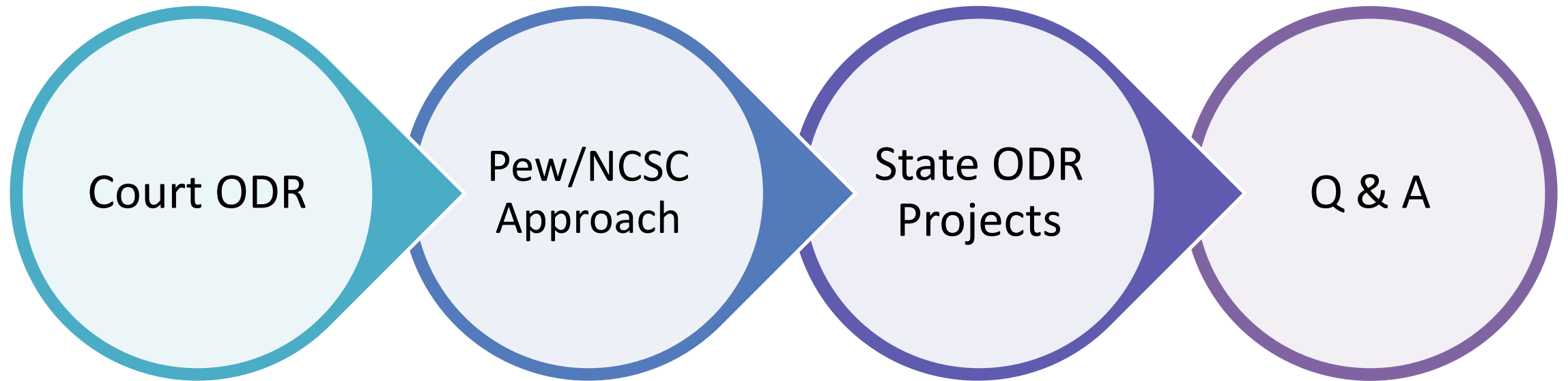


# Implementing Online Dispute Resolution in State Courts

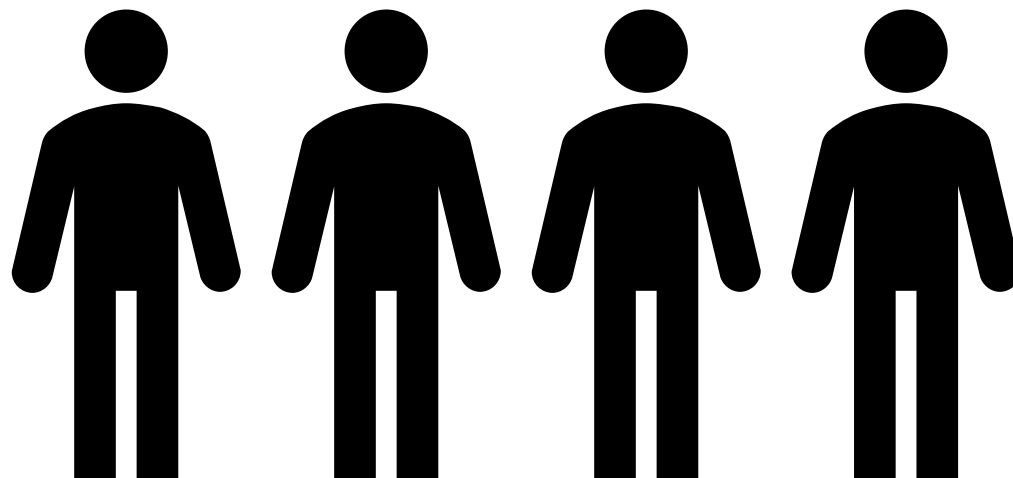
# Panelists

- **Amie Lewis**, Senior Associate, Civil Legal System Modernization, The Pew Charitable Trusts
- **Michelle Acosta**, Chief Innovations Officer and Special Assistant to the Administrative Director of the Courts, The Judiciary - State of Hawai`i
- **Stacey Marz**, Administrative Director, Alaska Court System
- **Sharon Sturges**, Director, Office of Dispute Resolution, Colorado State Court Administrator's Office

