

# Family Court Improvement Committee

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May 5, 2020; 10:00 a.m. – 2:00 p.m.

**Virtual Meeting**

Conference Call Number: (415) 655-0002 Access Code: 661 829 801

Time*	Agenda Items	Presenter
10:00 a.m.	Call to Order	JUDGE PAUL MCMURDIE, CHAIR
10:02	Housekeeping and Member Roll Call	SUSAN PICKARD, STAFF
10:04	Welcome, Opening Remarks, and Introductions <ul style="list-style-type: none"><li>R-20-0033, Comment deadline May 1, 2020</li></ul>	JUDGE MCMURDIE
10:15	January 13, 2020 Minutes <input type="checkbox"/> Formal Action Requested	JUDGE MCMURDIE
10:20	Workgroup Updates <ul style="list-style-type: none"><li>Training Workgroup</li><li>Research and Innovation Workgroup</li><li>Forms Workgroup</li><li>Statutes and Rules Workgroup</li></ul>	JUDGE PETERSON JUDGE SAKALL JANET SELL JUDGE MCMURDIE
10:50	Ad Hoc COVID-19 Response Workgroup <ul style="list-style-type: none"><li>A.O. 2020-59</li><li>Guidelines for Parenting Time</li><li>Child Support and the CARES Act FAQ</li></ul>	JUDGE MCMURDIE
11:00	Post-COVID-19 Planning	ALL
12:00 p.m.	Lunch (on your own)	
12:30	Mental Health Related Updates	STACY REINSTEIN AOC-COURT POLICY ANALYST
12:45	Good of the Order/Call to the Public	JUDGE MCMURDIE
	Adjournment	

<b>Next Meeting:</b> September 3	<b>Remaining 2020 Meeting Dates</b> October 15
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*\*All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. Please contact Susan Pickard, FCIC staff, at (602) 452-3252 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Angela Pennington at (602) 452-3547. Requests should be made as early as possible to allow time to arrange the accommodation.*

Judge Bruce R. Cohen  
Family Department Presiding Judge  
Maricopa County Superior Court  
125 West Washington, Suite 101  
Phoenix, Arizona 85003

**IN THE SUPREME COURT OF THE STATE OF ARIZONA**

In the Matter of: ) Supreme Court  
 ) No.  
PETITION TO AMEND RULE 44(A) )  
OF ARIZONA RULES OF FAMILY )  
LAW PROCEDURE )

**BACKGROUND**

This is a proposal to amend Rule 44(a) of the *Arizona Rules of Family Law Procedure* (ARFLP) to clarify the requirements for applications for default in family court cases.

Presently, Rule 44(A)(2)(E) provides that “a copy of the proof or acceptance of service establishing the date and manner of service on the party in default” must be attached to the written application for default. The rule does not provide whether the failure to attach the proof of service renders the application defective and invalid.

This rule equally impacts parties represented by counsel and those who are self-represented. However, the failure to comply disproportionately

arises for self-represented litigants. Further, and more importantly, there has been disparate treatment as to the impact a failure to attach the proof of service may have on the default process. Through informal gathering of information, there have been some judicial officers and counties who have treated the failure to attach the proof of service to be fatal to the default process, thereby vacating the default and requiring that the default application process begin anew. Often, the vacating of the default is decided at the time of the default hearing, thereby vacating the hearing after the party has taken the time to appear at court. There have been other judicial officers and counties who have treated the failure to attach the proof of service to be a non-issue if there is proof of service otherwise accessible to the judicial officer within the court file.

When this inconsistency in approach was first brought to the undersigned's attention, contact was made with members of the committee that recommended the last set of changes to the ARFLP, including this provision. When informed that some courts have treated the failure to attach the proof of service as a defect that rendered the default invalid, certain members of the prior committee noted that Rule 44(A) should be read in concert with Rule 1 (which provides that the rules should be construed "in a manner that ensures just, prompt, and inexpensive determination in every

action and proceeding.”). Based thereon, certain members of the prior rules committee suggested that if there is proof of service within the court record but no such proof of service is attached to the application for default, the default should proceed as that would meet the intent and spirit of Rule 1, ARFLP.

During the informal inquiry, some feedback focused on the unavailability of proof of service. Those professionals who dedicate services to the self-represented population noted that self-represented parties often fail to retain copies of proof of service, whether by filing the original without making copies or never having seen the proof of service because it was filed directly with the court by the process server.

From further inquiry, it was discovered that the reasoning behind Rule 44(A)(2)(E) was two-fold: First, it allowed the assigned judicial officer to determine with ease that service of process had been effectuated. This justification should not be sufficient to vacate an application for default if the only defect was that a party failed to attach the proof of service.

The second reason given is that by attaching the proof of service to the application for default, the defaulted party would have notice of how and when service of process was completed. In circumstances where the defaulted party may challenge the validity of service, this would afford that

party with information as to the means by which service of process was allegedly effectuated.

Given the disparate treatment among courts within Arizona, the concern that rendering the application for default to be invalid places too much weight on something that is “form over substance,” and the lack of clear guidance as to the impact of a failure to comply, it is suggested that the rule be amended. The following proposal will ensure that the spirit and intent of Rule 1 is employed while also protecting the defaulted party.

### **PROPOSAL**

The current Rule 44(A)(2)(E) of the Arizona Rules of Family Law

Procedure should be amended as follows (new language in red):

(E) establishes that service of process has been effectuated either by attaching a copy of the proof or acceptance of service or setting forth in the application (substantially in the form set forth in Form 17, Rule 97) the date and manner of service on the party in default; and

As noted, it is suggested that a new form be created to ensure that applications for default in family law cases comply fully with the rule and to assist those who are seeking entry of a default.

### **CONCLUSION**

This proposed rule change will serve to clarify Rule 44(A), ease compliance and meet the intent behind the provision. It is respectfully requested that the amendment proposed above be adopted.

RESPECTFULLY SUBMITTED, this 15<sup>th</sup> day of January, 2020.

*Bruce R. Cohen*

BRUCE R. COHEN

Family Court Presiding Judge

Superior Court of Arizona

Maricopa County

125 West Washington, Suite 101

Phoenix, AZ 85003

# FAMILY COURT IMPROVEMENT COMMITTEE

## Draft Minutes

January 13, 2020 10:00 a.m.  
Arizona State Courts Building  
Conference Room 119A/B  
1501 W. Washington Street, Phoenix, AZ 85007

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**Present:** Judge Paul McMurdie (Chair), Brian Bledsoe, Judge Bruce Cohen, Benjamin L. Deguire, Kellie E. DiCarlo, Joi Hollis, PhD. (and proxy for Judge D. Greg Sakall), Judge Elaine Fridlund-Horne, CaSaundra L. Guadalupe, Yvette Asche-Liffick (proxy for Sabrina Lopez), Patricia Madsen, Tracy L. McElroy, Jennifer A. Mihalovich, Judge Michael D. Peterson, Marla Randall, Janet W. Sell, Vance D. Simms

**Telephonic:** Judge R. Erin Farrar, Commissioner Joseph Goldstein, Megan Spielman, Amanda Stanford

**Absent/Excused:** Danna Lopez

**Presenters/Guests:** Cathy Clarich, Manager, Nicole LaConte, Court Specialist, Administrative Office of the Courts (AOC)

**Administrative Office of the Courts (AOC) Staff:** Theresa Barrett, Angela Pennington, Susan Pickard, Kathy Sekardi

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## REGULAR BUSINESS

### Welcome and Opening Remarks

The January 13, 2020, meeting of the Family Court Improvement Committee (FCIC) was called to order at 10:03 a.m. by Judge Paul McMurdie, Chair. Judge McMurdie asked for the members on the phone to announce themselves. The draft minutes from the November 22, 2019, meeting were presented for approval. Commissioner Joseph Goldstein asked that his title in the minutes be corrected.

