

SECTION 4: NAVIGATING THE JUVENILE COURT PROCESS



WHO IS INVOLVED IN MY CASE WITH THE JUVENILE COURT?

Parents have the right and responsibility to participate in the juvenile court process. In addition to yourself and your assigned Department of Child Safety Specialist, any other parent or guardian may also be involved in the court hearings. The parents, children and DCS are referred to as the parties to the case. An attorney represents each of the parties. The Department of Child Safety is represented by an attorney who works for the Attorney General's office, each parent is represented by an attorney who is identified for them by the court or by the parent directly. Although children can participate in the court hearings if they desire, generally they are represented by an attorney, called a Guardian Ad Litem (GAL), whose job is to represent the child's best interests. Children may also be represented by their own attorney. Often children over the age of 12 will have an attorney to represent their individual interests, which may differ from the representation of the GAL.

In addition to the parties (parents and children) and their attorneys, in some instances foster parents, relatives caring for the involved children and others may participate in hearings. In most cases, they are not considered parties and are not represented by attorneys at the hearings. A judge oversees each hearing and makes all of the final decisions about custody, placement and visitation.

WHAT HEARINGS WILL BE HELD AFTER MY CHILD IS PLACED IN OUT-OF-HOME CARE?

The juvenile court becomes involved when a dependency petition is filed by the Department of Child Safety. This will occur if your child is removed from your home. Court involvement can also occur if the Department of Child Safety files an in-home intervention to request the court assist in monitoring a family's progress towards in-home services, the children remain in the parents physical and legal custody. The Court will be involved in an in-home dependency, where DCS takes legal custody of the involved children, but they remain in the physical custody of their family.

The juvenile court process can seem overwhelming. There are several court hearings that occur on a regular basis, and there are many individuals involved. All of whom play a role in ensuring the safety of a child.

WHAT ARE THE TYPES OF COURT HEARING?

You will be required to attend several court hearings so that the judge and others may listen to all sides and decide what is best for your child. In dependency cases there are several different types of hearings that will occur, it is important for you to appear at all court hearings. Court hearings may frighten you and make you uncomfortable, but they benefit you, protect your rights and allow you to present your side of the story to the court. Don't be afraid.

Preliminary Protective Conference (PPC) and Hearing (PPH)

The Preliminary Protective Conference (pre-hearing conference) and Preliminary Protective Hearing will be your first contact with the juvenile court system in the dependency process. They are both held within five to seven days after a child has been removed from the home. The pre-hearing conference is not held in a courtroom and occurs immediately before the Preliminary Protective Hearing, which is held in front of the court and a judge. The following individuals will also attend the Preliminary Protective Conference:

1. DCS Attorney (AAG)
2. DCS Specialist
3. Facilitator
4. Attorneys for the Parents
5. Parent(s)
6. Guardian Ad Litem (GAL) /Attorney for the Child

The Pre-hearing conference is a mandatory meeting of all parties to the dependency, and other interested persons as permitted by the court. The purpose of the meeting is to attempt to reach an agreement about temporary custody and placement of the child, and the services that will be provided to the child, the parents or guardians and visitation. The health and safety of the child is the most important concern to all.

The pre-hearing conference will give you an opportunity to discuss what you think your child needs and how the Department of Child Safety can help your family. You will also have an opportunity to state where you want your child to live temporarily and who should have visitation and contact with your child.

The Preliminary Protective Hearing takes place right after the Preliminary Protective Conference. The purpose of the hearing is to determine whether temporary custody of the child is clearly necessary to prevent abuse or neglect while awaiting for the hearing on the dependency petition. The judge will review any agreement reached at the pre-hearing conference. Additionally, the judge will advise the parents or guardians of their rights. The judge will determine if reasonable efforts were made to prevent or eliminate the need for removal of the child, and if services are available that eliminates the need for continued removal. The judge will enter orders for the child's placement and visitation, and order DCS to make reasonable efforts to provide reunification services unless they are contrary to the best interests of the child.

The judge will ask you to admit to or deny the allegations in the dependency petition.

Initial Dependency Hearing. The initial dependency hearing must be held within 21 days of the date the dependency petition was filed regarding the parent or guardian who was not present at the preliminary protective hearing. An initial dependency hearing is not held as to a parent or guardian who denies the allegations at the preliminary protective hearing.

