ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	**Type of Action Requested:**	**Subject:**
June 23, 2020	_X_ Formal Action/Request __ Information Only __ Other	LJ Appeals and Family Law Post Judgment Motions Time Standards

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FROM:

Marcus Reinkensmeyer, Director, Court Services Division, AOC

Marretta Mathes, Court Project Specialist, Court Services Division, AOC

DISCUSSION:

The Steering Committee on Arizona Case Processing Standards was established in October 2012 and has continued its work over the years, which includes recommending provisional case processing standards for 23 case types. Final case processing standards have been recommended and adopted for 20 case types.

The Steering Committee has largely completed its work and is making final case processing recommendations for Family Law Post Judgment Motions and Limited Jurisdiction (LJ) Court Appeals.

RECOMMENDED COUNCIL ACTION:

Adopt final case processing standard for **Family Law Post-Judgment Motions** of:

- 50% within 180 days
- 90% within 270 days
- 98% within 365 days

Adopt final case processing standard for **LJ Appeals** of:

- 75% within 180 days
- 99% within 365 days

Arizona Case Processing Time Standards

Final Committee Recommendations

Meeting of the Arizona Judicial Council
June 23, 2020

Committee Background

- Established in October 2012 and has continued its work over the years
- Recommended provisional case processing standards for 23 case types
- Final case processing standards recommended and adopted for 20 case types

Limited Jurisdiction Case Types

1. DUI Misdemeanor
2. Civil Traffic
3. Justice Court Civil
4. Criminal Misdemeanor
5. Civil Local Ordinance
6. Justice Court Evictions
7. Small Claims
8. Protection Orders – Ex Parte Hearings
9. Protection Orders – Contested Hearings*

* Final case processing standard recommendation tabled for further data review

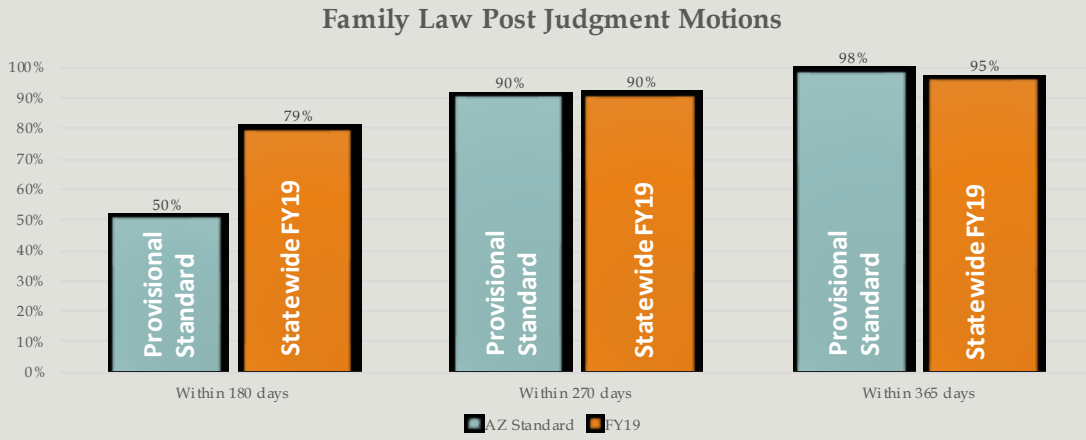
General Jurisdiction Case Types

1. Superior Court Civil
2. Criminal Felony
3. Criminal Post-Conviction Relief
4. Family Law Dissolution and Allocation of Parental Responsibility
5. Family Law Pre-Decree Temporary Orders
6. Probate Administration of Estates
7. Probate Guardianship/Conservatorship
8. Probate Mental Health
9. Juvenile Delinquency and Status Offense
10. Neglect and Abuse Permanency Hearings
11. Neglect and Abuse Adjudication Hearings
12. Termination of Parental Rights
13. Protection Orders – Ex Parte Hearings
14. Family Law Post-Judgment Motions
15. Limited Jurisdiction Court Appeals
16. Protection Orders – Contested Hearings*

