

DEPENDENCY

(JUVENILE COURT CASES ONLY)

1

To ask the Court to declare there is no parent or guardian willing or able to provide proper care or control of a minor child.

(INSTRUCTIONS)

Self-Service Center

JUVENILE COURT - DEPENDENCY PAPERS

(Instructions Only)

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This packet contains general information and/or instructions and procedures about filing a Dependency Petition and other court papers in Juvenile Court. Do **not** copy or file these pages.

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Self-Service Center

DEPENDENCY vs. GUARDIANSHIP

IMPORTANT INFORMATION YOU NEED TO KNOW

THE FORMS IN THIS PACKET CAN ONLY BE USED TO FILE A DEPENDENCY PETITION. READ CAREFULLY below to understand some of the differences between Dependency and Guardianship and to make sure you are filing the petition most appropriate for the situation, both yours and that of the children involved.

1. Dependency vs. Guardianship. What is the difference between dependency and guardianship?

A. DEPENDENCY

A dependency is a decision by the Juvenile Court that a child is in need of effective care and control and that all parents are unable or unwilling to provide proper care and control. Usually, a Dependency Petition is filed by the state because concerns about abuse or neglect have been reported to CPS and there is evidence of immediate danger to the child(ren). The parents may disagree with you filing a Dependency Petition to obtain legal custody of their child(ren).

You may file a dependency petition if you believe that there is no parent or guardian willing or able to provide proper care and control over a child.

Examples include:

- child is abused or abandoned
- child is neglected because parent or guardian abuses drugs or alcohol
- parent or guardian is not able to meet the child's needs
- parent or guardian is unable to provide the child with basic necessities such as suitable housing, food or necessary medical care.

A Dependency Petition may involve an investigation and report by CPS. It may also involve appointing attorneys for the parents and the child(ren), a temporary custody hearing, and possibly a pretrial conference and trial. If the Juvenile Court finds that the child is dependent because the parents are unable or unwilling to provide care, the court decides who will care for the child(ren). The Juvenile Court and CPS oversee the child(ren)'s care and services provided to the parents and the child(ren) in an effort to reunite the family.

A dependent child remains under the Court's control until the Court declares that a parent has become willing and able to provide proper parenting. An order of dependency from the Juvenile Court will last until the child turns 18 or the Court changes or dismisses it.

B. GUARDIANSHIP

A guardianship can be filed when someone other than the parent wants to be appointed by the Court to take over parental responsibilities *AND* either both living parents (whose parental rights have not been permanently severed [terminated or cut off] by court order) will consent to the guardianship *or* at least will not go to Court *to oppose* the appointment. Guardians take over parental responsibilities for making decisions regarding housing, medical care, and education, among other things, for as long as the guardianship lasts.

An adult may ask the Juvenile Court to appoint a legal guardian for a child when neither parent is going to be available (such as when the parents are to be deployed by the military, or perhaps the custodial parent is or is going to be incarcerated or in re-hab, etc.), or is incapable or unwilling to provide for the child, and who after receiving notice of the Petition for appointment of a Guardian, will either give permission for the guardianship, *or at least will not go to court to object or disagree*. If either parent files papers with the court or shows up in court to object to a guardianship, it will not be granted.

An order of guardianship is good until the Court changes or dismisses it, the child turns 18, or either parent files papers to terminate the guardianship. Guardianship is based on the parents' permission, or at least their failure to object to the guardianship. If *either* of the parents later changes his or her mind and lets the Court know that he or she objects to the guardianship, the Court has no choice but to end the guardianship, but may refer the matter for investigation as to whether a Dependency is needed.

Both dependency and guardianship may result in a person being appointed as a "guardian" for a minor (or minors), but there are important differences between Dependency and Guardianship. In Maricopa County, both Juvenile Dependencies and Juvenile Guardianships (or "Guardianship for Minors") are filed with the Juvenile Division of the Superior Court. If you decide that you need to file for a guardianship, forms and instructions are available for purchase at the Self-Service Center, or Clerk of Court Juvenile Division or may be downloaded for free from the internet at:

www.superiorcourt.maricopa.gov/ssc.