<p><b>Motion:</b> to approve the minutes as amended. <b>Moved by</b> Janet Sell. <b>Seconded by</b> Benjamin Deguire. Motion passed unanimously.</p>
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## BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### ARFLP Rule 44 and Proof of Service

Judge Bruce Cohen asked the committee to assign a workgroup to be established later in the day, to draft a rule change petition to amend and clarify Arizona Rules of Family Law Procedure Rule 44(a)(2)(E). During the last rule changes, Rule 44 was amended to state that the party applying for a default decree must attach a copy of the proof of service to the application. At least one judicial officer has interpreted “must” to mean a strict adherence, and vacated a petitioner’s hearing and application,

and required them to refile for the default. Discussion amongst the committee members brought forth the following points:

- The Family Law Rules Task Force did not intend for the application to be defaulted if proof of service was in the court record but not attached.
- Proof of service being attached to the application serves multiple purposes.
  - A reminder to the other party, especially if they want to challenge the service of process.
  - Convenience for the judicial officer.
- Proof of service could be included via the date and manner of service on the application for default.

**Action Item:** Judge Cohen will draft language for a possible petition to be filed later. Judge Elaine Fridlund-Horne volunteered to help Judge Cohen with the draft. The matter will be tabled until the next meeting when the draft will be presented to the committee for approval.

### Avoiding Criminal and Family Court Order Conflicts

Judge Cohen discussed the matter of competing criminal and family court orders. Current rules offer no guidance on priority for conflicting criminal and family court orders. Policy decisions regarding which order takes priority and in which rules the policy should be enumerated need to be made. Any changes would require cooperation between departments, e.g. family court and probation department. During the conversation, the following points were made:

- The priority of payment of competing child support and victim restitution must be addressed.
- Federal law and state case law say that becoming incarcerated is not considered a voluntary event and is grounds for child support modification.
  - Some states allow IV-D agency to administratively terminate a child support order when a person is incarcerated or have statutes that allow suspension by operation of law.
  - Modification of child support for incarcerated persons is important and can affect the probability of child support payment after release.
- Suspension of child support based on incarceration would have to be a legislative change.
  - Notice that modification is possible could be given to the defendant during the presentencing conversation with Probation. This could be done with a rule change.
  - This change has been tried before and met with opposition, but the committee would like to try again.
  - Suspension of child support must occur in a venue which affords the co-parent due process.

Judge McMurdie stated that the committee will discuss the establishment of a workgroup to address this issue later in the meeting.

### Sealing a Record versus Deeming the Record Confidential

Judge Cohen is advocating for the development of a “hand-off” process to have records transferred more easily between family and juvenile courts and for the designation of “Confidential” versus “Sealed” for certain records. Rule 13(e) of the Arizona Rules of Family Procedure can be interpreted

to allow this easier access. He also supports a discussion on expanding the family rule to include some of the provisions set forth in Rule 7 of the Arizona Rules of Probate Procedure. Points made:

- Having all the records would aid the judge in making more accurate analysis of a case.
  - Fewer court actions means more expedient cases.
  - Ensures due process for all parents and DCS.
    - Gives all parties an opportunity to ask for modified orders.
    - In cases where a best interests attorney was assigned, the juvenile court judge would be aware of the family court judge's concerns if findings were handed-off with the dependency petition.
  - Other concerns for hand-offs between family and juvenile court include:
    - adoptions;
    - termination of parental rights;
    - establishing paternity in a dependency case; and
    - termination of child support by operation of law.
- Smaller courts may transfer cases, other courts consolidate cases. A statewide approach would be best.
  - Statewide approach could be a best practice achieved by training or a rule change.

At the request of Judge Cohen, Lori Ford, a public person spoke specifically to this topic.

### Family Court Judicial Training

Judge Michael Peterson, in conjunction with Judge Fridlund-Horne gave a presentation on effective Resolution Management Conferences and the importance of training judges to manage family law cases. Judge Peterson asked the committee for input, feedback, and advice on an appropriate curriculum for training. The Judges would like to conduct a half to full day training in each county. It was suggested that the training also cover conciliation and mediation.

Judge McMurdie would like to discuss developing the materials with the education provisions of the subcommittee for statewide implementation.

### Online Dispute Resolution

Cathy Clarich and Nicole LaConte, AOC, presented the results of the Online Dispute Resolution pilot programs. They also asked the committee for input regarding potential case types and policies for statewide rollout or individual court rollout and feedback on the execution of the pilot program. The committee did not have any comments or questions at this time, but Judge McMurdie stated the issue would be assigned to one of the workgroups for additional input and feedback.

**Action Item:** Ms. Clarich will coordinate with staff to send the PowerPoint to the committee and receive any information the committee provides.

### Top Issues and Workgroups

During the November 22<sup>nd</sup> meeting, the members provided Judge McMurdie and staff a comprehensive list of the issues they wished to see the committee address. After that meeting, the issues were sorted into workgroups. Judge McMurdie explained the different workgroups to the committee and asked each member about their participation preferences.

Judge McMurdie clarified that the Family Court Improvement Committee (FCIC)/ Committee on the Impact of Domestic Violence and the Courts (CIDVC) collaborative workgroup would be managed by CIDVC. He noted that the members who serve on both committees would also be serving on the collaborative workgroup.

Some members agreed to follow up with staff to provide names of those whose expertise could be valuable and who might agree to participate on the workgroups.

A member asked Judge McMurdie for guidance on what the workgroups should be doing until their first meetings. Judge McMurdie asked the chairs to meet with their groups ahead of time, discuss what issues they would like to address and prepare them for presentation to the whole committee.

## OTHER BUSINESS

### Announcements/Call to the Public

- Judge McMurdie asked the committee to read the report, “Designing Divorce” by IAALS, Institute for the Advancement of the American Legal System which was provided in the meeting materials.
- Patricia Madsen asked if the committee would be able to evaluate and respond or comment on any of the upcoming legislation. Judge McMurdie asked staff to forward any pertinent information she receives about family law legislation to the rest of the committee.

<p><b>Action Item:</b> Staff will ask the legislative liaison staff to put the committee on their rotation for regular updates.</p>
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- Malinda Sherwyn and “Patti”, public persons addressed the committee.

### Next Meeting

Tuesday, **May 5, 2020**; 10 a.m.  
Arizona State Courts Building, Conference Room 119 A/B  
1501 W. Washington, Phoenix, AZ 85007

The meeting adjourned at 1:31 pm.

## FAMILY COURT IMPROVEMENT COMMITTEE

Date of Meeting:	Type of Action Required:	Subject:
May 5, 2020	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	FCIC Training Workgroup Update

PRESENTER(S): Judge Michael Peterson

DISCUSSION: Judge Peterson will provide an update of workgroup’s progress and ask for input regarding the following survey statements designed to solicit a ranked response from 1 to 5, with 5 being “strongly agree” and 1 being “strongly disagree”:

I have been adequately trained to know the law that applies in family law cases.

I am interested in receiving additional training on the law that applies to family law cases.

I have been adequately trained to be able to handle difficult litigants.

I am interested in receiving additional training on how to handle difficult litigants.

I have been adequately trained to be able to handle cases involving *pro se* litigants.

I am interested in receiving additional training on how to handle cases involving *pro se* litigants.

I feel adequately prepared to handle the stressors unique to the area of family law.

I am interested in receiving additional training on how to handle the stressors unique to the area of family law.

I enjoy being a judge in family law cases.

Overall, I enjoy being a judge.

I am interested in receiving additional training to help me improve my job satisfaction.

I believe that if I received additional training regarding resilience, empathy, compassion and mindfulness, I could improve my job performance.

I believe that if I received additional training regarding resilience, empathy, compassion and mindfulness, I could improve outcomes for children and families in family law cases.