* Final case processing standard recommendation tabled for further data review

Family Law Post-Judgment Motions

50% within 180 days
90% within 270 days
98% within 365 days

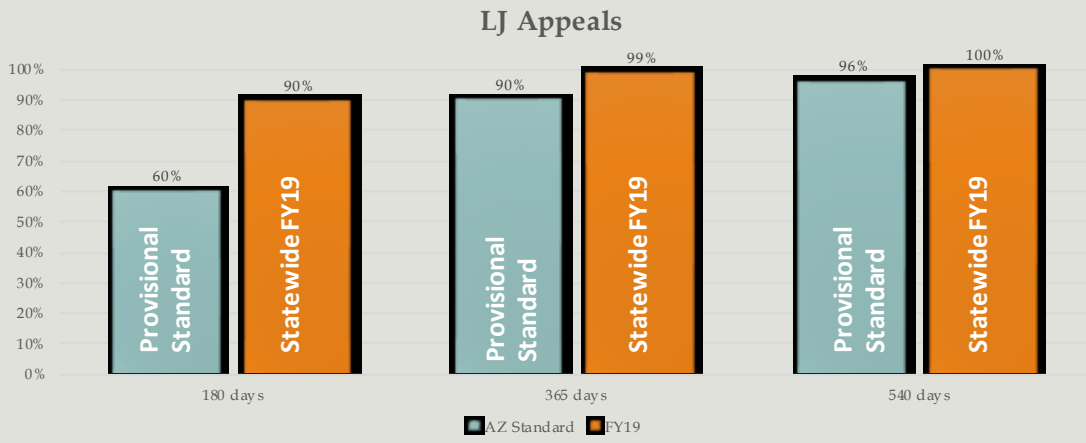


Committee Recommendation – Action Request

- Adopt final case processing standard for **Family Law Post-Judgment Motions** of:
  - 50% within 180 days
  - 90% within 270 days
  - 98% within 365 days

LJ Appeals

60% within 180 days
90% within 365 days
96% within 540 days



Committee Recommendation – Action Request

- Adopt final case processing standard for **LJ Appeals** of:
  - 75% within 180 days
  - 99% within 365 days

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	**Type of Action Requested:**	**Subject:**
June 23, 2020	_X_ Formal Action/Request __ Information Only __ Other	Probate Subcommittee Report and Recommendations

FROM:

Marcus Reinkensmeyer, Director, Court Services Division, AOC

Marretta Mathes, Court Project Specialist, Court Services Division, AOC

DISCUSSION:

The Arizona Supreme Court has adopted case processing standards for probate cases; however, subcommittees are sometimes formed to review and examine particular case types and associated time standards more closely.

Accordingly, the probate subcommittee was formed and tasked with making recommendations as to (1) what types of probate events should be tracked, (2) whether additional time standards should be recommended to capture additional filings/proceedings in probate cases, and (3) whether the existing probate time standards are adequate/appropriate.

The subcommittee identified and made recommendations as to several events that should be tracked in probate cases, additional filings that should have an associated time standard, and modifying/eliminating existing probate time standards.

RECOMMENDED COUNCIL ACTION:

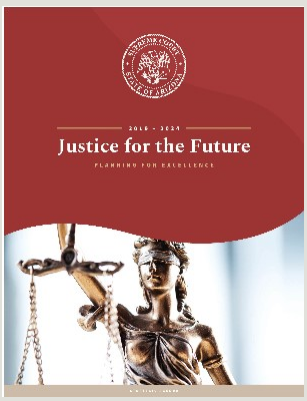
Adopt the report and recommendations of the Probate Subcommittee, which include:

- Creating reports for additional tracking when IT resources become available;
- Eliminating the Probate Administration of Estates time standard; at a minimum removing the Affidavit for Collection of Real Property case type filing; and
- Create additional time standards for:
    - Guardianship/Conservatorship cases (Motions for Renewal of G/C)
    - Trust cases (All petitions)
    - Mental Health cases (Application for Renewal of Court-Ordered Treatment)

Probate Subcommittee

Probate Subcommittee

- Tasked with making recommendations as to:
  - What types of probate events should be tracked
  - Whether additional time standards are necessary
  - Whether existing time standards are appropriate