2. A Dependency Petition is a Lawsuit

Once you file the Dependency Petition, you have started a lawsuit. The Petition is processed by the Court according to the laws and Court rules that apply. The rights of all parties are protected, and it is your responsibility to comply with all Arizona Statutes and Rules of Court, which are available at most libraries.

A judicial officer (judge or commissioner) will review your Petition. If your Petition does not meet the requirements of the law, it will be dismissed and you will be notified of the dismissal.

3. Court-Ordered State Involvement

The Court may order a separate investigation into the facts of the case. The Arizona Department of Economic Security/Child Protective Services, from here on called CPS, will be ordered to complete the investigation and file a report with the Court. CPS may also become a part of the case, which means providing services to the family (for example, counseling) and the supervision of the child or children for whom a Dependency is ordered becomes the State's responsibility as well as that of the placement.

4. Appointment of Counsel

Filing a Dependency Petition does not mean the Court will assign you a free lawyer. It is your responsibility to either represent yourself, or hire your own lawyer. The Court may appoint an attorney for the child(ren) involved. If the child(ren)'s parents ask for an attorney and the Court determines they cannot afford one, the Court may appoint an attorney for the parents.

A NOTE ABOUT “CONSERVATORSHIP”

A minor generally needs a **conservator** if:

- The minor owns money or property or has annual income in excess of \$5,000 that requires management or protection, which cannot otherwise be provided.
- The minor has business affairs or assets which may be jeopardized (at risk of loss or damage) by his or her being a minor; and/or
- The Minor needs funds for his or her support and education and protection is necessary or desirable to obtain or provide those funds.

Conservators are appointed and supervised by the **Probate Division** of the Superior Court. If the minor needs both a guardian and a conservator, then the entire matter is handled by the Probate Court and the Petition is submitted to the Probate Court and **not** to Juvenile Court.

A NOTE ABOUT “CUSTODY” (now “Legal Decision Making” in Arizona)

While most people are more familiar with the term “custody” than either “dependency” or “guardianship”, Arizona now uses the term “legal decision making” instead of custody. Arizona law (**Arizona Revised Statutes [A.R.S.] § 25-409**. See also **§ 25-402**) allows for someone who stands “in loco parentis” (in the place of a parent) to the children, meaning someone who has acted as a parent at some time when the actual parents were absent, to file for legal decision making (custody). This is sometimes referred to as “third party custody”, and may be used by relatives and non-relatives alike who meet all the requirements of the statute.

Currently the Self-Service Center **only** has forms and instructions for the biological or adoptive parents to file for legal decision making, which is handled in the Family Court division of the Superior Court. Those forms and instructions **will not work** for persons other than the parents who wish to file for custody. Only an attorney can advise you as to whether there are advantages or other reasons you should consider applying for “legal decision making”, as opposed to “guardianship” or “dependency”, and draft the papers for you or alter existing forms to fit your needs.

NOTE: You may contact the *Juvenile Court Guides* at **602-506 5903** (Durango) or **602-506-4886** (Mesa) for further assistance including scheduling a (no cost) appointment with the Juvenile Legal Assistance Program (JLAP) if you are seeking legal advice.

SELF-SERVICE CENTER

**INSTRUCTIONS: HOW TO FILL OUT THE DEPENDENCY PETITION
AND OTHER COURT PAPERS**

Use these instructions to fill out the *Juvenile Court Dependency Coversheet*, *Dependency Petition*, and the *Notice of Initial Dependency Hearing*.

DEPENDENCY COVERSHEET:

Print or type in black ink.

Complete the Coversheet as described below. When the documents are ready, you will submit them to the Juvenile Clerk of the Court. The Coversheet will be received by the Court for administrative purposes but is not part of the court file. Do **not** serve a copy of the coversheet on the other parties involved.

Case Caption: If you are the person filing the Dependency Petition, write in your name, your address, your city, state, zip code, and telephone number(s). Check one box indicating you are representing yourself or the petitioner. If an attorney represents you, write in your attorney's bar number.

