

HOW TO
**REPRESENT
YOURSELF**
IN FAMILY COURT



🏠 2800 N. Central Ave., Suite 1570 • Phoenix, AZ 85004
☎ (602) 279-2900 • 1(800) 782-6400 • TTD/TTY: (602) 279-7270
✉ info@acesdv.org www.acesdv.org



✉ info@acesdv.org www.acesdv.org

The Arizona Coalition Against Domestic Violence was formed in 1980 so that concerned citizens and professionals could unite in a statewide organization to end domestic violence. In 2013, the coalition became the designated dual coalition to address both sexual and domestic violence thus becoming the Arizona Coalition to End Sexual and Domestic Violence.

Much gratitude is expressed to the Legal Committee for their expertise and hard work in creating the first edition of this booklet as well as this most recent, updated edition.

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To **lead**, to **advocate**,
to **educate**, to **collaborate**,
to **prevent and end sexual**
and **domestic violence**
in Arizona.

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INTRODUCTION

This booklet is intended to guide you through the basic steps of what you will need in order to represent yourself in family court. Because domestic violence survivors face unique challenges in family court, this booklet will also address key issues in cases involving domestic violence.

Domestic violence includes physical violence (such as hitting, slapping, pushing, or kicking) AND/OR threats of physical violence against you AND/OR excessively controlling behavior. The use or threat of violence and intimidation against your children is also domestic violence. The legal definition of domestic violence used by the family court may be more limited, so you should consult with an attorney about the evidence necessary to prove such a claim.

Although not intended to take the place of legal advice by an attorney, this booklet will provide you with information about how to prepare for and present your case in court.

For additional information and resources please contact the Arizona Coalition To End Sexual & Domestic Violence Legal Advocacy Hotline at ☎ 1-800-782-6400.

This booklet contains a lot of information! You may find it overwhelming at first glance.

IMPORTANT Remember that preparing for court is a step-by-step process, so take things one step at a time.

 (800)
782-6400

OVERVIEW OF FAMILY COURT

The Superior Court of Arizona, a statewide trial court, has locations in each county. The superior court has jurisdiction over proceedings related to dissolution of marriage (“divorce”), legal decision-making (previously known as custody), parenting time (previously known as visitation), paternity and child support. The superior court hears all family law matters, and in larger counties, the superior court’s family division (often referred to as family court) hears family law cases.

In family law cases, the party who files the initial petition is called the Petitioner, and the other party is referred to as the Respondent.

For all family law cases involving minor children, the primary issues to be resolved are:
legal decision-making, parenting time, and child support.

In dissolution of marriage cases, additional key issues to be settled include: equitable division of community property, responsibility for community debts, and if appropriate, spousal maintenance (previously known as alimony).

Note that Arizona is a “no-fault divorce” state. That means that the spouses do not have to prove blame or responsibility to end the marriage. Under Arizona law, the only question for the court is whether the marriage is “irretrievably broken,” meaning there is no reasonable chance that the spouses want to keep the marriage together. Therefore, issues such as adultery are irrelevant in dissolution of marriage cases.

Any issues that parties are unable to resolve will be decided at a trial (sometimes referred to as a hearing or evidentiary hearing). Keep in mind that for any family law case involving minor children, domestic violence and substance abuse are relevant factors, and a judge must take them into consideration when deciding legal decision-making and parenting time.

- Sometimes the court system and process can be confusing. As a result, you may want to consider retaining an attorney to help you navigate the legal process. If you cannot afford an attorney, you may want to consult with a legal services organization. While many legal services organizations may assist you with preparing paperwork, they may be unable to represent you during formal court proceedings. Legal assistance resources can be found in the Appendices at the end of this booklet.
- Family court staff can assist you with certain aspects of your case, but there are other things they cannot do for you. Namely, court staff cannot give legal advice, provide an opinion about the outcome of your case, recommend an attorney, talk to a judge about your case, or change an order issued by a judge. However, court staff may answer questions about how the court process works, explain the requirements to have your case considered, and answer questions about court deadlines.
- If the other party is represented by an attorney, that attorney is the party’s official legal representative. You should communicate with the attorney’s office about issues in the court case, rather than directly with the other party. This is especially important to remember if there is an Order of Protection in place. If the other party is not represented by an attorney, and there is an Order of Protection in place, your contact with the other party should be limited to the contact provided for in the Order of Protection.
- You will be responsible for all your paperwork. Make sure you keep copies of any orders, written agreements, judgments, and other important papers related to your case.

**KEEP
IN
MIND**

HOW TO PLAN FOR TRIAL

PRELIMINARY STEPS

Consider the following factors prior to appearing in court:

- **Read** all court orders and minute entries very carefully. These documents often contain important deadlines and instructions that you **MUST** obey if you want the court to hear your side of the case.
- **Think** about the information you want to present to the judge. First, and most importantly, what do you want the judge to order? Then, what kind of information will help the judge understand your position? And if there has been domestic violence, what can you use to show that to the court? Finally, what do you believe you and the other party have already agreed to (or can agree to)? Remember, the judge only knows what you present to the court.

Write down:

- **What you want the court to order** for each key issue (such as legal decision-making, parenting time, support, and/or division of property and debt). Be specific. For example, don't just say the other party can have "reasonable parenting time." Spell out the schedule you would like to propose, including days, times, child exchange locations, transportation arrangements, and holiday/summer schedules.
- **Information that will enable the judge to understand your positions.** What specific facts could help persuade the judge? Could you testify about any of these facts? Are there any witnesses or documents that could help prove them? It may be useful to create a detailed list of what has happened (circumstances, events, important issues, etc). Include relevant facts such as names, dates, times, descriptions of specific events and circumstances, whether there are police reports, etc.
- **An outline of the evidence you want to present to the judge.** Once you have decided what you want the court to order **and why**, and what witnesses or documents best support your reasons, create an outline of the order in which you will present your evidence and what fact each piece of evidence will help prove.

An example of an outline might look like:

1. Sole legal decision-making – because the other party is abusive
 - a. Your testimony about times the other party has abused you
 - b. Police reports of domestic violence incidents involving the other party
 - c. Threatening emails the other party wrote to you
2. Supervised parenting time – because the other party has a history of drug abuse
 - a. Certified court records of drug charges against the other party
 - b. Your neighbor's testimony about when he observed the other party using drugs outside your house
 - c. A teacher's testimony that the child is always unkempt and hungry when the other party drops the child off

3. Equal division of credit card debt
 - a. Your testimony about how the debt was acquired during the marriage
 - b. Current credit card statements
- **Any issues you have resolved or will likely settle.** The judge will only hear and decide matters relating to the issues you are unable to settle with the other party. So, for example, if both of you can agree on how to divide your property, write down those details and be prepared to present that information for the court's formal approval. This will allow you to focus on areas of disagreement at trial.