# Roadmap



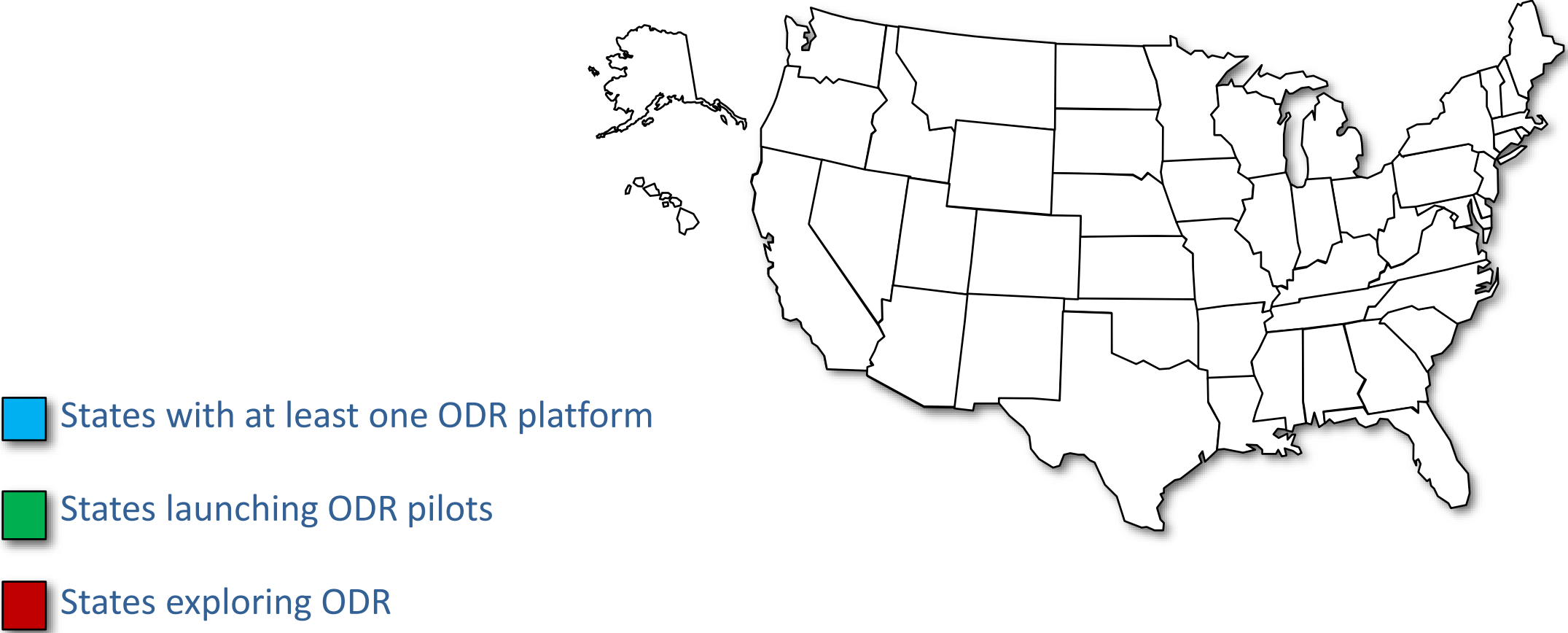
# Courts Need Help Meeting Their Changing Circumstances



Litigants are changing.

3 out of 4 cases have at least one side with no lawyer.

# Rise of ODR Tools in Courts



# What is Court ODR?

A Court ODR platform is a...

**Court-annexed**

**Public-facing**

**Digital space**

...where parties can convene to resolve their dispute or case.


# The Pew Charitable Trusts

## Civil Legal System Modernization


# The Pew Charitable Trusts



A public charity driven by the power of knowledge to solve today's most challenging problems.



Pew conducts fact-based research and rigorous analysis to improve policy, inform the public and invigorate civic life.



We help states apply fact-based solutions to a wide range of policy areas, including the environment, health, consumer safety, and in addressing state policy and economic issues.