Probate Subcommittee

Issues identified:

- Several post-appointment filings that the time standards do not capture
- Other case types filed within a probate case

- Created wish list/roadmap

Probate Subcommittee

- Identified events that should be tracked for all Decedent's Estates, Trust, and Guardianship Conservatorship cases
  - All petitions and entry of order that rules on the petition
  - Contested petitions (i.e., objections or responses to petitions)
  - Setting initial hearing on the petition
- Identified events that should be tracked specific to case type
  - See pages 5-6 of report

Probate Subcommittee

Time Standard Recommendations

- **Decedent's Estates**
  - Eliminate existing time standard for appointment of PR to close of estate
  - Eliminate inclusion of Affidavit for Collection of Real Property

Probate Subcommittee

Time Standard Recommendations

- **Guardianship/Conservatorship**
  - All petitions filed until entry of order
    - Current time standards should remain unchanged
  - Motions for renewal of inpatient mental health authority for adult guardianship
    - Time standard should be developed

Probate Subcommittee

Time Standard Recommendations

- **Trusts**
  - All petitions filed until entry of order
    - Time standard should be developed

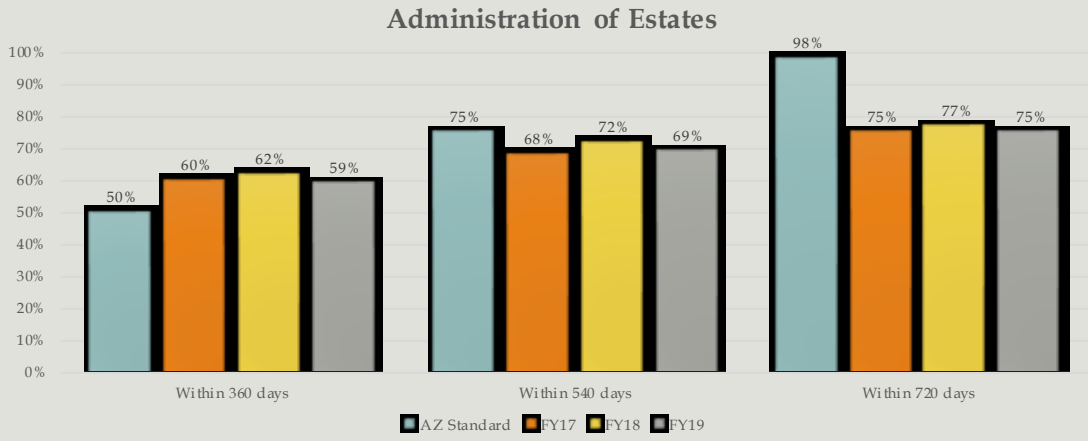
Probate Subcommittee

Time Standard Recommendations

- **Mental Health**
  - Initial petition for Court-Ordered Treatment until order granting/ denying/ dismissing
    - Current time standard should remain unchanged
  - Ruling on application for renewal of Court-Ordered Treatment order
    - Time standard should be developed