Then, write in the name of each child under the age of 18 that you believe is dependent and is the reason you are filing the Dependency Petition. Leave the Case Number blank. The Clerk of the Court will stamp in the case number when you file the documents with the Court.

Information about the Children Involved: List the information requested for any minor children involved in this specific case. If there are any other children who are brothers or sisters of the children listed earlier, please list their names and dates of birth.

Other Court Cases: Check the appropriate box to tell this Court if either you, your spouse, the child(ren)'s parents or the child(ren) involved have been involved in any other cases, except a minor traffic offense, in any other court. If you check the Yes box, please describe the case, including case numbers and court location.

Interpreter/Language Needs: Check the appropriate box(es) to indicate whether a language interpreter is needed for any parties in the case.

DEPENDENCY PETITION:

Print or type in black ink.

Complete the Petition as described below. When the documents are ready, you will file them with the Juvenile Clerk of the Court. You will then need to **have the Petition served on the other parties involved** according to the instructions in the Service Packet. All documents must be served at least five (5) days prior to the court hearing.

Case Caption: If you are the person filing the **Dependency Petition**, write in your name, your address, your city, state, zip code, and telephone number(s). If an attorney represents you, write in your attorney's bar number.

Then, write in the name of each child under the age of 18 that you believe is dependent and is the reason you are filing the Dependency Petition. Leave the Case Number blank. The Clerk of the Court will stamp in the case number when you file the documents with the Court.

Paragraph 1: **INFORMATION ABOUT ME:** Write in your name, your address including city, state and zip code, your telephone number (include your work, home and message telephone number if you have one). Then, write in your relationship to the child(ren). If you do not believe you are a fit and proper person to care for the child(ren), you should see a lawyer for help.

Paragraph 2: **INFORMATION ABOUT THE CHILD(REN):** Write in the name of each child that you want to include in the Dependency Petition, his or her birth date and gender. The names should be the same as the child(ren)'s name in the Case Caption.

Write the address where the children are currently living (including street, city, state and zip code). Indicate the date the children started living at the current location. Check the appropriate box to indicate whether the children are currently living in Maricopa County in the State of Arizona.

Identify all other persons who live in the same home as any child(ren) listed, including their names and relationship to the child(ren) on the lines provided.

If any of the child(ren) for whom you are seeking a dependency are Native American, please check the "Yes" box and list which nation or tribe.

Paragraph 3: **INFORMATION ABOUT THE PARENTS AND CURRENT LEGAL GUARDIANS (IF ANY) OF THE CHILD(REN):** Write in the name of the child(ren)'s Mother and her birth date. List the Mother's address including street, city, state and zip code. Write in the name of each child's Father and his birth date. List the Father's address including street, city, state and zip code. Write in the name of each child's Legal Guardian and birth date. List the Legal Guardian's address including street, city, state and zip code.

Paragraph 4: **CHILD IS DEPENDENT.** You must tell the court why you are filing the Dependency Petition. It is important to give the Court specific, factual and recent information. You must show that the actions or inactions of both the mother and father have a harmful effect on the child(ren). Give a brief history of the child(ren)'s life and your involvement with the child(ren). Give professional opinions, if possible. Include drug and alcohol use if relevant. If the child(ren) have different fathers, you must show that each child is dependent as to his or her own father. If the father is unknown, you must state that.

Check the appropriate box to indicate whether anyone listed on the petition has ever been involved with Arizona Child Protective Services (“CPS”). If anyone has had involvement with CPS, then you will need to identify the CPS or Juvenile Court case number and the name, phone number and site code of the caseworker.

Relief Requested: Tell the Court what orders you want the Court to issue.

NOTICE OF INITIAL DEPENDENCY HEARING:
Print or type in black ink.

Fill in the Case Caption just like you did for the **Dependency Petition**. Copy the case number from the Dependency Petition. Enter the names and address of the parents and legal guardians. Enter your name as the Petitioner.

The Court will fill in the date, time and location of the hearing, and the name of the judicial officer who will hear the case. You will then need to date and sign the Notice, **and have it served on the other parties involved** according to the instructions in the Service Packet.