# Pew/NCSC Approach to ODR

1. Promote Adoption of ODR Fundamentals/Guiding Principles
2. Implement Successful ODR w/Fundamentals/Guiding Principles
3. Evaluate Effectiveness

# ODR Fundamentals

## Inform

Provide users with **legal information & referrals**

- Right-sized, plain language
- Within the ODR platform

## Notify

**Courts** notify parties of the case/ODR

## Review

**Oversight** to ensure ODR does no harm

- Judicial review (where Court enforces the order)
- Controls in platform design/procedures

# Guiding Principles for Courts Adopting ODR

- Technological innovation should be court-driven
- Online processes must align with court rules and procedures
- Design and implement technology that is equitable and user-focused
- Take a data-driven approach to implementing and maintaining online services

# State Court ODR Projects

Kaua'i  
Ni'ihau

O'ahu

Moloka'i  
Lāna'i  
Kaho'olawe

Maui

Hawai'i

**HAWAII STATE JUDICIARY  
SMALL CLAIMS  
ONLINE DISPUTE RESOLUTION  
PILOT PROJECT**

# Early Considerations



**Why do we need this service?**

**Access to Justice? Cost savings? Court efficiency?**

**Who are we building this for?**

**What are their needs? What need is the most important?**

**What do we already have?**

**Legal information, Interactive court forms, Mediation Services**

**Who do we need?**

**Champion Internal Subject Matter Experts  
External Subject Matter Experts**

# Gathering Information

**What are other jurisdictions doing?**



**Build or buy? Integration or stand-alone?**

**What do vendors have to offer?**



# Getting started

## Requirements gathering

Interactive Forms, Online Payment, ODR, Legal Information, Reminders, Case Resolution