RECOMMENDED ACTION OR REQUEST (IF ANY): Motion to proceed with obtaining permission to survey family court judges.

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
 )  
AUTHORIZING A MODIFICATION ) Administrative Order  
OF COURT RULES DURING A ) No. 2020 - 59  
PUBLIC HEALTH EMERGENCY )  
 )  
 )  
\_\_\_\_\_ )

Due to concern for the spread of COVID-19 in the general population, the Governor of the State of Arizona has declared a statewide emergency pursuant to A.R.S. § 26-303 and in accordance with A.R.S. § 26-301(15). Cooperation by the Judicial Branch of government being essential to reducing the risks associated with this public health emergency.

The Arizona Judicial Branch remains open to serve the public. Nevertheless, given the current emergency, and in the interest of protecting the public, certain limitations and changes in the rules regarding certain notarial requirements and temporary child support order modifications are necessary.

Therefore, pursuant to Article VI, Section 3 and 5, of the Arizona Constitution,

IT IS ORDERED that Courts may accept for filing any of the documents identified under Rule 14(a) Rules of Family Law Procedure without notarization if they are accompanied by a photocopy of the filer's driver license or other government-issued identification card. The applicant may redact a protected address from driver's license or other government-issued identification card.

IT IS FURTHER ORDERED that Courts may accept for filing a motion to temporarily modify parenting time or child support under Rules 47 and 48, Rules of Family Law Procedure without an underlying petition if the basis for temporary relief is related primarily to COVID-19.

Dated this 3rd day of April, 2020.

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ROBERT BRUTINEL  
Chief Justice

## **Family Court Guidelines for Parenting Time of Children During the COVID-19 Pandemic**

These are challenging and stressful times for everyone. During the COVID-19 pandemic, the Court knows you may be seeking additional direction as to parenting time. We have, therefore, put together a list of guidelines<sup>1</sup> that may help you navigate these waters.

The goal of these guidelines is to encourage you to follow your existing parenting plan as closely as possible.<sup>2</sup> Doing so will ensure a level of consistency and stability, which is in your children's best interests.

The guidelines are adopted to assist the parents and the court, however the facts of any given case shall dictate the result. In all cases, the court must determine the best interest of the child in resolving contested issues.

We want to assure you, that, if needed, the Court remains available to hear essential matters, including entering new orders in emergency situations. However, the Court strongly encourages all parents to first attempt to work together to resolve any issues, even if coordinating parenting time or making adjustments to exchange locations becomes more challenging in the days and weeks to come.

If you both agree to modify your parenting plan, you are encouraged to put your agreement in writing and sign it, if possible. If both parents cannot decide on a revised parenting time plan, and one of you believes an adjustment is

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<sup>1</sup> These guidelines were based upon a review of various courts' approaches to the pandemic, and rely heavily upon the Oregon Statewide Family Law Advisory Committee (SFLAC) Recommendations for Oregon Courts: Information for Parents sharing Custody or Parenting Time of Children During the COVID-19 Pandemic, available [here](#), and work done by Pima Judge Greg Sakall

<sup>2</sup> These guidelines recognize Arizona's declared public policy and practices of assuring minor children's frequent and continuing contact with parents, encouraging parents to share in the rights and responsibilities of raising their children which include developing their own parenting plan within legal confines and considering the best interest of children and safety of all in developing the parenting plan. A.R.S. §§1-601, 25-403, and 25-403.02.

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necessary, you may consider filing a request for temporary modification with the Court under [Rule 48, ARFLP](#).

Finally, in cases where a parent or child must self-quarantine or access is restricted, parents should permit liberal telephone or videoconference visits.

## **GUIDELINES**

### **PARENTING TIME ORDERS**

**Parents must comply with any existing parenting time orders unless they agree otherwise, or until the orders are modified.**

A parent who refuses without good cause to comply with a parenting time order is subject to legal penalties, which may include being held in contempt of court, fines, and sanctions.

- A parent currently exercising parenting time/physical custody who is not entitled to it under the court-ordered parenting schedule must immediately return the children to the permitted parent.
- The Court reminds parents that “[a]n order for sole legal decision-making does not allow the parent designated as sole legal decision-maker to alter unilaterally a court-ordered parenting time plan.” A.R.S. §25-403.01(C).
  - The same applies to a parent who has final decision-making authority under a legal decision-making order.

Self-help is not an acceptable course of action. If both parents cannot agree on a modified parenting time plan and one of you believes an adjustment is necessary, you may consider filing a request for temporary modification with the Court under [Rule 48, ARFLP](#).

If there are no orders in place and unless otherwise ordered, legal parents are entitled to co-equal, but not exclusive, physical custody of children, and A.R.S. §13-1302(A)(2) forbids “either parent from hiding a child from the other.”<sup>3</sup>

Third-party visitation orders, including grandparent visitation, shall remain in effect unless modified by the court consistent with these guidelines. All

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<sup>3</sup> *State v. Wood*, 198 Ariz. 275, 279, 8 P.3d 1189, 1193 (App. 2000). *See also Gutierrez v. Fox*, 242 Ariz. 259, 270, 394 P.3d 1096, 1107 (App. 2017).

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parties are encouraged to confer before seeking court intervention, to achieve the best interest of the child.

**DENIAL OF PARENTING TIME**

The COVID-19 pandemic is not generally a reason to deny parenting time. However parents should use common sense during this health emergency to protect the safety of their child(ren) .

- Unless otherwise ordered by the Court, or exhibiting signs of illness, parents are considered fit to care for their children and make decisions regarding day-to-day aspects of parenting while children are in their care.
  - This day-to-day care includes following federal, state, and local directives regarding social distancing and safety-related measures (such as frequent handwashing).

**DEFINITION OF SPRING BREAK, SUMMER BREAK/VACATION OR HOLIDAYS**

While schools are closed, parenting time should continue as if the children are still attending school under the school calendar of the relevant district.

- ‘Spring break,’ ‘summer break/vacation,’ ‘fall break,’ and other designated breaks/holidays/vacation mean the regularly calendared breaks/holidays/vacations in the school district where the children are attending school (or would attend school if they were school-aged).
- The closure of the school for public health purposes will not be considered an extension of any break/holiday/vacation period or weekend.

**POSITIVE COVID-19 DIAGNOSIS**

First and foremost, understand that self-quarantine is for the protection of all parties, especially if they are included in the group of people most adversely affected by COVID-19.

Parents should consider agreeing to modify existing orders temporarily including whether to **suspend parenting time for a period of 14 days** for any person who:

- Tests positive for COVID-19 or shares a household with someone who tests positive for COVID-19;

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- Has been advised by governmental officials that the parent, or someone with whom the parent shares a household, has been exposed to COVID-19, and has been directed by government officials to self-quarantine; or
- Has traveled internationally within the last 14 days, consistent with the [CDC's Global COVID-19 Pandemic Notice](#).

If parenting time is temporarily suspended, the parent affected should be allowed liberal virtual contact with the children via videoconference or telephone.

The Court may order that suspended parenting time be made up, when requested and when appropriate.

**PARENTING TIME IN PUBLIC PLACES**

If your parenting plan states that parenting time will occur in a public place, it should continue at locations permitted under the applicable government orders. See State of Arizona [Executive Order 2020-18](#).

- **Public places such as parks, where people routinely touch common-contact surfaces (play equipment, picnic tables, railings) should be avoided.**
  - Outings and activities where parents and children can maintain social distancing and avoid common-contact surfaces are encouraged.
  - If that is not possible, parenting time should be conducted virtually, via videoconferencing or telephone.

**SUPERVISED PARENTING TIME**

If supervised parenting time is ordered and the supervisor is unavailable for any reason, parents should work collaboratively to ensure parenting time continues to occur in a manner that promotes the children's safety and wellbeing, such as finding an alternative supervisor.

