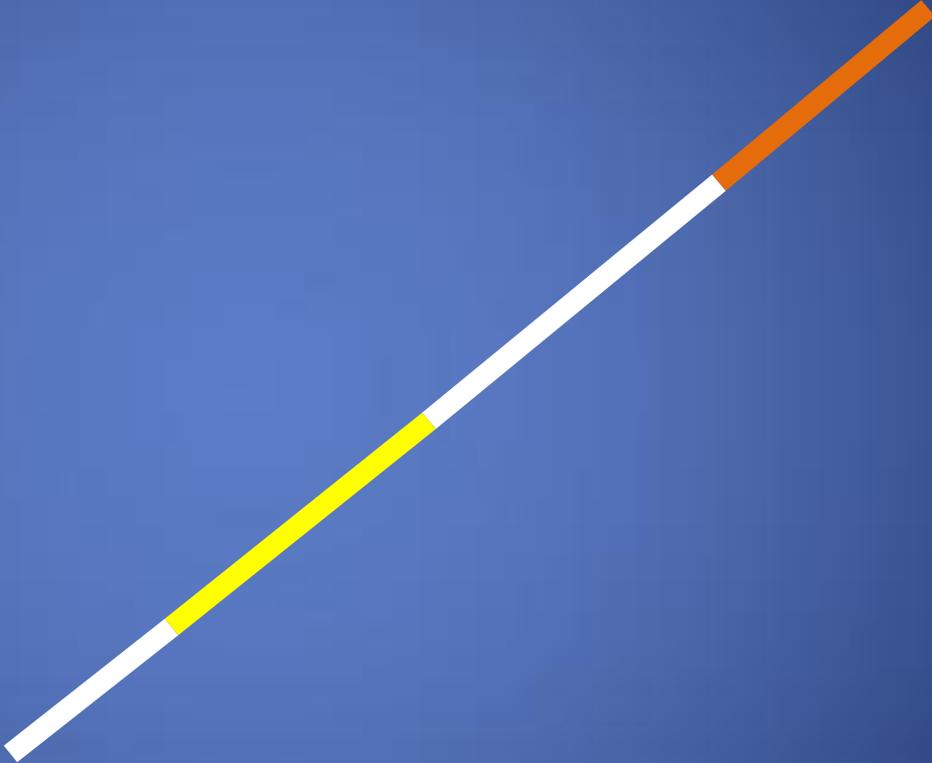
Discovery completed

Response filed

Defendants served

Case Filed

60 days      90 days      300 days      480 days      540 days



Definition: Time goals for completing critical milestones during the life of a case, prior to final case resolution.

