

Family-Friendly Courts: Facts and Legislative Opportunities

State civil courts play an underrecognized role in our society. They hear roughly 20 million cases per year, handling disputes ranging from evictions and minor guardianships to contracts and personal injury.

Though state courts are independent branches of government, state statutes shape and govern civil court processes. In many cases, these processes and their outcomes directly affect child and family well-being. Legislators can improve civil court proceedings by directing and enabling courts to operate with a high degree of sensitivity to the experiences of the vulnerable individuals and families involved in them.

This is part of an [NCSL series](#) on family-friendly courts.

5 Things to Know About State Civil Courts

- 1** **When it comes to civil justice issues, state courts are where it's at.** State courts hear [98% of all civil cases](#) across the nation, and there is room for improvement. A 2021 [study of justice needs](#) found that in the span of four years almost 65% of Americans were involved in a legal matter but only 49% of these issues were successfully resolved.
- 2** **An estimated [three out of five people](#) in civil cases go to court without a lawyer.** Unlike criminal proceedings, people involved in civil courts are typically not guaranteed a right to counsel, even when their parental rights, housing or access to public benefits are at stake.
- 3** **Families are affected by civil proceedings before court involvement, during court involvement and after court involvement.** *Before* court involvement, families are affected by policies that can lead them into or steer them away from litigation. *During* formal court proceedings, the parties are affected by statutes and court rules that govern the court process. *After* court involvement, families are affected by policies that mitigate (or do not mitigate) the long-term effects of civil court involvement.
- 4** **Data management is commonly overlooked in state policy regarding civil courts.** The [justice sector underperforms](#) compared to other sectors on this front, and civil cases and family outcomes data are difficult to find. Effective [collection, analysis and use of data](#) would help officials in all branches of government allocate resources to programs and policies that are effective, promote innovation, improve transparency in budgeting and build and sustain a culture of continuous learning and improvement.
- 5** **State legislatures and state courts each establish laws, rules and procedures that [shape civil court proceedings](#).** Power and authority over civil court processes is distributed between state legislatures and state courts. The exact balance of this power and authority is different in each state and often depends on the state's constitution.

5 Opportunities for Legislators to Improve State Civil Courts for Families

1

Simplify, clarify and define terminology and processes to help families understand their options to resolve civil matters.

■ **Maine SB 485** (2021) requires a landlord to attach to an eviction summons and complaint served on a tenant a notice that contains: A) a description of the court procedure to be followed, B) a statement that failure to appear at any conference or hearing may result in default judgment in favor of the landlord, C) a list of rental assistance programs available to residential tenants, D) a list of resources that provide legal information and representation, E) a list of resources that provide housing counseling, F) a statement that either party may request or the court may refer the parties to mediation on any issue and G) a court-approved form to request mediation.

■ **Washington HB 1320** (2021) clarifies and simplifies civil protection order statutes to make them more understandable and accessible to victims seeking relief and to respondents who are subject to the court processes. The law modernizes and expands the tools available to parties regarding civil protection orders and moves statutes related to all six types of protection orders into a single chapter of the Revised Code of Washington to improve accessibility and ease of understanding of these statutes.

2

Provide access to counsel in civil court proceedings.

■ **Georgia HB 460** (2023) requires the court to appoint an attorney for an alleged dependent child and any child receiving extended care youth services from the state's Division of Family and Children Services as soon as practicable and before the first court hearing that may substantially affect the child's interests.

■ **Washington SB 5160** (2021) guarantees access to counsel through the Washington Office of Civil Legal Aid for indigent tenants facing eviction.

3

Mitigate the negative effects of civil court processes on families at each stage of involvement—before, during and after.

■ **New Mexico SB 31** (2023) mitigates negative effects on families before court involvement by providing an out-of-court alternative to temporary minor guardianship. The law allows for arrangements between the state's Department of Children, Youth and Families and New Mexico families that become involved in the child welfare system before removal of a child is necessary. It provides parents with legal counsel before they agree to voluntary placement and provides children with a guardian ad litem to represent their best interest. The law also permits the department to take custody of children before voluntary placement so prospective guardians become eligible for guardianship assistance payments.

■ **Maine SB 648** (2022) mitigates negative effects on families during court involvement by requiring the chief justice of the Maine Supreme Court to establish and require annual training and education to educate justices about domestic violence and child abuse and neglect issues.

■ **Nevada AB 107** (2017) mitigates negative effects on families after court involvement by requiring records relating to summary eviction be automatically sealed either upon the entry of a court order denying or dismissing the action or when a landlord fails to file an affidavit within 30 days after a tenant files an affidavit contesting the eviction. The law also authorizes the court to seal an eviction file upon a written agreement between the landlord and the tenant or upon a motion by the tenant if the court finds the eviction should be set aside pursuant to court rule or in the interests of justice.

4

Improve data collection and analysis for civil courts.

■ **Texas HB 1182** (2023) tasks the Texas Judicial Council with monthly court activity statistics and case-level information on the amount and character of the business transacted by the court. For counties with a population over 1 million, these data shall be made publicly available and searchable online.

■ **Indiana HB 1214** (2022) requires the court clerk or court administrator to compile certain data on evictions and furnish the data to the office of judicial administration. The office is then required to include these data in the Indiana Judicial Report.

5

Build productive relationships between the legislature and the judiciary.

■ **Colorado HB 1280** (2023) established the Colorado Access to Justice Commission to recommend legislative and regulatory changes that improve access to justice for all Coloradans. Commissioners are appointed by the governor, legislative leadership, the Colorado Supreme Court and Colorado legal organizations.

■ **Illinois HB 3111** (2013) established a task force to review the statutory fees imposed or assessed on civil litigants and criminal defendants. Members are/were appointed by legislative leadership, the association representing circuit court clerks, the governor and the Illinois Supreme Court.