- If that is not possible, parenting time should be conducted virtually via videoconferencing or by telephone.
  - The primary residential parent may supervise virtual contact.

**EXECUTIVE/GOVERNMENT ORDERS RE TRAVEL RESTRICTIONS**

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In Arizona, all schools are closed for the remainder of the Spring 2020 semester.

As of April 1, 2020, there are no executive orders that limit travel for parenting time exchanges. Governor Ducey's [Executive Order 2020-18](#) includes the following as an essential activity for which travel is permitted under that Order: “[e]ngaging in activities essential for the health and safety of family, household members and pets. . . .” Executive Order 2020-18, ¶4(b). Parenting time orders provide for the best interests and essential well-being of children, and travel for exchanges facilitates those orders.

Parents being on the road for the purpose of transporting children under a parenting plan does not violate Governor Ducey's order. Pursuant to section 2e of Governor Ducey's Executive Order, no person will be required to provide documentation to support their essential activities.

**If a government order is issued that specifically restricts travel for parenting time and exchanges, parents must comply with that order.**

- Unless otherwise directed, parents should continue to follow their parenting plan as written.
- If a government order restricts travel for parenting time exchanges, parents should work together to encourage children's contact with both parents and keep the arrangements as normal as possible.

**EXCHANGES**

During the exchange of children, parents should follow the [CDC guidelines](#) and State of Arizona [Executive Order 2020-18](#) for limiting the spread of the virus. Parents may wish to consider the following:

- An alternative location for the exchange, where fewer people congregate or touch public objects may be necessary.
- If an exchange location is closed, the parents should choose an alternative location nearby that remains open.
- For ongoing safety considerations, exchanges should occur in a neutral setting such as at a fire or police station.

If the children's exchange under the parenting plan includes long distance or **air travel**, parents should review the [CDC travel guidelines](#) and discuss

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whether ground transportation for the exchange is preferable or possible. If the parenting plan includes long distance parenting time to be exercised at a location that is disproportionately impacted by the COVID-19 virus, the parents are encouraged to confer to determine alternative options. If the parents cannot agree, the parties shall seek direction from the court.

**For supervised exchanges**, parents should continue to follow the parenting plan and use the designated exchange agency or supervisor.

- If that is not possible, parents should work collaboratively to find an alternative exchange agency or supervisor, which can include an agreed-upon friend or family member.
  - If that is not possible, parenting time should be conducted virtually via videoconferencing or by telephone.

**TRANSPARENCY**

Unless restrained from communicating, parents are encouraged to talk honestly and openly about precautions they are taking to slow the spread of COVID-19. Parents should ensure that, unless otherwise ordered, both parents have current contact information for the children’s doctor(s).

- A parent is not permitted to deny parenting time based upon the other parent’s unwillingness to discuss precautionary measures taken, or belief that the other parent’s precautions are insufficient.

**MAKEUP PARENTING TIME**

If parenting time is missed due to COVID-19-related issues or government orders, parents are encouraged to work collaboratively to schedule makeup parenting time that promotes their children’s safety and wellbeing. Makeup parenting time during these extraordinary times may not be logistically possible. A parent may seek and the Court may order makeup parenting time when appropriate.

**FIRST RESPONDERS / SAFETY-RELATED ISSUES / HEALTH PROTOCOLS**

First responders must remain available for actual emergencies and support related to the COVID-19 outbreak.

- Please do not call first responders for parenting-related disputes, but only in circumstances where your reasons are real, immediate,

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significant, and safety-related, or if you or a child are in imminent danger.

**ADDITIONAL RESOURCES**

General recommendations and guidelines published by the American Academy of Matrimonial Lawyers (AAML) and the Association of Family and Conciliation Courts (AFCC) can be found [here](#). Additional materials from AFCC can be found [here](#).

# Child Support and the CARES Act FAQ

## Definitions

CARES Act – The Coronavirus Aid, Relief, and Economic Security Act signed into law on March 27, 2020, to provide fast and direct economic assistance to Americans.

Title IV-D Case - A child support case in which your child support order is being enforced by the state child support agency, Division of Child Support Services (DCSS).

Non-IV-D Case – A child support case in which DCSS is not involved.

## Federal Stimulus Checks and Child Support Arrearages

Generally speaking, unless your child support order is being enforced by DCSS your federal stimulus check will not be intercepted for child support arrears.

### **1. Will the federal stimulus rebate payments be subject to child support collections like federal tax refunds (Federal Tax Refund Offset program)?**

Yes, if your child support order is being enforced by DCSS. Federal law requires child support agencies to have procedures to collect past-due child support from federal tax refunds. In the federal stimulus bill, the CARES Act, Congress did not exempt the stimulus rebate payments from offset for child support arrears.

### **2. If I owe child support, will my federal stimulus rebate payment be applied to my child support arrears?**

Maybe. Federal law and regulations determine when federal payments are intercepted and applied to child support arrears.

### **3. If I owe child support, will I be notified that my federal stimulus rebate payment is going to be applied to my child support arrearage balance?**

Yes. You are sent an annual notice when your case is submitted for federal tax refund offset. The federal government should send an offset notice to you when your stimulus rebate payment has been intercepted. The notice will tell you that your stimulus rebate payment has been applied to your child support debt and to contact DCSS if you believe this was done in error.

**4. What if I am married to someone who owes child support arrears, will my federal stimulus rebate payment be applied to the child support arrears my spouse may owe?**

The payment will likely be intercepted, if you filed a joint return. However, if you do not owe child support, but you are married to someone who owes child support, you may file an Injured Spouse Claim and Allocation—Form 8379. Please visit [www.irs.gov](http://www.irs.gov) for additional filing instructions.

**5. If I am the parent receiving child support, will I receive any money from a stimulus rebate payment intercepted by the federal government from the paying parent on my case?**

Maybe. Federal law dictates how monies received by DCSS under the Federal Tax Refund Offset Program are distributed. The amount of the money you are entitled to receive will depend on several factors, including the amount of the stimulus rebate payment intercepted, the amounts owed to you in your case, and the number of other child support cases in which the paying parent owes child support arrears.

If you have additional questions, please go to <https://des.az.gov/dcss>

## **Financial Hardship Related to COVID-19 and Temporary Modification of Child Support**

**1. How do unemployment insurance benefits relate to child support collections?**

- Unemployment insurance benefits are considered income for the purposes of child support, so child support will be withheld from your benefits in a case being enforced by the state child support agency.
- The CARES Act makes several changes to the availability of unemployment insurance benefits, including increasing availability to those who are self-employed or contract workers, those previously ineligible for state unemployment benefits, and those who have exhausted their benefits. For information regarding who qualifies and applying for the expanded benefits, visit: [https://des.az.gov/sites/default/files/media/UI\\_Extension\\_CARES\\_Act.pdf?time=1586544490050](https://des.az.gov/sites/default/files/media/UI_Extension_CARES_Act.pdf?time=1586544490050).
- Before seeking to modify your child support order, you should obtain information on what unemployment insurance benefits will be available to you.

**2. Can a parent request that a child support order be modified because they were terminated or furloughed from their employment?**

Maybe. A parent who receives child support may want to increase the child support obligation due to loss of employment. Likewise, a parent who pays child support may wish to reduce the child support obligation for the same reason. Whether either parent is entitled to a modification of the child support obligation depends on several factors.

- a. Both parents' income determines the child support obligation. To determine either parent's income, Arizona's Child Support Guidelines require the inclusion of unemployment benefits received, along with any other source of income. See [guidelines](#) section 5A. The parent who has lost income due to unemployment should obtain a determination of benefits from DES as the court will need that information to determine if a modification is warranted.
- b. Childcare expenses also affect the child support obligation. A parent who has lost income due to unemployment may no longer need childcare.
- c. Medical insurance expenses also affect the child support obligation. A parent who has lost employment may have also lost medical insurance for the child. In such cases, the parents should work together to obtain insurance.