# Family Law Dissolution Cases: 98% of Temporary Orders to be issued within 60 days.

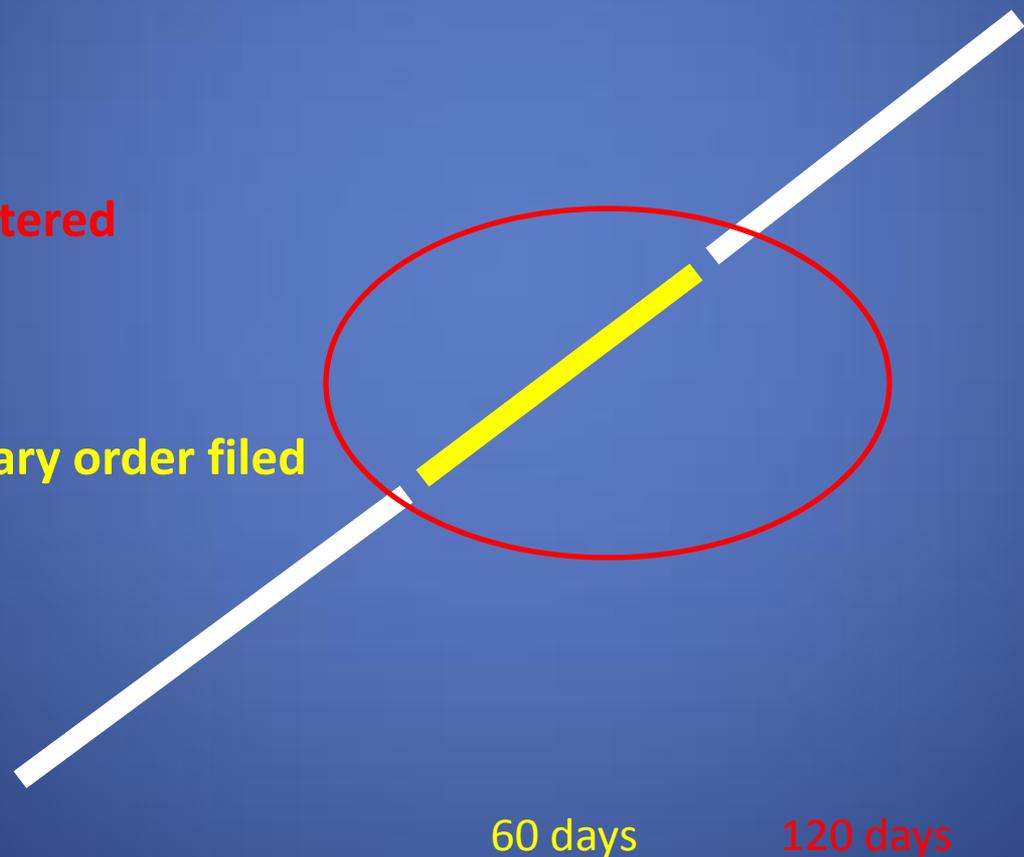
Decree Entered

Temporary order entered

Request for temporary order filed

Defendants served

Case Filed

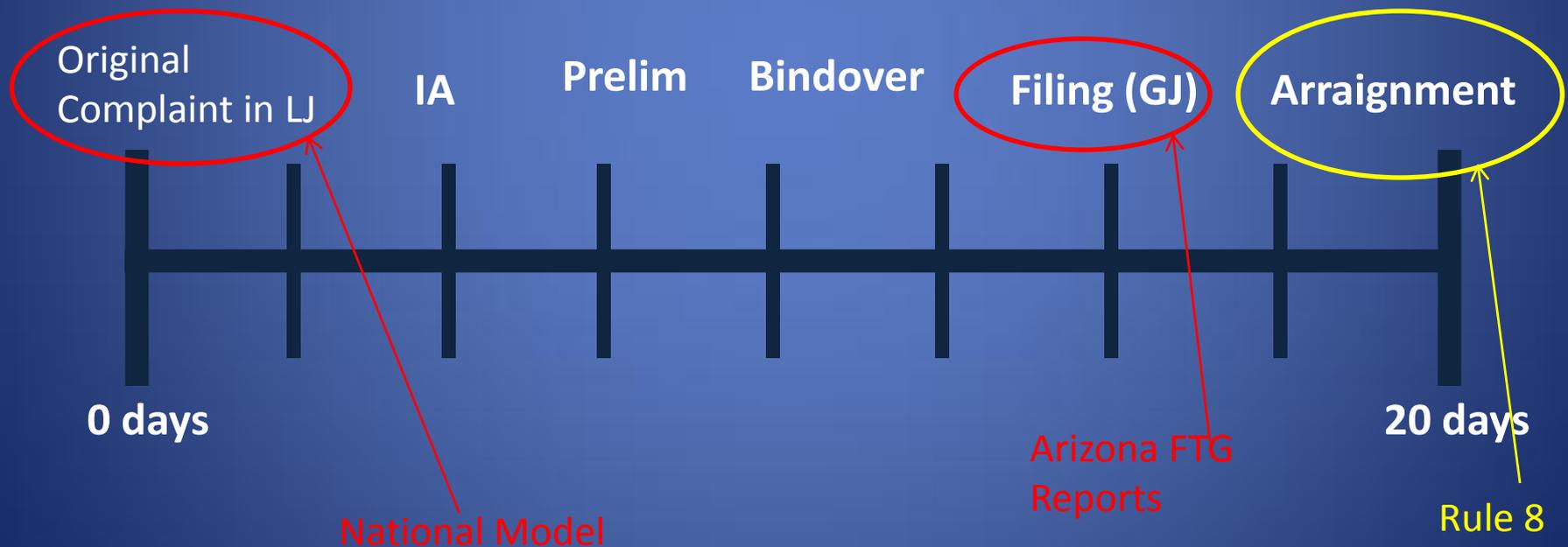


60 days

120 days

# Measurement: Felony Case Time Commencement

Where should the clock start?



# Example of Interim Civil Case Processing Goals

Goal of 180 days to Civil Case Disposition