PREPARING YOUR CASE

Now that you have decided what you want the court to order and what information will help the judge best understand your positions, you must prepare your evidence.

Evidence is the factual information offered to prove or disprove an issue in a case. There are two primary forms of evidence: (1) witness testimony and (2) exhibits.

(1) WITNESS TESTIMONY

The most common form of evidence is witness testimony. A witness can be any person (including you) who saw or heard something important to your case. .

Your testimony should present key facts, about which you have personal knowledge, that help to prove your positions. It is your chance to tell the judge your story.

If you think another person can present information that would support your testimony, or that you would be unable to present on your own, you may ask the person to appear as a witness in court. (Note that a handwritten note from a person is not a substitute for a witness, even if the note is notarized. Under limited circumstances, the judge may accept a notarized affidavit, but remember that nothing takes the place of a witness telling the judge in his or her own words what the witness has seen or heard.)

Under Arizona law, a witness fee of \$12.00 must be offered to each witness who appears at your hearing, plus mileage one way to the courthouse. However, witnesses will not usually require payment of this fee.

When making decisions about witness testimony, think about the following:

- **Who would make a good witness for your case?**

A witness must have seen or observed something important to the case. The best witness is someone who is cooperative enough that you can trust to tell the truth, but not so close that the judge could quickly conclude that the witness is lying out of loyalty to you (for example, your parent or new romantic partner). Good witnesses may include neighbors, coworkers, employers, teachers, police officers, doctors/counselors, and casual acquaintances who know both parties.

It is almost *never* a good idea to have your child testify. The judge will rarely allow it, and any indication that you have involved your child in the case will almost certainly cause the judge to view you in a negative light. However, if you would like to have a witness under the age of 18 testify, you must first get the judge's permission by filing a written request. Depending on where your case is being heard, there may be a way for the court to consider your child's point of view. You should consult with an attorney who practices law in your county if you want to explore the possibility.

Generally, you do not want all of your witnesses to testify about the same thing. One or two witnesses for each issue should be sufficient, especially because your time will be limited.

You should contact potential witnesses well in advance and ask whether they are willing to appear in court. Usually you do not want to call a witness who does not want to testify. However, some witnesses may be willing to appear but need a subpoena to obtain time off from work.

- **How can you subpoena a witness?**

A subpoena is a document issued by the Clerk of the Court ordering a witness to appear. Failure to comply with the order could result in contempt of court.

Normally, there is a fee for the issuance of a subpoena. However, you can check with the Clerk of the Court to see if you financially qualify for a waiver.

Once a subpoena is obtained, it must be served on the witness personally (that is, it cannot be mailed or left on a doorstep.) Any person over the age of 18 who is not a party in the case may serve the subpoena on the witness. After the witness is served, you must file a notarized affidavit of service showing the date, place and time of service, as well as who served the subpoena. A hand-written note is insufficient to establish service.

- **How should you prepare for each witness?**

Before your court date, make sure you list the following information for each witness (yours and the other party's, if known):

- What issues can the witness testify to?
- What brief questions do you want to ask the witness?
- What do you expect the answers to be?

Write down the questions you will ask each witness. Be sure you know the answers your witnesses are going to give. You should also try to meet with your witnesses beforehand to go over their testimony, because you need to know what they will say.

Examples of witness examination questions can be found in *Presenting Your Case at Trial* on Page 12.

(2) EXHIBITS

Evidence can also be in the form of exhibits. Exhibits can include documents, public or business records (from police departments, hospitals, banks, etc.), objects, recordings and photographs that contain information relevant to the issue you are trying to prove/disprove. If you intend to use a recording, it helps to give the other party and judge a word-for-word, written transcription that will allow them to read along while you play it.

Think about these questions when deciding on your exhibit evidence:

- **What would make a good exhibit?**

You want to use exhibits that will best help you prove your case to the judge. That is, you should select only those documents, records, photos, etc. that directly support your positions on key issues. For example, if there has been a history of domestic violence, some possible exhibits could include: police reports, medical records, copies of threatening messages – such as emails, texts, letters voice mail

and photos of injuries. The more clearly an exhibit supports your position, the more it will help.

It may be beneficial to refer back to the notes you made when you were first thinking about what information would enable the judge to understand your side of the story (see **PRELIMINARY STEPS** on Page 6). Just remember, you will have limited time at trial so choose your sampling of exhibits wisely.

In order to be fair to both parties, the court will often refuse exhibits created by people who do not attend the hearing. This is especially true of letters (whether notarized or not!) written by family members and friends. However, unless the court has made special rules for your trial, it will normally allow documents such as police reports, or medical, counseling and school records.

- **How can you get exhibits you don't currently possess?**

Some exhibits – such as your child's school records, police reports, and yours or your child's medical records – can be readily obtained by requesting them, although a signed release may be necessary.

However, other exhibits may only be obtained with a subpoena. A subpoena is a court order requiring the production of documents, records or objects. Because only certain items can be subpoenaed, it is in your best interest to consult with an attorney prior to seeking one.

- **How should you prepare for the presentation of your exhibits?**

Organize your exhibits into a sequence that makes sense. This will help you to easily find them when presenting your case in court. For each exhibit, be ready to explain to the judge what it is, and why it helps your case.

For example, don't assume the judge will know that most of your child's absences occurred during the other party's parenting time, just from looking at a school attendance record. You need to tell the judge what each exhibit shows.

The court will normally ask you to submit your exhibits at least one week before the evidentiary hearing. This involves delivering them directly to the judicial assistant at the judge's chambers. You must also provide a copy of those same exhibits to the other party at the same time. And don't forget to keep a copy for yourself. Also, some judges like to have a courtesy copy, so be prepared to offer an additional set of exhibits at the hearing. Always review the court's minute entry or scheduling order to make sure you comply with any special instructions or earlier deadlines.

SPECIAL NOTE

You may notice that the court occasionally refers to "disclosure" in its scheduling order. Don't confuse "disclosure" with "exhibits." Disclosure refers to all the information and items exchanged between the parties that may be used at trial. Usually, this is done earlier in the process, at least 30 days before trial. "Exhibits" however, are items that either party *will* use at trial. So, ideally, if you previously provided disclosure, then your final exhibits will be copies of items you already gave to the other party.

THE DAY BEFORE YOUR COURT APPEARANCE

Check to make sure you have all the documents that have been filed or received to date. Arrange your documents in order by the date or in a sequence that makes sense to you. This way you can easily find any document you may need at the hearing.

Make daycare arrangements for your children. **Do not bring children to court with you.** Your witnesses should also make daycare arrangements for their children.