MEDIATION OR SETTLEMENT CONFERENCE

A settlement conference or mediation is set when the parent or guardian denies the allegations in the petition, and the mediation must occur prior to the pre-trial conference or dependency adjudication hearing. All parties to the contested dependency petition must participate in the mediation. The purpose of the mediation is to attempt to settle the issues in the dependency petition and resolve the petition in a non-adversarial manner, and avoid a trial. Any agreement that is reached will be prepared in writing and submitted to the court. The following people will attend the mediation or settlement conference:

1. DCS Attorney (AAG)
2. DCS Specialist
3. Mediator (Facilitates Meeting)
4. Attorneys for the Parents
5. Parent(s)
6. Guardian Ad Litem (GAL) /Attorney for the Child

If an agreement can be reached during mediation, the trial will not occur. The next court hearing you will have in this instance is the Report and Review Hearing. Report and Review hearings are held, in most cases, every 6 months for periodic review of the case.

CONTESTED DEPENDENCY ADJUDICATION HEARING

This hearing must be completed within 90 days of serving the dependency petition to the parents or guardians. The court will determine whether the allegations in the petition are valid due to the weight of the evidence presented by DCS. If the allegations are deemed valid the court may either move forward with a disposition hearing or set the disposition hearing within 30 days.

DISPOSITION HEARING

The disposition hearing is held at the same time of, or within 30 days of the dependency adjudication hearing. The purpose of this hearing is to obtain specific court orders for the child's placement, services and appropriateness of the case plan. The judge will review the services that have been offered to reunify the family, and the efforts made to evaluate or plan for permanent placement options. The judge will determine whether one of these options, reunification, adoption or guardianship is in the best interest of the child.

REPORT AND REVIEW HEARING

Within 3 to 6 months of either the disposition hearing or the Preliminary Protective Hearing (whichever one applies to your family), there will be a review hearing in court. The judge will review your family's case plan to make sure that changes are being made to correct issues that caused the Department of

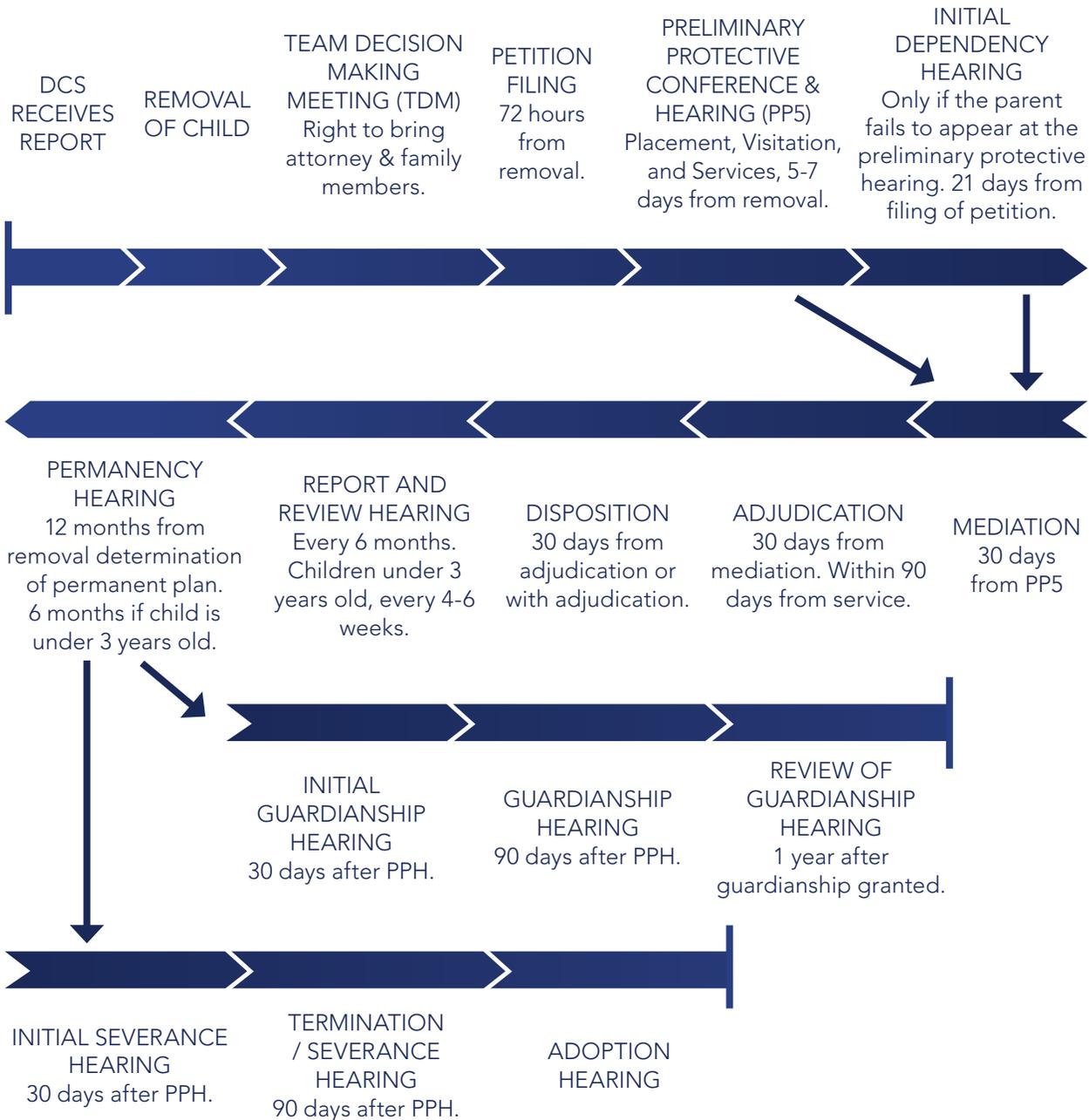
Your voice is important in the courtroom. Come prepared to all court hearings with any questions or concerns you have regarding services being offered to you or your child.