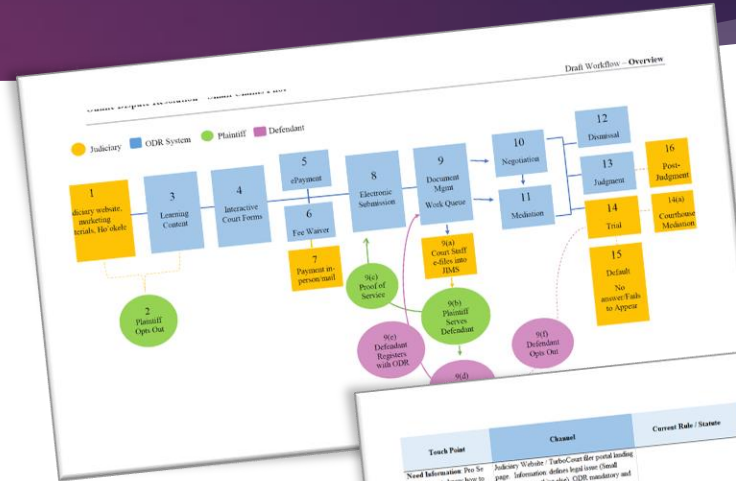
## Choosing a vendor

RFI, RFP

## \*Process Redesign

User experience, Touchpoints and Channels

## Rule Changes



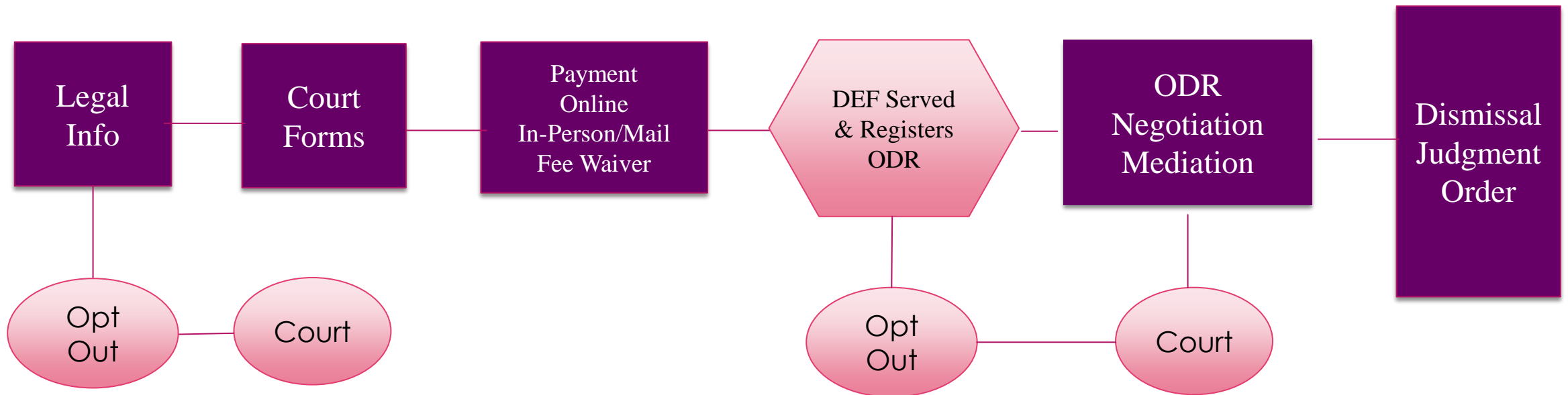
| Task Point  | Channel   | Current Rule / Statute | Forum   | Decision  |
|---|---|------------------------|---|---|
| Need Information For Plaintiff users have to use for more small less than | Judiciary Website / TurboCourt for portal landing page. Information display link from Small Claims vs. small claims | ODR mandatory and      | Create Opt Out Form   | TBD: Who approves - Clerk/Trip? TO DO: Create Opt Out Form  |
| Interactive Form  | Judiciary Website / TurboCourt for portal landing page. Information display link from Small Claims vs. small claims | ODR mandatory and      | DCOR Statement of Claim/Notice - Security Deposit<br>DCOR Statement of Claim/Notice - General<br>Create ODR Cover sheet<br>Use case opt out form for PL | DECISION: Use proposed plus language forms per SO approval. New forms have small requirements.<br>TBD DO: Cover sheet to be created to include information for PL for Service, ODR process, explanation. Inform and instructions to DEF to register with ODR system 7 days after service. |
| users forms are complete  | Judiciary Website / TurboCourt for portal landing page. Information display link from Small Claims vs. small claims | ODR mandatory and      |   | DECISION: If forms are completed, court staff will accept after JMS and provide the information for re-orientation and for registering with TurboCourt ODR  |
| TurboCourt efficiency   | Judiciary Website / TurboCourt for portal landing page. Information display link from Small Claims vs. small claims | ODR mandatory and      |   | DECISION: Guide and processing when fee will be processed to file.<br>Files referred payment must be received within 10 d after JMS filing date (case submission). Court gives additional 7 days grace period. On 10th day, JMS a terminates case and generates Order of Dismissal.       |
| value option for  | Judiciary Website / TurboCourt for portal landing page. Information display link from Small Claims vs. small claims | ODR mandatory and      |   | Files referred payment must be received within 10 d after JMS filing date (case submission). Court gives additional 7 days grace period. On 10th day, JMS a terminates case and generates Order of Dismissal.   |
| JES 607-3 - Judges discretion to water flag for                           | Judiciary Website / TurboCourt for portal landing page. Information display link from Small Claims vs. small claims | ODR mandatory and      | JMS 607-3 - Judges discretion to water flag for   | TBD: Who approves - Clerk/Trip? TO DO: Create Opt Out Form  |

| Information          | User is looking for general information: PL "Can I sue?" - DEF "Can I get sued?"   | Judiciary Website / Legal Service Providers (attorneys/legal aid services), Law State Library, Community Legal Navigation, Mediators | Judiciary website - landing page: Small Claims ODR   |              |   |
|----------------------|--|--|--|--------------|---|
| Learning Counsel     | User is looking for specific information: PL "Do I have a regular or small claim case?" - DEF "I just got served, what do I do?" | ODR System: Judiciary Website, Legal Services Providers  | Form available on JMS website: Confusion? Filed in person? Filed in ODR Small Claims is mandatory  | Opt out form | External LLP - liability, lack insurance challenges, Clerk/Judge Approves?                  |
| Initiation           | "I am ready to file a claim"   | ODR System: Counter Claim  | A Statement of Claim - General<br>A Statement of Claim - Security Deposit, COB, Declaration<br>Non-Hearing Motion For Confirmation of Trial Date | Opt out form | ODR Notice to Plaintiff and Defendant   |
| Filing Fee Payment   | Payment of Filing Fee at same initiation<br>I want to settle the dispute   | ODR System: Court ("Counter, Med")<br>ODR System   | ODR System: Court ("Counter, Med")<br>ODR System   | Opt out form | ADR Requirements? Acknowledgement for ODR (rules of management)<br>Confession (negotiation) |
| Settling the Dispute | Both parties need agree time to negotiate/settle   | ODR System: Court ("Counter, Med")<br>ODR System   | ODR System: Court ("Counter, Med")<br>ODR System   | Opt out form | ADR Requirements? Acknowledgement for ODR (rules of management)<br>Confession (negotiation) |