Be sure you have directions and information about parking, and allow yourself plenty of time to get to the courthouse.

- You will have time limits and may not be able to present everything you want. Your preparation should focus on the issues that are most important to you.
- Prepare a written outline to follow as you go through the hearing. List the issues in order of importance, with the most important issues first, since you may run out of time.
- Remember, the judge can only consider what you make him or her aware of. For example, if you want the judge to know that the other party has committed domestic violence, you must present that information – which could include testimony, relevant police reports and medical records – as part of your case. If you leave out important testimony (regardless of your reason), the judge may not let you raise the issue later.
- Do not rely on “legal” advice given to you by friends, family, neighbors, police officers, or other non-attorneys. You should only follow legal advice from an attorney who is licensed to practice law in Arizona.

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COURTROOM ETIQUETTE

It is important to be well groomed (for example: clean and neatly-combed/brushed hair) and dressed in a professional manner (for example: collared shirts, suits, dresses with sleeves, nice slacks, etc) for your trial. This shows respect to the judge. It is inappropriate to wear bathing suits, see-through tops, unbuttoned or unzipped clothing, spandex, shorts, tank tops, dirty clothing, t-shirts, message clothing or hats.

Arrive at least 30 minutes early and check in with the clerk or judicial assistant. Notify the clerk or assistant if you have to step outside or use the restroom. Often, there are many cases set at the same time and the clerk may call the cases in any order.

Turn off all cell phones and other electronic devices once you enter the courtroom. Avoid making calls or sending text messages.

You should also avoid raising your voice and behaving disrespectfully (for example: chewing gum, using foul language, etc.).

Only address the judge when you are told it is your turn. **Never** interrupt the judge. Stand when you speak to the judge, unless he or she tells you otherwise, and address the judge as “Your Honor.”

Use caution with taking significant others (such as partners, boyfriends, or fiancés) to hearings. They might not help your case, and could raise tension in the courtroom.

**KEEP
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WHAT TO EXPECT IN THE COURTROOM

BEFORE THE HEARING STARTS

If you do not fear for your physical safety, be prepared to discuss possible agreements with the other party or his/her attorney while waiting.

IF YOU DO FEAR FOR YOUR PHYSICAL SAFETY:

- Notify the clerk when you arrive and request a separate waiting area.
- You do not have to give your physical address, if you have a protected address. (See the court clerk to apply to have your address protected.) Keep in mind:
 - If you have an order of protection against the other party and he or she does not know where you live, ask the court staff not to release your physical address to the other party. Instead, you can give a mailing address such as a post office box or relative's address.
 - If you are staying at a domestic violence shelter, you should not release the address of the shelter. (You may ask the shelter's advocate to accompany you to court.)
 - If anyone in the courtroom, including the judge asks you to state your physical address, remind the court that doing so presents a safety issue for you. Therefore, you cannot answer the question.
- You can ask the court staff if a sheriff's deputy can be in the courtroom during the hearing or can escort you out of court when the hearing is over.

The judge may instruct you and the other party to go outside and try to work out areas of disagreement, but this does not apply in domestic violence cases, and you should tell the judge that you are a victim of domestic violence at that time. However, even in domestic violence cases, if an attorney represents the other party, the judge may still expect you to discuss the issues with the other party's attorney.

SEATING / COURT STAFF

You should sit at the table where court staff directs you. Attorneys sit with their clients. In addition, there will be a court clerk (bailiff) and possibly a court reporter present. With a few exceptions, hearings are usually open to the public, so there may be other people in the courtroom watching the proceedings. Witnesses may be asked to wait outside the courtroom until it is time for them to testify.

PROCEDURE

- The parties will be sworn in.
- Petitioner will present evidence by testifying, calling witnesses and submitting exhibits.
- Respondent may cross-examine the petitioner's witnesses.
- Petitioner can then ask the witnesses clarifying questions about issues raised during cross examination (referred to as "redirect").
- Respondent will then present evidence by testifying, calling witnesses and submitting exhibits.
- Petitioner may cross-examine the respondent's witnesses.

- Respondent can then ask the witnesses clarifying questions about issues raised during cross examination (referred to as “redirect”).
- Petitioner may have a final response.
- Closing statements may be allowed for each party. If this happens, just be ready to recap your most important points.

JUDGE

The judge cannot give either party legal advice.

Be aware that the judge will likely proceed with the trial, even if you are not prepared. However, it is possible that the judge could reschedule it if, for example, one or both parties have not complied with court rules or state law. Normally, however, if you want to postpone any hearing, you must ask (in writing) well before the original date.

It is important to remember the judge will make the final decision and therefore may direct specific questions to the parties and witnesses. The judge may also provide you with additional opportunities to explain if he or she has questions or would like clarification. Remember, it is okay to ask for a chance to speak, present the issues that are important to you, or disagree with the other party. But you should *never* interrupt the judge.

Keep in mind that trials are governed by complex rules of evidence that determine what kind of information the judge is allowed to consider. If the judge does not allow certain evidence that you want to introduce, it may be that the judge is unable to consider the evidence under the rules that apply to family law cases. You shouldn’t take it personally. The judge is just following the law.

After both parties have presented their cases, the judge may not give a decision right away. In fact, a judge can take up to 60 days to mail a written ruling. For this reason, always make sure the clerk has your current address.

PRESENTING YOUR CASE AT TRIAL

Most judges prefer that parties address one another by name instead of “Petitioner” or “Respondent.” Be sure to speak clearly and loudly enough to be heard. Court proceedings are recorded either on tape or by a court reporter. And remember to set aside enough time to give your own testimony, introduce exhibits, *and* question any witnesses.

PRESENTATION OF EVIDENCE

Evidence in a trial consists of both witness testimony and exhibits. The Petitioner will usually give evidence first, but each party will get a chance to present his or her case.

(1) WITNESS TESTIMONY

Generally, you will begin your case by presenting your testimony, exhibits and your own witnesses. The other party will probably present evidence, too. The judge will give you a chance to question (cross-examine) the other party and any of his or her witnesses.

Your Testimony

The most important thing to remember during your testimony is to be completely honest about every issue. Organize and outline your points in writing well in advance of the trial, so even if you are nervous, you will remember what to say.

When the other party cross-examines you, do not argue. If you are asked to admit something that is not true, simply deny it. Try not to become emotional, and answer questions as completely and honestly as possible. If you do not believe you should have to answer a particular question, you may tell the judge that you object and why. However, if the judge instructs you to answer the question, then you must.