Child Safety to become involved with your family. The judge will ensure that the DCS Specialist and others are providing the necessary services to you and your family to overcome identified concerns. If changes need to be made to the case plan, the judge will order those changes.

PERMANENCY HEARING

When a child is removed from the home, a permanency hearing will be held within twelve (12) months to determine if the permanency plan is to remain reunification, or change. When a child is under the age of three (3) years old, a permanency hearing will be held within six (6) months of the child’s removal from the home. The court will determine the permanency plan for the child and order the plan to be accomplished within a specified time period.

VISUAL REPRESENTATION OF THE ARIZONA DEPENDENCY PROCESS



PRACTICAL TIPS FOR FAMILIES

- Be sure to let your assigned DCS Specialist and your attorney know about the progress you are making in the services and supports you are receiving. For example, if you receive mental health or substance abuse treatment, how are you doing?
- If you have not received the services listed in your case plan, let your assigned DCS Specialist, your attorney, and the court know this. This will make a difference in permanency decisions for your child.
- If you have difficulties and need mental health or substance abuse treatment, the decision to participate in treatment is yours alone. However, be aware that if you do not get treatment, it will probably affect whether your child can return home.
- No one can force you to take your child back home. You have to want to do it, make the decision yourself, and do what is necessary to have your child returned. You have to make this decision quickly however, as legal mandates require the court to make permanency decisions for children within designated time-frames.
- Form a support system around yourself such as friends and family members to help you get through the tough times. Take care of yourself so you can be there for your children.

WHAT ARE MY RIGHTS WHEN I AM INVOLVED WITH DCS?

During the juvenile court process, you have many rights as a parent. Some of your rights include:

- Be treated with dignity and respect
- Have your wishes and interest heard and considered
- Maintain contact with your child unless it is determined harmful to the child's safety and/or well-being by the Department of Child Safety or the court
- Be involved in gathering information and making decisions
- Have culturally sensitive services provided for you and your family
- Participate in the development of a case plan designed to meet your needs
- Receive a copy of the case plan
- Obtain a copy of your case record
- Confidentiality as stated in Arizona Revised Statute §8-807
- Have information provided to you in a different format, if needed or requested
- Have an attorney. If you cannot afford to pay for an attorney, the judge will appoint an attorney to represent you
- Admit or deny the allegations made about you and your family
- Be notified of all court hearings
- Have an interpreter appointed by the court if you do not understand English or are hearing impaired

WHAT ARE MY RESPONSIBILITIES DURING THE COURT PROCESS?

- Work with DCS so your child can be returned home in the shortest time possible
- Visit and maintain contact with your child while he/she is in out-of-home care
- Provide information to your DCS Specialist to arrange for care for your child
- Let DCS know what your needs are and work with the DCS Specialist to develop your case plan
- Attend and participate in case staffings, and court hearings
- Keep appointments with DCS, your attorney, therapists, and others working with your family
- Stay in contact with your DCS Specialist, and make sure they always have a correct address and phone number for you
- Ask your attorney or DCS Specialist for an explanation if you do not understand your case plan or other responsibilities
- Ask for help when you feel discouraged or overwhelmed

- Notify your DCS Specialist and attorney in advance if you cannot attend an appointment or court hearing

WILL I BE ABLE TO HAVE A SAY IN THESE HEARINGS? CAN I PRESENT MY SIDE?