**3. How do I determine if I am entitled to a modification of the child support obligation?**

Go to Arizona's 2020, [Child Support Calculator](#). Enter all relevant information. Make sure the information is correct, as noted in question #1. Once all information is entered, the calculator will indicate the presumptive obligation. If the presumptive obligation varies by more than 15% from the current order, you may file a request for temporary modification of child support. If the loss of employment also caused the loss of medical insurance for your child, you may file a motion for temporary modification. If the presumptive obligation does not vary by more than 15% from the current obligation and you did not lose medical insurance for the children, you are not entitled to a temporary modification.

**4. If I qualify for a temporary modification of child support, how do I file?**

All modifications are determined by the superior court that issued the current order. You must file a request for temporary modification and send a copy to the other parent. If your child support case is being enforced by DCSS, you must also notify the Arizona Attorney General.

**Child Support Modification Forms (Simplified)**

[Superior Court in Maricopa County](#)

[Superior Court in Pima County](#)

If you do not live in either of these two counties, please ask the Clerk of the Superior Court in your county about forms.

**5. If I receive a temporary modification of child support, when does it become effective?**

By law, modifications can only be effective the first day of the month after you file the motion and give notice to the other parent. You cannot ask the court for modification for a date earlier than the date following the filing of the motion and notice to the other parent.

**6. What if I was furloughed, so I still have a job, but my hours have decreased?**

You would still determine the temporary child support obligation in the manner outlined in question #3. Your income would be the decreased pay you receive.

**7. If I was furloughed with reduced hours, how does this effect my income withholding order with my employer?**

The income withholding order remains in place, and your employer is obligated to withhold child support per the order unless the court modifies the order. Your employer may withhold a lesser obligation if the withholding would exceed 50% of your net income. However, that does not change the child support order, and any shortage would be deemed arrears. If you want to modify your child support order temporarily, you must file a motion with the court, as outlined above.

**8. If I get a temporary modification of child support, how long does it last?**

It is a temporary modification, and it lasts for the time period set by the court. As a temporary order, it can be vacated at any time by the court. To avoid claims for arrears or overpayments, once one or both parents return to normal earnings and the need for the temporary order ends, the parties must notify the court.

If you need assistance, you may contact the Division of Child Support Services at:

<https://des.az.gov/dcss>

## **Employers and Income Withholding Orders**

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted on March 27, 2020, is designed to encourage Eligible Employers to keep employees on their payroll, despite experiencing economic hardship related to COVID-19, with an employee retention tax credit (Employee Retention Credit). See FAQs:

<https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>

**1. Does my company still have to honor an income withholding order if the employee is being maintained under CARES?**

Yes. The compensation is viewed as income to the employee, and the income withholding order requires the company to withhold the appropriate amount of income for child support. Arizona law requires that a company may only withhold up to 50% of the employee's net disposable earnings each month.

**2. Does my company still have to honor an income withholding order if the employee is furloughed to reduced or part-time hours?**

Yes. Until modified based on the reduced hours, the income withholding order is still valid subject only to the requirement that the company may only withhold up to 50% of the employee's net disposable earnings each month.

**3. Does my company still have to honor non-child support withholding orders (e.g. garnishments) if the employee is furloughed to reduced or part-time hours?**

Yes. All court-ordered withholding orders remain in effect. Except when an IRS tax lien was served before the date the child support order was entered, federal and state laws require child support withholding to take priority over all other income attachments. You must withhold the required amount if the amount does not exceed 50% of the employee's net disposable earnings. An Order/Notice for child support has priority against any attachment, execution, or other assignment.

**4. Can my company encourage an employee to seek a temporary modification of child support?**

Yes. Temporary modification of child support may be necessary, and the employee can get information regarding how to modify child support here.

**Child Support Modification Forms (Simplified)**

[Superior Court in Maricopa County](#)

[Superior Court in Pima County](#)

If your employee does not live in either of these two counties, please direct them to the Clerk of the Superior Court in their county to ask about forms.

## Arizona Supreme Court Committee on Mental Health and the Justice System Overview for Family Court Improvement Committee | May 2020

*The Court recognizes that cases involving individuals with mental health issues have posed challenges to the justice system, as well as to the persons involved and their families. – Administrative Order 2018-71*

Created by Arizona Supreme Court [Administrative Order 2018-71](#), the Committee on Mental Health and the Justice System is tasked with researching and addressing ways for the courts and other stakeholders to more effectively address how the justice system responds to people with mental health conditions. Utilizing the influence of the judiciary as a convening force, Arizona is well-positioned to create a cross-system approach to significantly improve outcomes for people in need of behavioral health services and supports.<sup>1</sup>

The Committee's interim recommendations focus on these improvement opportunities:

- [Identify Mental Health Issues Early](#)
- [Expand Opportunities to Divert Individuals from the Criminal Justice System](#)
- [Ensure Access to Appropriate Services and Fair Justice](#)
- [Shift Costs Toward High Needs Individuals](#)
- [Hold the System Accountable](#)

### Findings

- The civil and criminal justice systems require additional procedures and resources to **identify, as early as possible**, mental health conditions in those who come into contact with the justice system.
- While options to **divert individuals** from the civil or criminal justice systems are statutorily authorized, these options are not available or are underutilized across the state, often due to a real or perceived lack of resources.
- People who have been identified as having mental health conditions are more likely to be detained pretrial and to stay longer in detention due to the lack of sufficient inpatient treatment and community-based outpatient treatment options. In some jurisdictions, these individuals are released without a **full continuum of treatment care options** and, consequently, often return to the justice system.
- Individuals, families and communities are not currently able **to access adequate behavioral health services in times of need** that would allow for an appropriate level of care along a continuum of services ranging from no justice involvement to diversion, and from the justice system to inpatient, secure care.
- Arizona must **address the unique needs and challenges its rural communities** face in providing services and treatment for those with mental health conditions who come into contact with the justice system.

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<sup>1</sup> Full Report: [azcourts.gov/cscommittees/Mental-Health-and-the-Justice-System](http://azcourts.gov/cscommittees/Mental-Health-and-the-Justice-System)

## Arizona Supreme Court Committee on Mental Health and the Justice System Judicial Mental Health Training Development

### *Interim Report Recommendations – Training and Education*

- Ensure adequate training for judges and court staff in the areas of behavioral health and crisis response, including an understanding of oversight mechanisms.
- Embed the Committee’s recommendations for standardized competency evaluation Guidelines and Forms in the *Legal Competency & Restoration Conference* – the AOC training required by statute and rule.
- Explore the development of a university-court partnership to provide continuous training and best practices in competency evaluation and methodology for mental health evaluators, judges and other practitioners.
- Finalize website content that provides information to the public on the involuntary treatment process and the use of advanced health care directives.

### *Current Status*

Increase awareness and understanding of mental health and the experiences of individuals living with mental health conditions in the courtroom setting, including access to specific resources at the court’s disposal to assist in the delivery of services and improve the administration of justice for people living with mental health conditions.

#### Overview:

Over the past two years, Arizona’s judicial branch has been developing protocols and resources that cross disciplines and focus on intervening as early as possible to prevent the trajectory of people living with mental illness from further penetrating the justice system. At the same time, the judicial branch understands its judges and court staff must also practice self-care to maintain their own mental health at the same time they are taking steps to ensure physical health and wellness.

#### Training Development Scope of Work:

Partnership between the AOC; Arizona Supreme Court Committee on Mental Health and the Justice System and the Family Court Improvement Committee; Mental Health First Aid trainers; and Arizona State University – Center for Applied Behavioral Health Policy, Watts College of Public Service and Community Solutions, and School of Social Work.