Testimony from Witnesses

The initial questioning of your own witness is called direct examination. Questioning the other party's witness is referred to as cross-examination. If the other party brings out damaging or misleading testimony during cross-examination of your witness, you will have the opportunity to question your witness again once the other party finishes. This type of questioning is referred to as redirect. Redirect gives you the chance to have your witness clarify or explain negative information that came up in the cross examination.

If you do not get the answer you are expecting from a witness, do not argue with him or her, or accuse the witness of lying. If the witness refuses to answer your question, you may ask the judge to make that person answer. The judge will decide if the witness must answer. Keep in mind, questioning witnesses is not the time for your testimony.

Remember that the proceedings will likely be recorded. So if a witness says "uh huh" or "nah," you should clarify that the witness is saying "yes" or "no."

Examples of Direct and Cross Examination Questions

The types of questions you may ask the witness differ according to what kind of examination it is.

In a direct examination, you should ask your witness open-ended questions. That is, you should allow your witness to tell what she knows, and not put words in her mouth. However, in cross-examination you **should** use "leading" questions that are intended to require the witness to admit or deny something with a simple "yes" or "no." Keep in mind that leading questions are generally not allowed during the direct examination of your own witness.

The following is an example of "Mary" questioning a witness, "Sue," the babysitter. The sample questions in the left-hand column represent proper ways to phrase direct examination questions, whereas those in the right-hand column illustrate how you can obtain the same type of information through cross examination.

**Correct For
Direct Examination
(Examples)**

**Permitted For Cross Examination,
BUT NOT ALLOWED For Direct
Examination (Examples)**

<p>Q: State your name and address please. A: Susan M. Jones, 1234 First St. Phoenix, Arizona.</p>	<p>Q: Do you live in Phoenix, Sue? A: Yes.</p>
<p>Q: Where are you presently employed? A: I provide daycare services through my home.</p>	<p>Q: Do you baby-sit out of your home? A: Yes.</p>
<p>Q: Do you have any special training to care for children? A: I have taken some child care classes through the college. I've been doing day care for 15 years and I raised six kids of my own.</p>	<p>Q: Is it true you've provided day care for 15 years and raised 6 kids? A: Yes.</p>
<p>Q: How long have you provided day care for my two children, John and Jackie? A: Three years.</p>	<p>Q: Have you been watching my two children, John and Jackie, for three years? A: Yes.</p>
<p>Q: Who usually drops the children off and picks them up? A: You do.</p>	<p>Q: Do I usually have to drop the kids off and pick them up? A: Yes.</p>
<p>Q: Has their father, Joe Smith, ever dropped the children off or picked them up? A: Yes, he's dropped them off and picked them up a couple of times, maybe three or four times.</p>	<p>Q: Isn't it true that their father, Joe Smith, has rarely provided them transportation to and from your house during these past three years? A: Yes, it is.</p>
<p>Q: Have you ever seen Joe drunk? A: Yes, once when he dropped them off, I smelled alcohol and he was staggering.</p> <p>Q: Did you make any other observations about Mr. Smith at that time? A: He couldn't seem to keep his balance. I remember noticing this especially because it was only 10:00 in the morning.</p>	<p>Q: Isn't it true that you once observed Joe drunk and staggering when he came to pick the children up? A: Yes.</p>
<p>Q: Was there an incident involving your mailbox? A: The last time he dropped them off, he hit my mailbox with his car, and that was when I told you that I didn't want him here anymore.</p>	<p>Q: Did he smash your mailbox to pieces with his car? A: Yes.</p>
<p>Q: How were the children when Joe would drop them off? A: They would be very quiet for a long time. They would also be hungry and not very clean. Their hair wasn't brushed or combed.</p>	<p>Q: Did the children complain about being hungry and dirty when Joe dropped them off? A: Yes.</p>
<p>Q: How are the children when I bring them to your house? A: They are always clean, fed and more importantly, they are happy. They come in and play with other children. There is a noticeable difference.</p>	<p>Q: Are they clean, fed and much happier when I drop them off? A: Yes.</p>

<p align="center">Correct For Direct Examination (Examples)</p>	<p align="center">Permitted For Cross Examination, <u>BUT NOT ALLOWED</u> For Direct Examination (Examples)</p>
<p>Q: How did the children act when their father picked them up from daycare? A: They didn't seem anxious to go with him, but he would yell at them to hurry up and get in the car or they'd be sorry. They would put their heads down and slowly go to the door to leave with him. They seemed scared of him.</p>	<p>Q: Did Joe yell at the children when he picked them up? A: Yes. Q: Did the children seem scared to go with him? A: Yes.</p>
<p>Q: Based on your observations of my interaction with the children, how would you characterize our relationship? A: You seem to be very loving and kind to the children. You seem patient with them, and they genuinely seem comfortable with you.</p>	<p>Q: Isn't it true that the children are always happy to see me? A: Yes.</p>
<p>Q: Based on your observations of Joe's interaction with the children, how would you characterize their relationship? A: Like I said, they seemed scared of him.</p>	<p>Q: So, would you agree that the kids always seem scared of Joe whenever he's around? A: Yes.</p>
<p>Thank you, I have no further questions.</p>	<p>Thank you, I have no further questions.</p>

(2) EXHIBITS

Exhibits are the other type of evidence you will present during your case.

It is important to remember that the judge will only look at exhibits that you introduce during trial. Simply dropping them off at the judge's chambers before the hearing does not mean he or she will automatically allow them at trial.

You have to introduce an exhibit during the testimony of a witness, including you, the other party or someone else. The person testifying should be able to speak about the exhibit and explain its relevance. For instance, if you are testifying about incidents of domestic violence, that would be the time to introduce exhibits that help prove the abuse. Some examples include:

- a hospital record while discussing medical treatment received for an injury
- police reports while describing the incident for which police were called
- threatening emails or text messages from the other party while talking about fears for your safety
- photos of injuries inflicted by your abuser while telling the court about that person's violent actions.

In another instance, if you are questioning the other party's former employer, that would be a good time to introduce exhibits relating to the other party's income, retirement benefits or health insurance.

In order to introduce an exhibit, you should:

- Identify it by number. (The judge’s assistant will have numbered – or “marked” – the exhibits that you and the other party submitted to the judge before trial. Follow the numbering assigned by the court when referring to exhibits, even if your numbering is different.)
- Tell the court what the exhibit is or what it shows, and how you know that information. If you want to introduce the exhibit through a witness, ask him or her questions to get that information.
- Then ask the judge to admit the exhibit (for example: “Your Honor, I move to admit Exhibit 1”).
- The other party will be asked if he or she objects to the exhibit being admitted and why.
- The judge will rule on whether or not to admit the exhibit into evidence.

If the exhibit is admitted, you may have the witness discuss it during his or her testimony. However, if the judge does not admit the exhibit, you may still continue your examination of the witness but you may not refer to the excluded exhibit in your questioning.