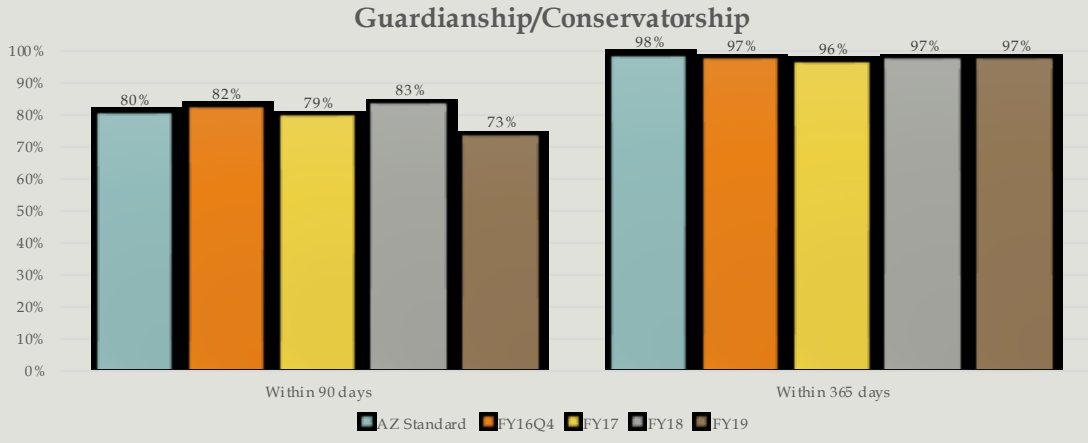
Administration of Estates

50% within 360 days
75% within 540 days
98% within 720 days



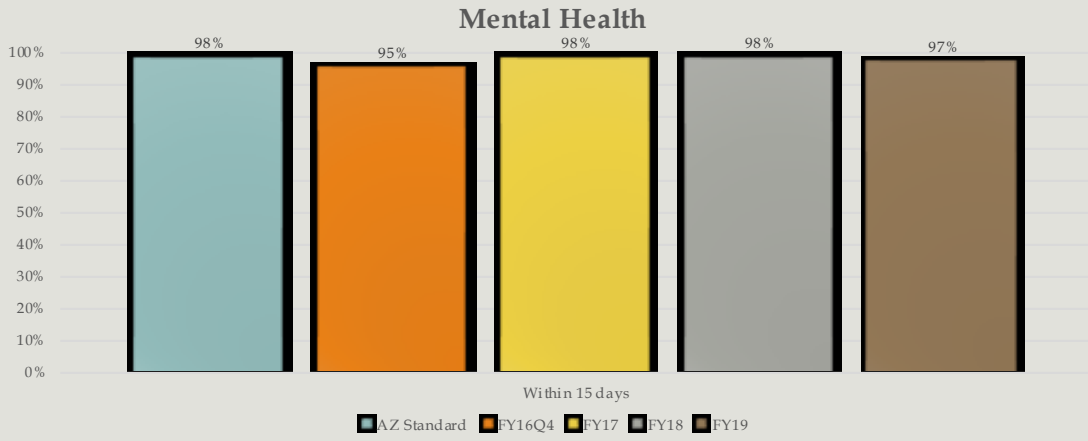
Guardianship/Conservatorship

80% within 90 days
98% within 365 days



Mental Health

98% within 15 days



Workgroup Recommendation – Action Request

- Adopt the report and recommendations of the Probate Subcommittee:
  - Create reports for additional tracking when IT resources become available
  - Eliminate Probate Administration of Estates time standard; at a minimum remove Affidavit for Collection of Real Property
  - Create additional time standards for:
    - Guardianship/Conservatorship cases (Motions for Renewal of G/C)
    - Trust cases (All petitions)
    - Mental Health cases (Application for Renewal of Court-Ordered Treatment)

Requested Action

- Adopt final case processing standards for Family Law Post Judgment Motions and LJ Appeals
- Adopt the report and recommendations of the Probate Subcommittee

Transition to New Committee

- Annually review Arizona case management data to assess conformance with time standards
- As necessary, recommend adjustments to existing time standards
- Identify court data necessary to make data-based decisions related to case processing, court management, and allocation of court resources
- Develop data standards and make recommendations regarding data governance, implementing the data standards, and improving data quality

Time Standards Probate Subcommittee Report & Recommendations

October 2019

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Probate Subcommittee Workgroup

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Time Standards Probate Subcommittee Report & Recommendations

October 2019

EXECUTIVE SUMMARY

The Steering Committee on Arizona Case Processing Standards ("Time Standards Committee") was established in October 2012 by Administrative Order 2012-80. This committee was charged with "review[ing] the national time standards for processing all major case types in limited and general jurisdiction courts and develop[ing] and recommend[ing] state case processing standards for Arizona." The Arizona Supreme Court has adopted case processing standards for probate cases; however, subcommittees are sometimes formed to review and examine particular case types and associated time standards more closely.

Accordingly, the probate subcommittee was formed and tasked with making recommendations as to (1) what types of probate events should be tracked, (2) whether additional time standards should be recommended to capture additional filings/proceedings in probate cases, and (3) whether the existing probate standards are adequate/appropriate.

Subcommittees are sometimes formed to review and examine particular case types and associated time standards more closely.