Develop learning modules and resources, including:

- Online module 1: General mental health, empathy-building, and de-stigmatization.
- Online module 2: Trauma informed courtrooms, to include: hands-on application and specific strategies for judges on trauma informed courtrooms, and secondary trauma impact on judicial officers and court staff.
- Online module 3: Cross-communication within the judicial branch when a person with mental health conditions is involved in multiple courts; to include legal/judicial content, best practices, and community resources.
- Hybrid online and in-person module 4: Leadership, empathy and self-care for judicial officers. Additional support provided through “Tips for Tuesdays” to accomplish transfer of learning. Developed in partnership with ASU and the Family Court Improvement Committee.
- “Library of Resources” that will be developed by AOC and subject matter experts as an accompanying piece of the mental health training modules, featuring bench-specific information and resources that can be adjusted as law, policy, and practice changes.

# CCJ/COSCA FAMILY JUSTICE INITIATIVE VIRTUAL TRIAGE, PATHWAYS, AND COVID-19



## A Pandemic Resource from NCSC

April 06, 2020 | Version 1.0

The COVID-19 pandemic has led some courts to suspend hearings deemed “non-essential” which can include family cases. Other courts have created emergency processes to resolve these matters during the crisis. Court closings as well as disruptions to the economy and society could result in a dramatic increase in filings when courts re-open. Now, and into the new normal, strategies are needed to provide service to families before the courts.

One strategy in place in a number of jurisdictions is the use of Triage and Pathway case management to resolve backlogged, reopened and new case filings for families. The [CCJ/COSCA Family Justice Initiative](#) recommends hands-on management of a case by court personnel through service-based pathways in order to match parties and cases to resources and services. “Tailoring the involvement of judges and professional staff to those characteristics and needs will lead to efficiencies in time, scale, and structure.”

As set forth in an evaluation of Alaska’s triage and Early Resolution Program: “Courts can resolve 80% of their contested divorce and custody cases between self-represented parties in just one hearing with a special calendar that employs a problem-solving approach, triage, a simplified process, and early intervention” (Marz, 2019). Triage processes can be adapted as described below in order to reap significant case management efficiencies.

### 1. Conduct Triage Screening Mid-Pandemic

As one court stated, “This is the time for us to conduct Pathways. We have staff members under stay-at-home orders, with the experience and time to reach out to parties to help them determine the best Pathway for resolution.” Even under the current circumstances, trained staff can participate in both screening as well as conversations to move cases forward on a pathway.

An essential element of triage is screening a case, either new filing or post-decree, to determine case complexity, level of conflict, and what services or case management are needed to resolve it.

Alaska screens cases using these objective factors:

- length of marriage: \_\_\_\_ years
- length of separation: \_\_\_\_ years
- significant property and/or debt: yes/no
- age(s) of child(ren): \_\_\_\_
- existing arrangement re: decision making and parenting time: \_\_\_\_
- DV history or allegations? Yes/no
- location/relocation issues? Yes/no

The factors can be built into a tool (as in Connecticut) and/or internalized (as in Colorado) by experienced family court personnel to analyze case characteristics based on the petition/motion and response to determine what case management and services will be most useful in resolving the case. [A Model Process for Family Justice Initiative Pathways](#) describes three Pathways that increase on the continuum of conflict and complexity: *Streamlined*, *Tailored Services*, and *Judicial/Facilitated*. Even though courts are physically closed, cases can still be managed under the *Streamlined* pathway, below.

## 2. Screen Streamlined vs. Tailored and Judicial/Specialized Cases

The *Streamlined* Pathway is for cases where little exercise of discretion is appropriate and thus may even be resolved mid-pandemic. Examples of cases that may be appropriate are administrative proceedings focused on limited issues, post-decree modifications of support or parenting-time, default proceedings and simple cases where the parties seek an order approving a stipulated result. We recommend that experienced family court personnel screen cases to identify those more likely to be *Streamlined* to focus on their resolution. Resolving *Streamlined* cases now will allow courts to focus on the *Tailored* and *Judicial/Specialized* cases once the courts re-open.

## 3. Facilitate Resolution for Streamlined Cases Mid-Pandemic

The [Landscape of Domestic Relations Cases in State Courts](#) indicated that most cases filed could be resolved with minimal court involvement. Experienced family court staff can engage in virtual or other communications with parties to help move the case forward.

It is common for courts (as in Washington and Florida) to conduct status conferences with parties to determine procedural steps. Family court facilitators or case managers will also often help parties with parenting-time schedules or child support calculations to help

parties move forward toward resolution. These same communications can occur by email, telephone, videoconference or a combination thereof.

#### 4. Communicate via e-mail

We recommend increased use of email during the current emergency. Utah has posted notices at closed courthouses asking parties to send in their email and text contact information along with their case numbers so that court personnel can contact parties electronically to proceed with the case. Many Texas courts are receiving documents and agreements by email. Not only is email communication faster, but it may help prevent disease transmission.

Having separated *Streamlined* cases from the rest, trained court staff can reach out to parties to request communications by email and to communicate resolution processes going forward, such as a video or telephonic status conference. NCSC has sample communications available.

#### 5. Conduct Video or Telephonic Status Conferences

Notify parties that a court staff person will contact them to establish a teleconference or web meeting to review their case and discuss options for resolution. You may want to designate a day and time in the email for this status conference. You can work to provide information and move forward with the parties that appear. If both parties do not appear, the case can be re-calendared for another date or deferred. Conferences can be held with both petitioner and the respondent at the same time, or shuttle-style (individually). This [sample protocol](#) provides ideas for case management and related issues, such as domestic violence.

At the established time, use a script to walk parties through the process, review the pleadings and set forth options for the case to be resolved. Options used by other courts include virtual hearings to receive agreements or receipt of agreements via email under the current emergency circumstances.

In terms of putting agreements on the record, a number of courts are working to embrace virtual hearings as part of the 'new normal.' Alaska and Texas are examples of courts that have implemented virtual hearings or processes, by phone, web or other means for the resolution of family matters.

- **Alaska** has set up conference call lines for all parties and attorneys to appear by telephone for all court proceedings (includes domestic violence).

- **Massachusetts** has recently opened a centralized Call Center to respond to customer inquiries during the pandemic.
- The **New Jersey** courts have long held tele- and video proceedings in court matters. The Supreme Court has published these rules on page 9 for family matters: <https://www.njcourts.gov/notices/2020/n200327a.pdf?c=yjW>.
- In **Texas**, custody matters are being handled via Zoom and are live-streamed through YouTube during the pendency of the hearing to satisfy the state’s open courts doctrine.

The Civil Justice Initiative published these [Findings and Recommendations on Remote Conferencing](#) that we recommend be applied to family law matters.

## 6. Consider Use of Online Dispute Resolution

Use of Online Family Dispute Resolution is increasing rapidly. It can be used to resolve various issues in family law:



While courts may or may not have the capacity to engage in ODR right now, it benefits a court to think of future need and whether ODR can assist. If you would like more information about this, NCSC has a page with resources and information here:

<https://www.ncsc.org/odr>.

## Tips from Other Courts

- Identify staff to conduct virtual triage. These should be persons with good customer service skills, who are trauma-informed and have some tech-savvy. Identifying a limited number of staff to conduct triage will assist with quality control.
- Be Trauma-Informed. Be aware that domestic abuse is more prevalent under these circumstances. People may be living in close quarters and may not be speaking to you confidentially. Err on the side of caution. Make information about community supports for victims of violence readily available, such as an e-flyer communication that is sent with all court correspondence as a matter of course.

- Start small. Establish the population of cases that would be most suitable for a virtual triage/Pathways approach, for example: post-decree motions for modification to the parenting-time or support order. Field test with a handful of cases to refine the process.
- Write up a description of the triage process to share with parties. NCSC can share templates with you.