SELF-SERVICE CENTER

PROCEDURES: HOW TO FILE A DEPENDENCY PETITION

These procedures will help you prepare a Dependency Petition and file it with the Clerk of the Court.

STEP 1: Prepare the Court Papers. Complete the enclosed **Dependency Coversheet, Dependency Petition** form and the **Notice of Hearing** form. Make sure you follow the instructions that go with the forms and carefully read and complete each section of these forms.

STEP 2: File your Court papers with the Correct Juvenile Court Facility.

A. **FEE.** There is no fee for filing a Dependency Petition.

B. **File papers with the Clerk of Court, Juvenile Division.** Cases are assigned to a facility based upon the zip code of the residence of the custodial parent of the child(ren) at the time the child(ren) is/are removed from the home, or if not removed from home, at the time of the filing of the Dependency Petition. You can present your documents for filing at either location, however, you are encouraged to take subsequent documents to the assigned facility for faster processing.

Durango Facility
3131 W Durango Street
Phoenix, AZ 85009

Southeast Facility
1810 S Lewis Street
Mesa, AZ 85210

C. You must present the original **Dependency Coversheet, Dependency Petition** and **Notice of Hearing**, plus one copy of each of these documents to the Clerk. The copies will be returned to you for you to make copies for the individuals you will need to *serve* (to give notice of this court case as required by law – see STEP 3, below). This will include the parents, guardians, and any custodians of the child(ren). You may also need a copy for Child Protective Services, if ordered by the Court to provide one to them. You will need to either pick up the copies or provide a 9 inch x 12 inch, self-addressed, stamped envelope for them to be mailed to you.

The Clerk will assign a case number that begins with “JD”, and a Judicial Officer will review the document. This process may take more than a day. If the Judicial Officer decides that the Petition meets all legal requirements, a hearing will be scheduled soon.

The Court will provide you one free certified copy of the Judicial Officer's **signed Order** concerning the Dependency Petition. Your copy of this Order is very important and may contain Orders making the child(ren) a temporary ward of the Court, may establish who has physical custody, may make other orders, and is needed for completing the next major step of the dependency process - - *Service of Process*.

STEP 3: SERVICE OF PROCESS. Service of Process means notifying the parents and anyone else entitled to know that you have filed the Dependency Petition, and the Court hearing has been set. **A child will not be made a permanent ward of the court until service is complete.**

Service of Process means providing a copy of the *Dependency Petition, Notice of Hearing* and *Findings & Temporary Order Regarding Dependency Petition* to the parents or guardian of the child. You do not have to serve the Dependency Coversheet. **You must provide service at least five (5) calendar days prior to the hearing.**

Follow the instructions in the Self-Service Center Packet entitled “Service of Court Papers” regarding the type of service that applies to your case:

- 1) You know where the other party lives in the State of Arizona;
- 2) You know where the other party lives in the United States, but not in Arizona; or
- 3) You don't know where the other party lives and you have tried to find them.

STEP 4: ATTEND THE COURT HEARING. Once these steps have been completed, you must attend the court hearings on the dates given to you in the Notice of Hearing.

If you need a language interpreter for the court hearing, please contact the Juvenile Court Interpreter's Office at **602-506-4086** if the hearing is at the Durango facility or **602-506-2653** if the hearing is at the Southeast facility in Mesa.

IF YOU STILL HAVE QUESTIONS ABOUT FILING A DEPENDENCY PETITION:

- You may contact the *Juvenile Court Guides* at **602-506 5903** (Durango) or **602-506-4886** (Mesa) for further assistance including scheduling a (no cost) appointment with the Juvenile Legal Assistance Program (JLAP) if you are seeking legal advice.
- You may also contact the Lawyer Referral Service of the Maricopa County Bar Association. Their telephone number is **602-257-4434**. You should request an appointment with an attorney who handles Juvenile Court dependency matters. There is a fee of **\$35.00** for a half-hour consultation.
- Ask a lawyer for legal advice.