Overview of this Report

This report begins with the membership of the workgroup, a summary of the workgroup meeting discussions, and a summary of the recommendations related to the events that should be tracked in probate cases, case events that should have associated time standards, case events that should exclude time, and the adequateness/appropriateness of the existing probate time standards.

The Workgroup and the Workgroup Process

The workgroup held three meetings –January 22, 2019, February 15, 2019, and March 25, 2019. During these meetings, the workgroup learned about and discussed various

issues, gathered and shared relevant information, considered approaches to use and recommendations to make.

DISCUSSION

The workgroup met three times. The first meeting provided members with a background and the purpose of this workgroup. One issue brought to the group's attention was that there are many "post-appointment" filings in probate cases that the time standards do not capture or count. Specifically, while the time standards capture post-decree filings for family law cases, they do not do the same for probate cases.

There was also concern about how probate cases sometimes have other case types filed within the probate case, e.g., a Title 25 family (annulment, dissolution, legal separation, or paternity) petition or a civil complaint filed under an existing probate case number. The time standards do not measure the proceedings separately if a proceeding is filed in this manner.

This group discussed whether revisions to the current time standards should be recommended to the Time Standards Committee based on these concerns.

At the second meeting, an overview of the existing time standards for probate cases and an explanation of how time is measured was provided. Data for each case type was provided for FY18, and the time standards summary chart was explained. Additionally, an overview of which events start/stop time in the statewide case management system was provided.

The group discussed which events should be tracked in probate cases. The members began by walking through the life of a decedent's estate case to determine which events are meaningful. One member indicated that he would like to see IT resources allocated to the implementation of the statewide case management system (AJACS) generally instead of making changes to the time standards reports. The group agreed, but also agreed that it would be helpful to provide a wish list/roadmap for tracking these events when the resources become available and allocation for this purpose becomes realistic. The group identified the following case types for which to provide a wish list/roadmap: decedents' estates, guardianship/conservatorship, trusts, and mental health.

At the third and final meeting, the workgroup discussed case events that should have time standards, events that should stop the clock on time standards, and events that should exclude time. The group did not identify specific standards for each event but did identify events that should exclude time. The group agreed that more data is needed before time standards can be assigned.

Lastly, the group discussed the adequacy/appropriateness of the existing time standards for probate cases.

* * * * *

The text that follows details the recommendations that resulted from these workgroup discussions.

Events That Should Be Tracked

Workgroup members identified the events that should be tracked for the following probate matters:

1. **All Decedents' Estates, Trusts, and Guardianship/Conservatorship Cases (not Mental Health cases)**
   a. All petitions, regardless of type/name of petition, and entry of a final order ruling on that petition.
   b. Contested petitions (i.e., objections or responses to petitions)
   c. Setting initial hearing on the petition

2. **Decedents' Estates**
   a. All applications and issuance of statement granting or denying the application[1]
   b. Time from initial appointment of personal representative or special administrator (issuance of letters) to close of estate (by closing statement (or one year later?) or court order)
   c. Accounts if estate is ordered supervised

3. **Guardianship/Conservatorship**
   a. Annual Guardian Reports
   b. Inventory & Appraisement, Consumer Credit Report, and Budget
   c. Inpatient authority granted to guardian, expiration date, whether motion for renewal is filed, and results of that motion
   d. Proof of restricted account
   e. Proof of recording letters (if required)
   f. Annual accounts and orders approving the accounts
   g. When minor wards/protected persons turn 18 (both for guardianships and conservatorships)
   h. In adult guardianship only, a notice of death of the ward
   i. In conservatorship (regardless of minor or adult), an order terminating the conservatorship and releasing and discharging the conservator
   j. Notice of minor ward turning 18 years of age or order terminating guardianship for the minor
   k. Some other order terminating the guardianship or conservatorship

[1] This should be removed from the general probate time standards and a separate time standard should be created.

l. Requests for appointment of temporary guardian or conservator

4. **Trusts**
   a. Petitions and orders resolving petitions
   b. Accounts if trust is court-supervised (until court terminates supervision of trust)

5. **Mental Health**
   a. Petition for court-ordered treatment (COT) and order granting/denying/dismissing the petition
   b. Application for renewal of COT and order granting/denying/dismissing the petition
   c. Date when the COT is due to expire
   d. Reason(s) for COT (danger to self, danger to others, persistently or acutely disabled, and/or gravely disabled)

Case Events That Should Have Time Standards

From the list of events that should be tracked, workgroup members identified which case events should have a designated time standard.