## Support Available

A web-meeting will be held **April 24 at 12pm Eastern** via GoToMeeting to allow interested family courts to discuss these concepts and strategies that have been implemented. The meeting will be recorded and the link made available for others that cannot attend.

## Other Resources

- Individual juvenile and family court responses: <https://www.ncjfcj.org/wp-content/uploads/2020/03/NCJFCJ-Call-on-Court-Responses-to-COVID-19-3242020.pdf>
- Texas Supreme Court Seventh Emergency Order Regarding the COVID-19 State of Disaster: <https://www.txcourts.gov/media/1446251/209050.pdf>
- Marz, Stacey, “Faster and as Satisfying: An Evaluation of Alaska’s Early Resolution Triage Program” Family Court Review, Vo. 57, Issue 4 (October 2019).

The Family Justice Initiative is a CCJ/COSCA project with partnership from the Institute for the Advancement of the American Legal System (IAALS), and the National Council for Juvenile and Family Court Judges (NCJFCJ).

For more information about FJI implementation, please visit [www.ncsc.org](http://www.ncsc.org).



## **Co-Parenting: Opportunities and Challenges for the Child Support Program**

*by Michele Ahern*

Two parents are better than one. With research that supports this statement in hand, the New York City Human Resources Administration's Office of Child Support Services explored the role of the child support program in promoting co-parenting relationships during its October 2019 conference.

Frances Pardus-abbadessa, Executive Deputy Commissioner for the New York City Human Resources Administration's Office of Child Support Services (HRA OCSS), provided a framework for the conference, citing some sobering statistics about children raised by a single parent. She pointed out that we all know children need more than money to prosper. They need parents who are attentive, loving, and involved. A substantial and compelling body of research confirms that children have better outcomes when they are supported by both of their parents, even if the family isn't intact. Involved fathers are more likely to pay child support. For low-income families in particular, when fathers are able to pay, child support is a vitally important source of income, lifting hundreds of thousands of families out of poverty each year.

"As policy makers and practitioners whose life work is to support families and improve outcomes for children, we cannot ignore the research – we must act," stated Pardus-abbadessa. "In fact, for a host of reasons, the child support program should take a leadership role in this work. We should not be daunted by the challenges, but instead we should allow ourselves to imagine how it could work in the child support program." Addressing the attending researchers, service providers, academics, government officials, and policy makers, she concluded, "We have an opportunity to have a true two-generational impact to reduce child poverty and improve outcomes for children. We should together figure out how to make this happen in a substantive and sustainable way, learning from the few programs that are paving the way by showing that it can be done safely and that it works."



*NYC HRA Office of Child Support Services Executive Deputy Commissioner Frances Pardus-abbadessa introduces the conference topic of co-parenting.*

A leading researcher on poverty, low-wage work, and family life, Dr. Kathryn Edin, co-director of the Bendheim-Thoman Center for Research on Child Wellbeing at Princeton University, delivered the keynote address. Edin co-authored *\$2.00 a Day: Living on Almost Nothing in America* and *Doing the Best I Can: Fatherhood in the Inner City*. Edin is the co-principal investigator for the [Fragile Families and Child Wellbeing Study](#), a long-term national study that began in 1998 and includes some 5,000 children in 20 large U.S. cities. Her years of fieldwork and direct in-depth observation have addressed the context and concerns of low-income women, men, and children. Edin emphasized the evolution of families today with unmarried parents having complex households with new partners, half-siblings, and/or parents with children by a different partner.

Edin asked participants to reimagine child support as a family-building institution. With its enormous reach and broadly conceived boost to child wellbeing, the child support program can capitalize on dads' desire to be involved. Her inductive analysis of interviews with 428 low-income noncustodial fathers of 759 children from four metropolitan areas pinpointed the dominant words the fathers used to describe formal child support, informal child support (cash), and in-kind child support (direct provision of goods or direct payment for services such as child care). For formal child support, descriptions more often included the words "court," "took," "pay," and "jail," indicating a loss of power and autonomy. For informal child support, the words "agreement" and "give" were used more frequently; and for in-kind support, "got," "need," and "buy." Intervention principles to restore the legitimacy of child support in the eyes of many noncustodial parents include 1) economic security, 2) power and autonomy, and 3) recognition as valued members of the community.



Keynoter Dr. Kathryn Edin shared her ideas for restoring power and autonomy to parents.

Economic security would enable every father to participate in the system. Edin proposes to implement the December 2016 federal Office of Child Support Enforcement (OCSE) [final rule](#), deal head on with multiple partner fertility, ease the process for modification, and direct funds to enhancing noncustodial parents' ability to pay. To restore power and autonomy, she suggests inviting new parents to participate in co-parenting training, allowing parents to work cooperatively to set awards, and encouraging joint custody. She suggests allowing parents to agree to informal and in-kind contributions and ending cost recoupment. To make noncustodial parents feel valued, she proposes that "co-parent" be recognized as a key social role, noncustodial parents be treated with dignity, parenting time agreements be included (with good-cause exemptions) with cooperative agreements, and commitment to parenting ceremonies bring together the two sides of a child's family in celebration.

Data from the Fragile Families and Child Wellbeing Study supports the importance of consistent father involvement. Spending time with the biological father in middle childhood is associated with reduced internalizing and externalizing behaviors. Higher levels of father engagement are associated with reduced delinquent, internalizing, and externalizing behaviors. Youth who engage in activities with their fathers—even though they do not live with them—have fewer

problematic behaviors. These improved outcomes for children clearly make the hard work of integrating co-parenting into child support worth the investment of families, society, and the child support program.

Dr. Jessica Pearson, director of the Center for Policy Research (CPR) in Denver, also presented. Pearson noted the challenges that unmarried families in the IV-D program face and the importance of father engagement and co-parenting for their children. Both Edin and Pearson challenged the child support program to address the significant body of research confirming the benefits to children of relationships with both parents, and particularly with fathers, whether they live with their children or not. Pearson pointed out that with 1 million new child support orders annually in the United States, 17 million children are affected by IV-D program policies. While the U.S. has experienced a dramatic increase in the number of nonmarital births and a drop-off in the involvement of unmarried fathers soon after the birth of their children, few jurisdictions help child support families with parenting time or co-parenting.

Pearson's presentation included results from CPR's projects to address parenting time in child support cases in Colorado, Texas, and Tennessee. She also identified approaches that some states and local child support agencies and courts use to establish parenting time for unmarried parents with attention to safety. She cited the findings of the positive effects of paternal engagement in numerous studies, including increased behavioral adjustment, academic achievement, financial contributions, and mother-infant attachment quality, along with decreased delinquency, aggression, depression, anxiety, economic disadvantage in low-income families, and costs to government and taxpayers.

CPR's study compared parents in Colorado, Texas, and Tennessee who had problems with access and visitation. Parents were randomly assigned to receive two different treatments. The high-level treatment group participated in brief facilitation and mediation interventions to address



*Featured researcher Dr. Jessica Pearson outlined why father engagement and co-parenting are important to children.*

their problems. The low-level treatment group was mailed printed information on resources in their community that they could contact for help. The effects of the two interventions were studied by examining records maintained by project staff, conducting telephone interviews with parents, and reviewing child support payment records in the 12 months prior to and following parent assignment to the two treatment groups. An analysis of this data showed that brief facilitation and mediation interventions were effective and produced positive

outcomes. Parents in the high-level treatment group were able to produce parenting time plans most of the time, they exhibited high rates of user satisfaction, their payment of child support improved, and they reported higher levels of parent-child contact. On the other hand, parents in the low-level treatment group did not produce parenting plans or achieve higher rates of child support payment or improvements in parent-child contact.