- Avoid emotional outbursts during the presentation of your case. Control your emotions as much as possible.
- If you have an objection to a witness, question, or exhibit, you may stand up and say “objection” and tell the judge why you object to the evidence. You may not object simply because the other party is lying or exaggerating. (Instead, take note of these issues and address them either in cross-examination or when it is your turn to testify.)

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Common objections include:

- Relevance: Evidence is relevant only if it directly helps to prove or disprove an important fact in the case.
- Hearsay: Testimony can be hearsay if a witness relates information he/she heard from another person, rather than something he/she knows based on personal observation. For example, “The neighbor told me he saw John hit her” would be hearsay, whereas “I saw John hit her” would not be. However there are exceptions to the rule against hearsay, namely statements made by the other party. Thus, under that exception, “The neighbor told me [the other party] said he was going to kill her” would be allowed because the witness is testifying about something the other party said.
- Foundation: Evidence lacks foundation if it is not properly identified or connected to testimony.

MOST Consult with an attorney if you have any questions regarding your case. Any actions you take on your own may be difficult or impossible to change after the fact.
IMPORTANTLY

HELPFUL TIPS FROM A FAMILY LAW ATTORNEY

These are helpful hints that don't necessarily appear in a statute book or court order, but involve issues that often cause serious problems in a family law case.

- 10. Respect your own protective order.** Be consistent. If you want a domestic violence protective order, apply for it and report violations when they occur. If you don't enforce the order, the judge may think that you don't take it seriously, and that can badly damage your credibility in court.
- 9. Be honest about the domestic violence.** Exaggerating, minimizing or concealing your experience will eventually cause you trouble. Tell the total truth about your experience – no more, no less. Even if people disbelieve you, at least you will know that you did your best.
- 8. Be smart and selective about your evidence.** You have limited time at trial. Pick your *best* 2-3 witnesses, and your *best* (small) selection of exhibits. Most importantly, focus your attention on issues that matter, such as your children's unique personal needs, family violence, serious neglect, drug or alcohol addiction, mental health, criminal behavior, or other considerations listed at ARIZ. REV. STAT. § 25-403(A). Don't waste it on things the judge doesn't want to hear, like who cheated on whom, and who cooks better meals!
- 7. Answer the judge's question!** People ignore this rule all the time. This is usually because they want to use the court's question to supply a whole lot of other (unrelated) information about the other party. Don't do that. Just *answer the question*.
- 6. Avoid emotional eruptions.** This is not television. While the judge may understand strong emotions to an extent, she will quickly lose patience if you resort to sarcasm or crying every time you are asked to speak, and she will have no patience whatsoever with your legal papers if they are chock full of angry outbursts in CAPITAL LETTERS ... or excessive underlining ... or **bold typeface** ... or loads of exclamation points(!), or **ALL OF THE ABOVE!!!!!!** And show the same restraint when you communicate with the opposing party. Never forget that *anything* you write or say could be used against you in court.
- 5. Leave your kids out of the conflict.** Nothing will get you into real trouble with the judge faster than a discovery that you have been discussing your family law case with the children. Don't take the children to court-related appointments and hearings, do not discuss your legal concerns in a place where they can overhear you, and – above all else – do *not* discuss the case with them.
- 4. Start calling them “our children.”** Many women are taught from childhood that mothers are the “real” caregivers for their children. Unfortunately, that message evaporates in family court. The judge cannot legally favor you just because “you’re the mom.” Learn to say “our children.” Judges are extremely sensitive to this issue. Don't damage your own credibility because you have already privately decided that your former partner will no longer play any role in the children's lives. It is not your decision!

3. Stay on top of your case. Many domestic violence survivors really struggle to focus on their family law cases because of past trauma. Some ignore letters and phone calls from their abuser's lawyers, while others perhaps don't read the judge's orders carefully or allow enough time to prepare for trial. This is called avoidance, and it will *ruin* your case. Hiding won't help. You must politely and efficiently answer communications from an opposing attorney, obey the judge's instructions, meet all of the required deadlines, and appear in court when directed.

2. Try not to panic. Panic hinders your ability to think clearly and affects your memory. It can also distract your attention from what people (such as the judge) are saying to you. But you can overcome panic in a couple of ways. First, be organized. Keep a "to do" list (e.g. witnesses and exhibits), and a daily journal of deadlines and events that occur in your case. Outline the questions you intend to ask of witnesses when they appear in court, or the points you would like to make. These preparations will not guarantee "ultimate victory." But you will feel a lot smarter and more confident when you finally appear in court.

Second, keep some perspective. Of course, your case is important, and you should take it seriously. But the outcome will not cement your existence. Your children will grow up. If you try your best, and if you keep treating them with kindness and care, they will not forget it.

1. Trust yourself. If you are like many DV survivors, your abuser probably spent a lot of time telling you that you are not clever or resourceful enough to make it on your own. He is wrong. But it will take time for you to believe that. So be patient with yourself. Stop thinking "I can't do this by myself!" That's your abuser talking, and it's not even true. If you are reading this manual, you have already begun to understand that you may have to depend on yourself more than anyone else. Your confidence will only grow.

APPENDICES/ DEFINITIONS

Arrearage/Arrears: The total amount of unpaid support owed, including child support, past support, spousal maintenance and interest.

Child Support: An amount of money that a parent must pay to another parent to contribute to the living, medical and educational expenses of a child.

Closing Statement: The final statements by the parties to the judge summarizing the evidence that they think they have established and the evidence that they think the other party has failed to establish.

Clerk of the Court: The court clerk is responsible for filing exhibits, keeping brief summaries of what transpires during the hearings and sending out these hearing minutes to the parties.

Community Property: Property acquired during the marriage, except by gift and/or inheritance.

Court Reporter: The court reporter keeps a word record of the proceedings. A party can request that the reporter prepare a transcript of the proceedings, but it can be very expensive.

Cross-Examine: To question the other party's witness after he/she has been questioned by the party who called him/her. When cross-examining a witness, a party is allowed to ask more leading questions than during direct examination.

Decree: Final document dissolving the marriage and ordering how property and debts will be divided, spousal maintenance awarded, child support awarded, legal decision making and parenting time rights.

Direct Examination: The initial questioning of witness by the party who called the witness.

Disclosure: The pretrial process through which the parties exchange the evidence and witness testimony they may use at trial.

Equitable Division: This term explains how the court divides property that a married couple acquired after their wedding date, but before service of the divorce petition. "Equitable" *usually* means "equal" – or 50/50, but that can change if the court discovers that one party has hidden, damaged, destroyed or given away valuable property that belonged to the couple.