1. **Decedent's Estates**
   a. Appointment of PR to close of estate.[2]

2. **Guardianship/Conservatorship**
   a. Time from filing petition until entry of order on that petition (regardless of type of petition). Initially, this would be regardless of uncontested or contested but later might lead to different time standards for uncontested and contested cases (and/or for certain types of petitions that occur regularly, such as a petition for appointment of guardian/conservator and petition for approval of annual account).
   b. Ruling on a motion for renewal of inpatient mental health authority for adult guardianship. Trigger event should be the expiration date of existing inpatient mental health authority.

[2] The Supreme Court has adopted a time standard for this case type, but the consensus of the workgroup members was that this standard should be eliminated.

c. The consensus of workgroup member was that there should NOT be time standards for any specific events or types of petitions in guardianship/conservatorship cases, including minor guardianship/conservatorship cases. Adult guardianship/conservatorship cases can go on indefinitely, and minor guardianship/conservatorship cases can be extended past age of majority.

3. **Trusts**
   a. Time from filing petition until entry of order on that petition (regardless of type of petition). Initially, this would be regardless of whether the case is uncontested or contested but later might lead to different time standards for uncontested and contested cases.

4. **Mental Health**
   a. Petition for initial COT to order granting/denying/dismissing the petition. Court-ordered evaluation (COE) hearing requests are made in small minority of cases, and COEs expire by statute. Thus, the workgroup is NOT proposing a time standard for COE petitions.
   b. Ruling on Application for Renewal of COT. This time standard would be triggered by the expiration date of the existing court order rather than the filing of the application for renewal to protect rights and to be consistent with the statutory expiration date.

Case Events That Should Exclude Time

After reviewing the current events that exclude time, workgroup members identified other events that should exclude time from the time standards calculation.

1. **Decedent's Estates** (Opening Estate to Closing Estate)
   a. Bankruptcy for one of the parties (including the personal representative) or an entity in which the estate owns interest
   b. Special actions/appeals
   c. Estate tax audit
   d. Any civil, family, juvenile or other non-probate litigation involving the estate, regardless of whether filed under the probate case number or as a separate case number. This includes wrongful death, medical practice, and vulnerable adult abuse claims.

2. **Conservatorships** (Filing Petition for Appointment to Ruling on That Petition)

a. Bankruptcy filed for the protected person/person alleged to be in need of protection (applies only to conservatorship for an adult)

3. **Guardianships**
   a. For minor guardianship, pending juvenile or family court case relating to the proposed minor ward

4. **Trusts**
   a. Bankruptcy for one of the parties (including the trustee) or an entity in which the estate owns interest

5. **Mental Health**
   a. None

Adequacy/Appropriateness of Existing Time Standards

Workgroup members reviewed the time standards currently adopted for probate cases, and make the following recommendations:

1. **Decedent's Estates**
   Eliminate the time standards for probate administration of estates in their entirety because they give the wrong impression that the court controls (or can control) the timeliness of the administration of the estate when, in fact, neither the statute nor the rules allow the court, sua sponte, to do anything prior to two years from opening of the estate. The only place to apply a standard for a decedent's estate administration is for a supervised administration. Additionally, cases in which the only document filed is an affidavit for collection of real property are being captured for purposes of the current time standard, but those cases do not involve the opening or closing of an estate.

2. **Adult Guardianship/Conservatorship**
   Leave existing time standards as is.

3. **Mental Health** (Initial COT)
   Leave existing time standards as is.

Conclusion

The workgroup recognizes that tracking additional events and creating additional time standards would require the allocation of additional IT resources. Members agreed that its recommendations related to additional event tracking/time standards are more of a wish list/roadmap until resource allocation is appropriate/realistic. Additionally, members agreed that more data is needed before specific time standards can be assigned.