Various approaches to establishing parenting time in child support cases are in place around the country; Pearson noted standard schedules, self-help plans, mediation and facilitation, and

discussed different approaches taken in several states. For example, comprehensive parenting services are integrated with child support establishment in the Hennepin County District Court in Minneapolis. The Honorable Bruce Peterson, who helped establish Minnesota's Co-Parenting Court, addressed the group and explained the outcomes for families his program was seeing. Two-thirds of the parents referred to co-parenting workshops completed the sessions and more than half completed parenting plans. Couples unable to agree on a parenting plan are provided mediation and family group conferencing services. Both mothers and fathers who need social services are referred to providers for case management.

This high level of service is expensive, requires a strong network of community resources, and experiences high levels of attrition, Pearson explained, but also produces high levels of user satisfaction and increased payment of child support by fathers who complete the parenting course.

Standard parenting plans are used in Texas, Florida, and Indiana. These standard schedules are limited in their "one size fits all" framework, but can be implemented at the state or local level and assist large numbers of families with no cost or delay, according to Pearson. For example, Patterson Poulson, the case and order establishment process manager in the Florida child support program, explained state legislation that went into effect January 1, 2018, whereby eligible parents are notified that they can agree to a parenting time plan during the establishment or modification of an order. Ineligible parents include those who do not reside in Florida, whose child does not reside in Florida, who have an active nondisclosure relationship, or who are incarcerated.

Pearson noted that some states offer self-help options, such as interactive parenting plans in Oregon and Colorado; telephone hotlines in Texas, Indiana, and Kentucky; a parenting time calendar app in Indiana; and a virtual legal clinic in Colorado. Self-help approaches can yield detailed, customized plans and assist large numbers of families with minimal cost or delay, but usage rates are low, some parents want more help, and court orders require complex extra paperwork and filing fees.

The mediation and facilitation model is another approach, with variations among states. For example, this model is court- and community-based in Illinois, IV-D agency-based in Colorado and Ohio, and virtual in Colorado. Sheila Murphy-Russell, director of the DuPage County Family Center outside Chicago, provided an example and described on-the-spot co-parenting services in Parentage Court with staff offering the parents mediation, parent education, conflict management, and supervised parenting time. The family center handles 380 to 400 mediation cases a year of never-married parents, of whom 75% to 80% reach agreement on parenting time, and 70% to 75% complete the parent education course. Pearson outlined the strengths of the mediation approach as leading to agreements generally in 60% to 80% of cases, resulting in more child support payments and more parent-child contact, along with user satisfaction. The disadvantages of these programs are their expense, low use, and high dropout rate.

Pearson spoke of co-parenting's safety issues in cases with domestic violence. The safety protocols she enumerated were: 1) partnering with a local domestic violence agency to review policies and materials and to build referral relationships, 2) training child support enforcement staff, judges, mediators, and others on the impact of domestic violence on victims and children, and 3) establishing safety-focused policies and procedures to inquire about safety at multiple points during application and processing, inviting disclosure, and ensuring victims can opt out.

Despite the fact that children do better when they have positive relationships with their father and that, for many parents, brief interventions help to improve child support, parent-child

contact, and co-parenting, Pearson concluded that family law in the U.S. does not address the needs of unmarried parents. She proposed increased access and visitation grants and IV-D funding for parenting time. To address the two-tier system of married and unmarried parents, Pearson recommends extending to unmarried parents any mediation and parent education services offered to divorcing parents. She also suggests auditing agency settings for a father-friendly environment and creating multi-agency fatherhood councils for involving fathers in all family and children programs such as child support, child welfare, maternal health, early childhood, education, and court programs.

Both Edin and Pearson presented compelling research and recommendations at the HRA OCSS policy conference, initiating a dynamic exchange of ideas. The day was well spent exploring the importance of two-parent involvement in long-term positive outcomes for children and considering the crucial role the child support program can play in improving children's lives and futures by facilitating co-parenting.

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Photo Credit: Richard Brathwaite

# COVID-19 Economic Impact (Stimulus) Payments and Child Support

## Frequently Asked Questions (FAQs)

**These FAQs are based on information currently available to the Arizona Department of Economic Security, Division of Child Support Services (DCSS) and will be updated as new information becomes available.**

### **What are the Economic Impact (stimulus) Payments?**

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, which, among other things, authorizes economic impact payments (also referred to as stimulus payments or recovery rebate payments) to eligible individuals. For details on these economic impact payments, please visit [www.irs.gov/coronavirus](http://www.irs.gov/coronavirus).

### **Will my stimulus payment be intercepted to pay my child support arrears?**

Yes, if you pay child support through the state’s IV-D program and owe child support, the Federal Treasury Offset Program (TOP) will reduce your stimulus payment up to the amount owed. This amount will be applied toward your child support arrears.

### **How does the Federal Treasury Offset Program know how much to reduce my stimulus payment?**

DCSS must, by law, certify past-due child support debts to the Federal Office of Child Support Enforcement for federal enforcement.

- Cases with public assistance or Temporary Assistance for Needy Families (TANF) arrears are referred if the total balance of TANF arrears is \$150 or more.
- Cases without public assistance/TANF arrears are referred if the total balance \$500 or more.

States are not provided the option to reduce the amount submitted for federal enforcement.

### **How can I check to see if I owe child support arrears?**

For questions regarding the Treasury Offset Program’s record of child support debt, please call the TOP Interactive Voice Response (IVR) system at 800-304-3107. You can also visit the [DCSS website](#) or call DCSS customer service at 1-800-882-4151 Monday - Friday, 7:00 a.m. - 5:30 p.m.

### **How much of my stimulus payment can be taken to satisfy my child support arrears?**

Your stimulus payment will be reduced up to the total amount of arrears owed. The total stimulus payment may be intercepted when the child support amount owed is greater than the stimulus payment.

### **I am the paying parent and file my taxes jointly with my spouse. Will my spouse’s stimulus payment be applied to the arrears I may owe?**

If the paying parent and his/her spouse are married filing jointly and the paying parents spouse filed an injured spouse claim with the 2019 tax return (or 2018 tax return if they haven’t filed their 2019 tax return), half of the total payment will be sent to the paying parents’ spouse and only the paying parents payment will be offset for past-due child support. There is no need to file another injured spouse claim for the payment. Please visit [irs.gov/coronavirus/economic-impact-payment-information-center](http://irs.gov/coronavirus/economic-impact-payment-information-center) for additional information and filing instructions. Note: The DCSS may hold stimulus payments for 30 days before being processed for single filers and up to 180 days for joint filers.

**I pay child support to another state where the receiving parent lives. Which state will take my stimulus payment if I owe arrears?**

The state where the arrears are owed will process the intercept of your stimulus payment.

**What recourse do I have if I believe my stimulus payment should not have been intercepted?**

You may dispute your stimulus payment being intercepted if you do not believe that you owe arrears. The paying parent may exercise his or her right to contest the offset by submitting the completed request for an Administrative Review form to [DCSS-Documents@azdes.gov](mailto:DCSS-Documents@azdes.gov) or by mailing your form to DCSS, Attn: ARU, P.O. BOX 40458, Phoenix, AZ 85067.

**I have a case with DCSS and am owed child support. Will I get the paying parent's recovery stimulus check?**

The stimulus payments are subject to being intercepted if the paying parent owes arrears and the criteria for offset is met (see above). The amount taken will be applied to the case(s). Note: stimulus payments may be held for 30 days before being processed for single filers and up to 180 days for joint filers (see injured spouse question).

**I am the receiving parent and am currently receiving or have received public assistance or TANF for my child(dren). Will I receive money from the stimulus payment that was intercepted from the paying parent and will it be applied to my case?**

Federal law indicates how monies received by a state child support agency under the Federal Tax Refund Offset Program are distributed. Money from federal tax offsets are first applied to arrears owed to the state and then to the past due amount owed to the receiving parent. If there is money owed to the State of Arizona in your case, the stimulus payment up to the amount owed to the state will be retained by the state. The remainder will next be applied to arrears in your case.