Yes. As a parent, you have the right to present your side of the story in ALL hearings related to your child. Generally, your attorney will speak for you.

WHAT DO I DO IF I CANNOT COME TO A HEARING?

You should make every effort to come to the hearings at the time that they are scheduled. If you are in need of transportation or assistance in getting to the hearing, contact your DCS Specialist, in advance for assistance. If you are homebound, hospitalized, or are in jail/prison, speak to your attorney, and contact the court to request to appear by telephone. If you fail to attend a hearing, you will need to provide written proof of the reason.

WILL I BE ABLE TO HAVE AN ATTORNEY? DO I HAVE TO PAY FOR AN ATTORNEY?

You are allowed to have an attorney represent you. It is important for you to have an attorney from the beginning. In the State of Arizona, if you cannot afford an attorney, one will be appointed to you.

PRACTICAL TIPS FOR FAMILIES

- Speak to your attorney before and during all hearings to let it be known what you want to be said in the hearing. If you want to speak yourself, be sure that your attorney knows this and arranges for you to have your say.
- It is important for you to stay in contact with your attorney. If you move or get a new telephone number, it is important to let your attorney know this new information.
- Your attorney can assist in advocating for you between and during hearings. It is important that you communicate with your attorney about any barriers or problems you are having achieving your case plan goals.
- Keep a journal of meetings, phone conversations and attempted phone calls.

WHAT IS MY ATTORNEY'S JOB?

Your attorney should do the following:

- Meet with you before every hearing and represent your interests in court
- Gather information that supports your position
- Help you understand your rights
- Provide you information about each hearing
- Tell you what to expect at each different type of hearing
- Explain child welfare laws that apply to you and your family

Your attorney's primary concern is your rights, your interests and keeping your family together. Your attorney is not the one who advocates for the best interests of your child.

WHO ADVOCATES FOR THE BEST INTEREST OF MY CHILD?

Someone will be appointed to represent your child's best interests. This could be any or all of the following:

- A guardian ad litem (GAL)
- A separate attorney for your child
- A court appointed special advocate (CASA)

WHO IS A GUARDIAN AD LITEM (GAL)?

Federal law requires states that receive federal funds for preventing child abuse and neglect to provide your child with a guardian ad litem (GAL) during dependency cases. This person is usually, but not always, an attorney. The GAL will be a different attorney from yours. The GAL's job is to meet with your child and to tell the court what they believe is in the best interest of your child. The GAL may ask you questions about yourself, your child, or your family.

If at any time the court or other parties believe that what you want is not in your best interest the court can also appoint you a guardian ad litem to represent your best interests. You will still have your attorney to represent what you want.

WILL MY CHILD HAVE A SEPARATE ATTORNEY IN ADDITION TO THE GUARDIAN AD LITEM?

Not usually, but it is possible that your child might have their own attorney if they are over the age of 12 and the court finds that this is necessary. Sometimes when a child disagrees with what the GAL believes to be in the child's best interests, an attorney will be appointed to represent the child's wishes.

WHAT ARE THE COURT APPOINTED SPECIAL ADVOCATES (CASAS)? HOW WILL THEY RELATE TO MY CHILD AND ME?

Arizona has a Court Appointed Special Advocate (CASA) program. CASA programs use trained volunteers to speak up in court for what they believe to be in the best interest of children involved in a court case with DCS. The CASA usually is not an attorney. The CASA will meet with you and your child, as well as others involved with your family. Like the guardian ad litem, the CASA is charged with gathering information and telling the judge what they believe is in the best interest of your child.

CAN I GIVE INFORMATION TO, OR ASK QUESTIONS OF THE JUDGE?

Yes. If you have an attorney, you and your attorney should discuss what you want to say at each hearing and whether you want to speak for yourself or have your attorney represent your point of view. You cannot speak directly to the judge or send the judge written information (for example a letter) outside of court hearings unless other parties to the hearing (DCS, other attorneys) are present.

PRACTICAL TIPS FOR FAMILIES

- If you are unsure what to say to the GAL/CASA, talk to your attorney or DCS Specialist. It is okay for you to ask many questions. It is important for you to understand what is happening, and what it means for you and your child.
- If you believe that someone is saying things in court about you or your family that are not true let your attorney know.
- If you are confused about what took place in court, be sure to ask your attorney or the DCS Specialist to explain it to you.