Evidence: Proof presented in court through witness testimony, exhibits, records, objects or written documents regarding the facts in the case.

Exhibit: A document or object that is offered into evidence during a trial or hearing.

Hearing: A proceeding scheduled by the court at a particular date and time that may include presentation of evidence by the parties.

Legal Decision-Making: This is a new phrase adopted by the 2012 Arizona Legislature to replace “legal custody.” Unless the court has made other arrangements, parents who are granted legal decision-making decide major life issues for their child, such as education, counseling and medical treatment. The court may award either joint or sole legal decision-making.

Minute Entry: An official record summarizing specific events of a court proceeding. Created by the courtroom clerk. Includes future court dates, findings and rulings on cases. Distributed to attorneys and/or parties, and the original is filed and placed in the court file.

Order of Assignment: also known as an Income Withholding Order. An order directing an employer or other payor of funds to withhold a monthly amount from the income of the person obligated to pay child support, spousal maintenance, child support and spousal maintenance arrearage, and/or interest.

Parenting Plan: A written document containing an agreement between parents that indicates how a child will be raised and cared for after the parents separate or divorce. A written parenting plan is required whenever parents ask the court to order joint custody.

Parenting Time: Means the condition under which a parent has the right to periodically have a child physically placed with the parent and the right and responsibility to make, during those placement periods, routine daily decisions regarding the child’s care, consistent with the major decisions made by the person having legal decision making authority; also called parent-child access. “Parenting Time” replaces the term “visitation” in all Arizona family statutes except for grandparent visitation.

Petitioner/Plaintiff: This is the party who files the action/petition. In family court, the filing party is called the Petitioner. In civil actions the person is called the Plaintiff.

Pro per (pro se): A person who is not represented by an attorney.

Record: This consists of all pleadings, motions and documents filed with the court, together with everything entered into evidence, and transcripts and recordings of the court proceedings.

Re-Direct: The questioning of a witness by a party after the other party has cross-examined him/her. Usually the purpose is to try to clarify or reverse any damaging or misleading testimony that was brought out on cross-examination.

Respondent/Defendant: This is the party (spouse and/or other parent) who did not file the petition. It is the party who is served with the petition.

Rules of Procedure: This book contains the Arizona Rules of Civil Procedure, Local Rules of Practice, and Uniform Rules of Practice for Arizona Courts, among other things. All litigants must follow these rules, so it is a good idea to review this book.

Separate Property: A term referring to any property owned by a married person before the marriage date (plus gains and increases) that remains the property of that spouse during the marriage and does not become community property. In addition, gifts and inheritance received during the marriage are the receiving spouse’s separate property, as are any increases in those items received such as interest, profits of sale or capital gain. However, if the increase in value of separate property is the result of the efforts of either spouse, the increase in value could be deemed community property (and, as a result, divisible by the court).

Service: The party or witness must be given a true copy of the document to be served (pleading, subpoena, etc.) in a way that is authorized by the Court or Rules of Procedure. Failure to properly serve a document can result in delays.

Spousal Maintenance: is money paid for support of a spouse. Spousal Maintenance can be agreed on between the parties or ordered by the Court in a divorce or legal separation. Not every divorce or legal separation involves spousal maintenance. If you want the court to consider whether spousal maintenance is appropriate in your case, you need to ask for spousal maintenance in the petition or response.

Subpoena: A document issued by the Clerk of Court that requires a witness to attend a hearing. Failure to attend could result in contempt of court.

Testimony: A statement made by a witness who has taken an oath or affirmed that s/he will tell the truth.

Trial: A trial is the evidentiary hearing when each party will present his or her case and the judge will enter final orders.

Witness: Person who gives testimony regarding what he/she saw or heard.


POSSIBLE NO COST LEGAL ASSISTANCE

The following organizations **may** be able to provide you with no cost legal advice, assistance and/or representation. You should call them directly to learn more about their services and requirements.

■ **Community Legal Services** www.clsaz.org/site

CLS provides a variety of free civil legal services to applicants who are financially eligible and whose cases meet mandatory funding priorities. CLS offers assistance in several areas including family law, housing, consumer protection, employment, public benefits, and farm worker assistance. Availability of services, such as advice, document preparation, and representation in court, depends on availability of resources. Also, qualified applicants may be referred to the Volunteer Lawyers Program for possible pro bono representation by a volunteer attorney.


Maricopa County

 305 S. 2nd Ave.,
Phoenix, AZ 85003

 **602-258-3434**

 **800-852-9075**


Maricopa County - Mesa

 1220 S. Alma School Rd., Suite 206
Mesa, AZ 85210

 **480-833-1442**

 **800-852-9075**

Mohave County

 1720 Beverly, Suite A
Kingman, AZ 86401

 **928-681-1177**

 **800-255-9031**


Mohave County (satellite office)

Interagency Council Building

 1940 Mesquite Ave.

Lake Havasu City, AZ 86403

 **928-681-1177**

 **800-255-9031**

San Luis-Yuma County – Farm Worker Program


 845 E. 'B' Street, Ste. 2
San Luis, AZ 85349

 **928-627-8023**

 **800-356-7115**

Yavapai County

 401 N. Mt. Vernon Ave.
Prescott, AZ 86301

 **928-445-9240**

 **800-233-5114**

Yuma/LaPaz Counties

 204 S. First Ave.
Yuma, AZ 85364

 **928-782-7511**

 **800-424-7962**

■ **Southern Arizona Legal Aid**  www.sazlegalaid.org/

SALA provides a variety of free, civil legal aid to qualified low-income individuals and families. Services provided include legal advice, brief services, referrals, legal educational workshops, pro se clinics and direct representation. SALA decides the type of service to be provided to each client based on need, available resources and case priorities.


Pima County

APPLICANTS FOR NEW SERVICES:

 **520-623-9461**

 **800-248-6789**


Southern Arizona Legal Aid, Inc.

 2343 E Broadway Blvd., Ste 200
Tucson, AZ 85719-6007

 **520-623-9465**

 **800-640-9465**

Pima County - Tohono O'odham Legal Services

 2343 E Broadway Blvd., Ste 200
Tucson, AZ 85719-6007

 **520-623-9465 Ext. 4189**

 **800-248-6789**


Pinal County

 766 North Park Avenue
Casa Grande, AZ 85122-3931

 **520-316-8076**

 **877-718-8086**


Pinal County - Four Rivers Indian Legal Services

 403 Seed Farm Road
P.O. Box 68
Sacaton, AZ 85147-0001

 **520-562-3369**

 **866-312-2290**

Apache, Gila, and Navajo Counties -Lakeside


 5658 Highway 260, Suite 15
Lakeside, AZ 85929

 **928-537-8383**

 **800-658-7958**

Apache, Gila, and Navajo Counties- White Mountain Apache Legal Services

New Human Services Bldg.

