

DEPENDENCY

(JUVENILE COURT CASES ONLY)

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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 court forms and instructions to file dependency papers. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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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.

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 FORMS

Use black ink to fill out all forms in this packet.

FORM: DEPENDENCY COVERSHEET

The Coversheet identifies your case with the court. It is not a public record. (When your forms are ready, you will hand them to the Clerk of the Juvenile Court with the one, original Coversheet on top. Do **not** serve a copy of the coversheet to other parties involved in this case.)

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

On the left side, where "In the Matter of" is, write in the name of each child under the age of 18 for whom 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 all minor children involved in this case. If there are any other children who are siblings (brothers or sisters NOT involved in this case), 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 children's parents or the children 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: Place a check mark in the appropriate box(es) to tell the court whether a language interpreter is needed for any parties in the case.

FORM: DEPENDENCY PETITION:

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

On the left side, where "In the Matter of" is, write in the name of each child under the age of 18 for whom 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, address, including city, state and zip code, telephone number (include your work, home and message telephone number if you have one). Then, write in your relationship to the children. If you do not believe you are a fit and proper person to care for the children, you should see a lawyer for help.

Paragraph 2: INFORMATION ABOUT THE CHILDREN: 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 children's names in the Case Caption.

Write the address where the children are currently living (including street, city, state and zip code). Write in 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 children listed, including their names and relationship to the children on the lines provided.

If any of the children 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 CHILDREN: Write in the name of the children'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 describe how the actions or inactions of both the mother and father have a harmful effect on the children. Give a brief history of the children's lives and your involvement with the children. Give professional opinions, if possible. Include drug and alcohol use if relevant. If the children 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 Department of Child Safety ("DCS"). If anyone has had involvement with DCS, then you will need to identify the DCS 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.

FORM: NOTICE OF INITIAL DEPENDENCY HEARING

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 addresses 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

STEP 1: PREPARE the Court Papers. Complete the enclosed forms: **Dependency Coversheet, Dependency Petition** and the **Notice of Hearing**.

- Check your work to make sure you finished each section of these forms.
- Assemble the forms into one original set.
- Photocopy the original set. (You will then have 1 original set + 1 photocopy.)

STEP 2: TAKE the Court papers to the Correct Juvenile Court location.

How to find the correct Juvenile Court location: Your case will be assigned to a location based on the zip code of the **residence of the children's custodial parent** of at the time the children are removed from the home, or if not removed from home, at the time of the filing of the Dependency Petition.

- You may take your documents to either location *at first*. However, the court clerk will inform you the location you should deliver later case documents for faster processing.

Durango (Juvenile) Facility
3131 W Durango Street
Phoenix, AZ 85009

Southeast (Juvenile) Facility
1810 S Lewis Street
Mesa, AZ 85210

STEP 3: FILE the ORIGINAL set and the PHOTOCOPIED set.

Give the Clerk the original set of forms: **Dependency Coversheet, Dependency Petition** and **Notice of Hearing**, *plus* one copy of each of these documents to the Clerk.

- **NO \$ Fee.** There is no charge to file a Dependency Petition.
- While you are at the filing counter, the Clerk will assign a case number that begins with "JD," and give your forms to a Judicial Officer. The Judicial Officer will review the document, which may take more than a day.
- **Mail or Pick up:** After processing the case, the Clerk will give you back your photocopied set of forms with your case number. You will need to either pick up the photocopied set of forms or provide a 9 inch x 12 inch, self-addressed, stamped envelope for the set to be mailed to you.
- Use the returned set of forms to make other sets of forms required in the next step (Service).
- If the Judicial Officer decides that the Petition meets all legal requirements, a hearing will be scheduled.

STEP 4: PHOTOCOPY the set of forms.

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. It may contain Orders making the children a temporary ward of the Court, may establish who has physical custody, may make other orders, and is needed for photocopying and completing the next major step of the dependency process - - *Service of Process*.

For the next step, use the Certified copy of the Judicial Officer's signed Order to make photocopies for the mother, father and/or guardian of the children.

STEP 5: SERVICE OF PROCESS. Service of Process means you are:

- notifying the parents and anyone else entitled to know that you have filed the Dependency Petition, and the Court hearing has been set; and
- 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, (Remember, do not photocopy or serve the Dependency Coversheet.) and
- **Delivering service at least five (5) calendar days before the day of 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: The type of service you choose depends upon your knowledge about where the parties live:

- 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.

- **NOTE: A child will not be made a permanent ward of the court until service is complete.**

STEP 6: ATTEND THE COURT HEARING. Once you complete the above steps, you must attend the court hearing(s) on the date(s) the court gave 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 for a half-hour consultation.
- Ask a lawyer for legal advice.