

The State Legislative Role in Family-Friendly Court Improvements

October 25, 2023

Montana's Task Force on the Dependency and
Neglect Court System

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Presentation Roadmap



NCSL Strengthens Legislatures



Policy Research

NCSL provides trusted, nonpartisan policy research and analysis



Connections

NCSL links legislators and staff with each other and with experts



Training

NCSL delivers training tailored specifically for legislators and staff



State Voice in D.C.

NCSL represents and advocates on behalf of states on Capitol Hill



Meetings

NCSL meetings facilitate information exchange and policy discussions



Family-Friendly Courts Series

Resources for State Legislators



- Explores the opportunities and challenges for state legislatures seeking to **improve state civil court processes**.
- Discusses balancing the **legislative role** and judicial independence.
- Resources:
 - Read recent [publications](#) (brief, reports and snapshot)
 - Join us at [NCSL's 2023 Base Camp: Evictions on the Rise: What's a State to Do?](#)
 - Coming in 2024: webinar on **Minor Guardianship**



Brief:

Opportunities for State Legislators To Improve Civil Court Processes

- State courts hear **98% of all civil matters** (~20 million cases per year).
- **Wide range** of disputes.
- **No right to counsel** in civil courts.
- **State legislatures have the authority** to improve state civil court proceedings via statute.
- Families are affected **before, during and after** civil court involvement.

- Minor guardianship is a **complex topic with many possible causes.**
- States often address **eight procedural elements** of minor guardianship in statute.
- Legislatures have **options** for improvement:
 1. Simplify, clarify and define.
 2. Offer “off-ramps” and alternative processes.
 3. Provide access to counsel and other supports.
 4. Consider child well-being and family-friendly terminations.

Report:

State Legislatures’ Role in Improving Minor Guardianship Proceedings



Report:

State Legislatures' Role in Improving Eviction Proceedings



- Eviction proceedings often are **complex, imbalanced and difficult to navigate.**
- Eviction proceedings are primarily **governed by statute.**
- Issue of **complexity.**
- Legislatures have **options** for improvement:
 1. Statutory rights and protections.
 2. Policy “off-ramps.”
 3. Access to counsel.
 4. Address long-term effects.

- **5 Things to Know** About State Civil Courts
- **5 Opportunities** For Legislators to Improve State Civil Courts for Families:
 1. Simplify, clarify and define.
 2. Provide access to counsel.
 3. Mitigate negative effects before, during and after.
 4. Improve data collection, sharing and analysis.
 5. Build productive relationships.

Policy Snapshot:

Family-Friendly Courts: Facts and Legislative Opportunities

Before, During and After Court Involvement

Considerations for policy opportunities to improve family experiences

Before

Consider:

- What policies shape whether a family becomes involved with a civil court process?
- Are alternatives to court proceedings established in policy?

During

Consider:

- Can processes be streamlined to minimize potential harms?
- What supports do families need while involved with courts?

After

Consider:

- How are court records handled and accessed?
- What ongoing requirements or oversight are necessary after a court case ends?



Dependency and Neglect Court Proceedings

Policy Considerations

Before

- Mandatory reporting
- Definitions of maltreatment
- Report screening and investigation practices
- Services and supports available to families
- Alternative response options

During

- Removal criteria
- Hearing timing and notice
- Interim court orders
- Concurrent court proceedings
- Permanency decisions

After

- Access to records
- Family and sibling visitation requirements
- Services and supports for children and families
- Long-term status reporting



Current Programs and Initiatives

Examples from the field

- **Office of Juvenile Justice and Delinquency Prevention** – [Toolkit for Court Performance Measures in Child Abuse and Neglect Cases](#)
- **Zero to Three** – [Infant-Toddler Court Program National Resource Center](#) and the [Safe Babies Court Team Approach](#)
- **Children’s Bureau** – [Court Improvement Program](#) funding
- **National Center for State Courts** – [Family-Centered Justice](#) approach
- **State of Colorado** – [Dependency and Neglect System Reform](#)
 - Federally funded cross-system collaboration between the Colorado Judicial Branch, Colorado Department of Human Services, Colorado Office of Respondent Parents’ Counsel and the Colorado Office of the Child’s Representative.



State Examples

[AZ S 1069](#) (2022) allows individuals who have a direct interest in the case, including invited guests of the adoptive family, to attend hearings.

[CO H 1245](#) (2022) makes clarifications to the foster youth in transition program, including clarifications about the role of the court.

[AR H 1153](#) (2023) allows courts to consider a juvenile's preferences regarding placement and family time if the juvenile is of a sufficient age and capacity to reason.



Simplify, Clarify and Define



State Examples

NV A 148 (2023) creates a procedure for the appointment of guardians ad litem to represent the best interests of a parent during a child welfare proceeding.

IA H 113 (2023) extends a pilot project meant to implement innovative models of legal representation to assist families involved in the child welfare system.

GA H 460 (2023) extends the right of counsel to any child who receives extended care youth services from the Division of Family & Children Services.



Provide Access to Counsel



State Examples

GA S 133 (2023) requires courts to consider what services, including alternative sources of placement, have been provided to the child and their family before removal.

MT H 513 (2023) requires the harm of removal in child abuse and neglect cases to be considered, requires child protection specialists to receive training in trauma related to removals.

UT S 163 (2023) establishes rights of parents and children to ongoing contact during out-of-home placement with considerations to reducing trauma.



Mitigate Negative Effects on Families



State Examples

[FL H 7065](#) (2022) requires the Department of Children and Families and the Department of Juvenile Justice to provide data about children who are dually involved with both systems of care.

[CT H 5332](#) (2018) establishes a standardized data reporting system to support the collection of data regarding the race and ethnicity of families referred to the department at key decision points, including referral, substantiation, removal and placement.



Improve Data Collection and Analysis

State Examples

[IL H 85](#) (2023) urges courts in Cook County to recommend legislation to address the disparate outcomes children in the county experience in the foster care system.

[AZ H 2213](#) (2023) requires the Department of Economic Security to give courts access to case management systems to assist foster care review boards.

[MT S 182](#) (2023) established the Task Force on the Dependency and Neglect Court System to study dependency and neglect court proceedings.



Build Productive Relationships



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