 P.O. Box 1030
Whiteriver, AZ 85941-1030

 **928-338-4845**

 **866-312-2291**


Santa Cruz County

 1071 N. Grand Ave.
Nogales, AZ 85621

 **520-287-9441**

Cochise, Graham/Greenlee Counties

Bisbee Convention Center

 2 Copper Queen Plaza, Unit 204
P.O. Box AL
Bisbee, AZ 85603

 **520-432-1639**

 **800-231-7106**

■ **DNA – People’s Legal Services**  www.dnalegalservices.org

DNA—People’s Legal Services provides a variety of free, legal aid to qualified low-income individuals and families. The attorneys and tribal court advocates practice law in unique legal jurisdictions, specializing in tribal and federal Indian law, civil law and poverty law. Provides a variety of free, legal aid to qualified low-income individuals and families.

Coconino County

 2323 E. Greenlaw Ln., Ste. 1
Flagstaff, AZ 86004

 **928-774-0653**

 **800-789-5781**

All Counties

 P.O. Box 306
Window Rock, AZ 86515

 **928-871-4151**

 **800-789-7287**

Coconino County-Tuba City DNA Office

 P.O. Box 765
Tuba City, AZ 86045

 **928-283-5265**

Hopi DNA Office

 P.O. Box 558
Keams Canyon, AZ 86034

 **928-738-2251/5234**

 **800-789-9586**

Navajo Nation – Navajo County

 PO Box 767
Chinle, AZ 86503

 **928-674-5242**

 **800-789-7598**

■ **University of Arizona Child and Family Law Clinic**

 http://law.arizona.edu/clinics/child_and_family_law_clinic

Juvenile and Family Court and Protective Orders

A teaching law office within the University of Arizona, James E. Rogers College of Law. Clinic students provide free advice and legal representation to children and adults in a variety of family law, juvenile justice, child protection, & domestic violence. Eligibility guidelines exist.

 **520-626-5232**

 www.law.arizona.edu/clinics/child_and_family_law_clinic/contact.cfm

BRIEF LEGAL CONSULTATIONS

The following programs may provide brief, free or low-cost legal consultations with an attorney. You must call them to arrange an appointment.

■ **Family Lawyers Assistance Project**

Half-hour consultation with a family law attorney is free if income-eligible, otherwise is currently \$40.

201 W. Jefferson, Phoenix, AZ 85003, 6th floor in Superior Court Bldg.

☎ **602-506-7948**

🌐 www.superiorcourt.maricopa.gov/sscdocs/pdf/gn50i.pdf

■ **Maricopa County Bar Lawyer Referral Service (LRS)**

🌐 <http://maricopalawyers.org>

Half-hour consultation with an attorney is currently \$40.

☎ **602-257-4434**

■ **Pima County Bar Lawyer Referral**

🌐 <http://www.pimacountybar.org/lawyer-referral-service-lrs>

Half-hour consultation with an attorney is currently \$35

☎ **520-623-4625**

■ **Arizona Senior Citizen's Law Project**

🌐 <http://azlawhelp.org/resourceprofile.cfm?id=12>

Offers information and legal assistance to low-income seniors (age 60+) in Maricopa County. Volunteer lawyers and trained advocates assist clients with a variety of legal issues.¹

🏠 818 S. 16th Street, Suite 304, Phoenix, AZ 85034

☎ **602-252-6710**

REFERRALS FOR ATTORNEYS WITH REDUCED/FLAT FEES

If you decide to hire an attorney, keep in mind:

- Recommendations from family, friends, other survivors, or advocacy groups can be useful
- Some survivors are able to obtain help from family members, and occasionally from churches and other sources, to pay for attorneys
- It is important for you and the attorney to have a clear, written understanding of what fees you will pay, and what exactly the attorney will do for you

**KEEP
IN
MIND**

The following resources may be helpful in finding a private attorney with reduced or flat fees.

■ **Pima County Bar Qualified Income Legal Team (QUILT) Program**

🌐 www.pimacountybar.org/public/qualified-income-legal-team-quilt-program2

There is a \$30 application/referral fee at the time you apply AND you are responsible for paying the reduced attorney fees that apply to your specific case. Must meet income requirements.

📞 **520-623-4625**

■ **Modest Means**

🌐 <https://www.azflse.org/modestmeans>

\$75/hour for one-hour consultation, and \$75/hour if the attorney agrees to provide further services. A project of the Arizona Foundation for Legal Services & Education and the State BAR of Arizona.

📞 **866-637-5341**

■ **Modern Law Group**

🌐 www.modernlawgroup.com/#!

A firm dedicated to increasing access to justice and offering clients attention, and service with a flexible payment model.

One N. MacDonald, Suite 201, Mesa, AZ 85201

📞 **480-649-2905**

COUNTY SUPERIOR COURT

- **Apache County Clerk of the Court**
🌐 www.co.apache.az.us/Departments/ClerkCourt/Main.htm
🏠 70 W. 3rd St. South, 2nd floor, St. Johns, AZ 85936
☎ 928-337-7550
- **Cochise County Clerk of the Superior Court**
🌐 <https://www.cochise.az.gov/clerk-superior-court/home>
🏠 100 Quality Hill, Bisbee, AZ 85603
☎ 520-432-8570
- **Coconino County Clerk of the Superior Court**
🌐 www.coconino.az.gov/index.aspx?nid=132
🏠 200 N. San Francisco St., Flagstaff, AZ 86001
☎ 928-679-7540
☎ 877-806-3187
- **Gila County Superior Court**
🌐 www.gilacountyaz.gov/government/courts/superior_court/index.php
🏠 1400 E. Ash St., Globe, AZ 85501
☎ 928-425-3231
- **Graham County Clerk of the Superior Court**
🌐 www.graham.az.gov/judicial/clerk-of-the-superior-court/
🏠 800 Main St., Safford, AZ 85546
☎ 928-428-3100
- **Greenlee County Superior Court**
🌐 www.co.greenlee.az.us/courts/superiorhome.aspx
☎ 928-865-4242
- **La Paz County Clerk of the Superior Court**
🌐 <http://lapazsuperiorcourtclerk.com/>
🏠 1316 Kofa Ave., Ste. 607, Parker, AZ 85344
☎ 928-669-6131
- **Maricopa County Superior Court**
🌐 <http://www.superiorcourt.maricopa.gov/>
🏠 101 W. Jefferson, Phoenix, AZ 85003
🏠 222 E. Javelina Ave., Mesa, AZ 85210
🏠 14264 W. Tierra Buena Lane, Surprise, AZ 85374
🏠 18380 N. 40th St., Phoenix, AZ 85032
☎ 602-506-3461

- **Mohave County Clerk of the Superior Court**
 🌐 www.mohavecourts.com/clerk/homepage.htm
 🏠 401 E. Springs St., Kingman, AZ 86402
 ☎ 928-753-0790

- **Navajo County Superior Court**
 🌐 www.navajocountyaz.gov/superiorcourt
 🏠 100 E. Code Talkers Dr., Holbrook, AZ 86025
 ☎ 928-524-4188

- **Pima County Clerk of the Court**
 🌐 www.sc.pima.gov/Home/PimaCountyClerkoftheSuperiorCourt/tabid/303/Default.aspx
 🏠 110 W. Congress St., Tucson, AZ 85701
 ☎ 520-724-8456










- **Pinal County Superior Court**
 🌐 <http://pinalcountyaz.gov/Departments/JudicialBranch/SuperiorCourt/Pages/Home.aspx>
 🏠 971 Jason Lopez Circle, Building A, Florence, AZ 85132
 ☎ 520-866-5400

- **Santa Cruz County Clerk of the Superior Court**
 🌐 www.co.santa-cruz.az.us/132/Clerk-of-the-Superior-Court
 🏠 2150 N. Congress Dr., Nogales, AZ 85621
 ☎ 520-375-7700

- **Yavapai County Superior Court**
 🌐 <http://courts.yavapai.us/superiorcourt>
 🏠 120 S. Cortez St., Room 112, Prescott, AZ 86303
 ☎ 928-771-3309

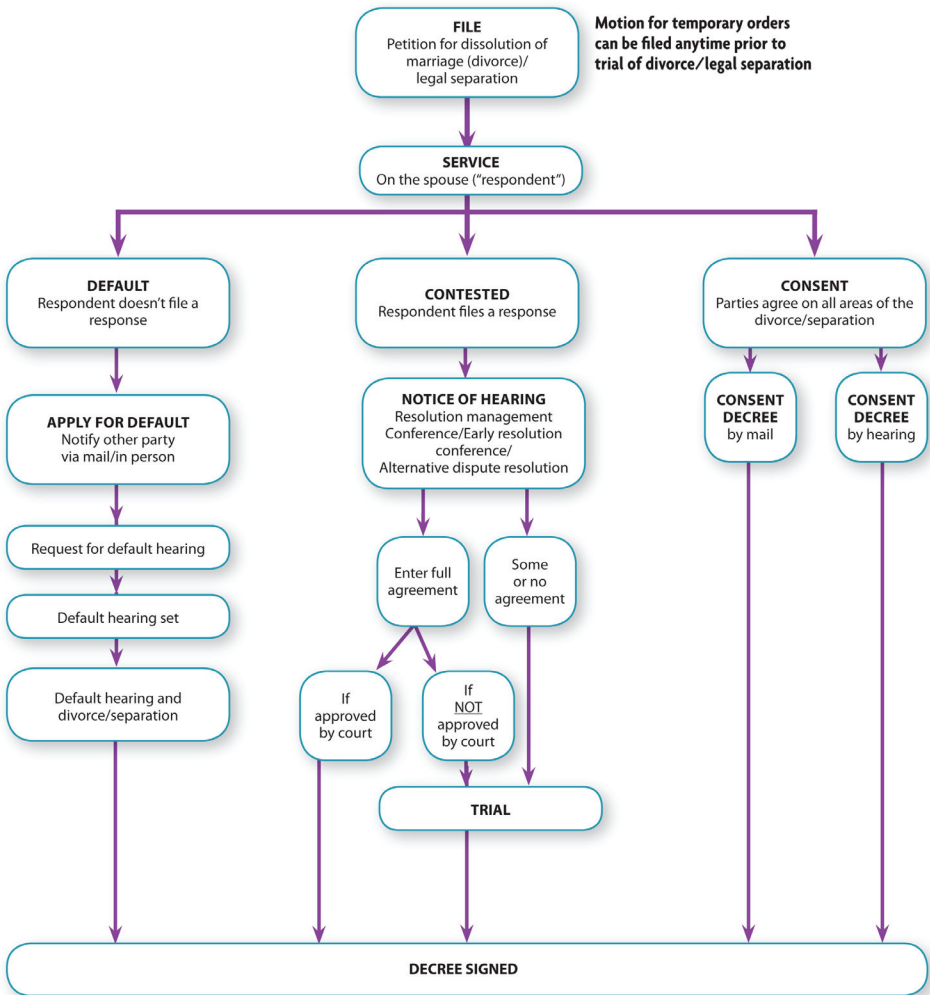
- **Yuma County Clerk of the Superior Court**
 🌐 www.yumacountyaz.gov/government/clerk-of-superior-court
 🏠 250 W. 2nd St., Yuma, AZ 85364
 ☎ 928-817-4210

INTERNET RESOURCES

- **Arizona Legal Information Online**
 <http://azlawhelp.org>
- **Arizona Revised Statutes**
 <http://azleg.gov/ArizonaRevisedStatutes.asp>
- **Arizona Rules Online**
 [https://govt.westlaw.com/azrules/Index?transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/azrules/Index?transitionType=Default&contextData=(sc.Default))
- **Arizona Supreme Court**
 <http://www.azcourts.gov>
- **Custody Prep for Moms**
 <http://custodyprepformoms.org>
- **Law Crawler Search Engine**
 <http://lp.findlaw.com>
- **Public Access to Arizona Court Information**
(including Arizona criminal records search)
 [http://apps.supremecourt.az.gov/publicaccess/\(S\(1fmdt345xivkrh55ifun0045\)\)/caselookup.aspx](http://apps.supremecourt.az.gov/publicaccess/(S(1fmdt345xivkrh55ifun0045))/caselookup.aspx)
- **State Bar of Arizona**
 www.azbar.org
- **Womens Law**
 <http://womenslaw.org/>

* If you are in need of additional information and resources contact the Arizona Coalition To End Sexual & Domestic Violence's Legal Advocacy Hotline at **1-800-782-6400**.

ARIZONA DIVORCE/LEGAL SEPARATION FLOWCHART



If children are involved, parents will attend a Parent Information Program class and a Certificate of Completion must be filed with the Court. Additional evaluations, interviews, and/or hearings could be ordered at any time before a final decision is made, especially when legal decision making and parenting time is involved. Filing fees will apply. Please see court for more information.

Created by the ACESDV Legal Committee June 2011.



 2800 N. Central Ave., Suite 1570 • Phoenix, AZ 85004
 (602) 279-2900 • 1(800) 782-6400 • TTD/TTY: (602) 279-7270
 info@acesdv.org  www.acesdv.org