# Small Claims ODR Pilot Project (*“online program”*)

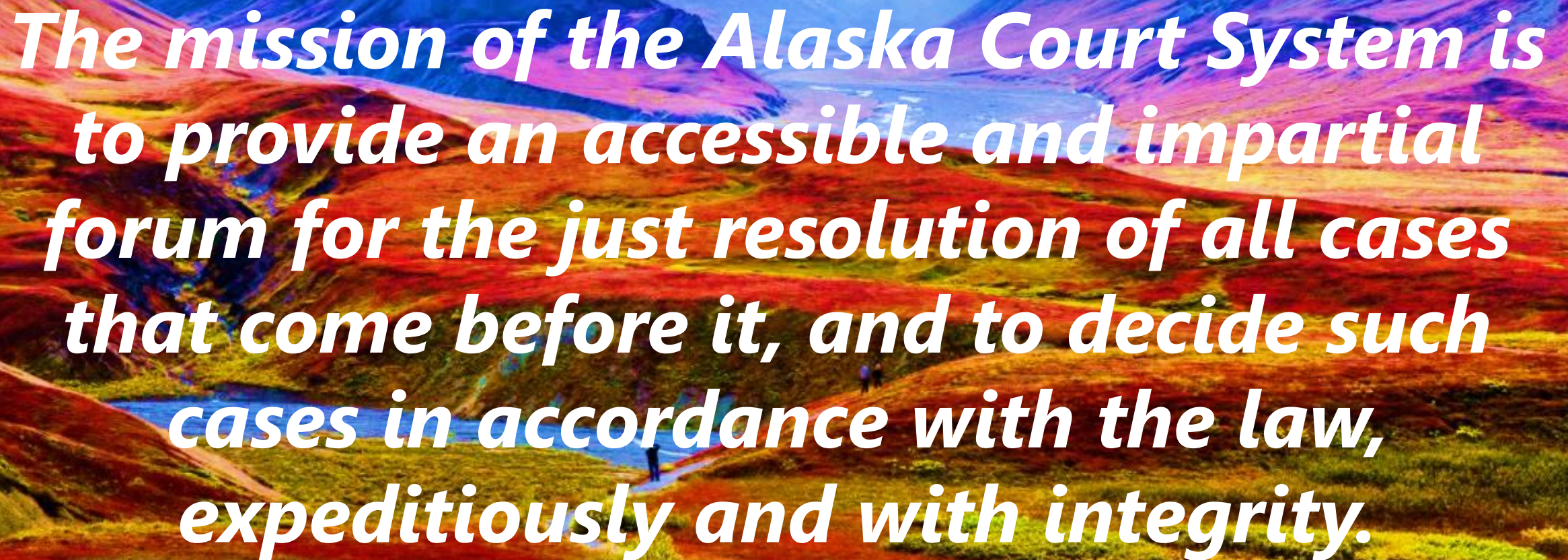
Small Claims : Monies owed less than \$5,000; Residential Security Deposit Disputes



# Planning Process for ODR in Alaska

Cautionary Tale of Unexpected Obstacles and New  
Direction





***The mission of the Alaska Court System is to provide an accessible and impartial forum for the just resolution of all cases that come before it, and to decide such cases in accordance with the law, expeditiously and with integrity.***

# Relative Size of Alaska to the Contiguous U.S.



570,641 square miles

731,545 people

1.2 people / sq. mile

San Francisco, CA

Jacksonville, FL

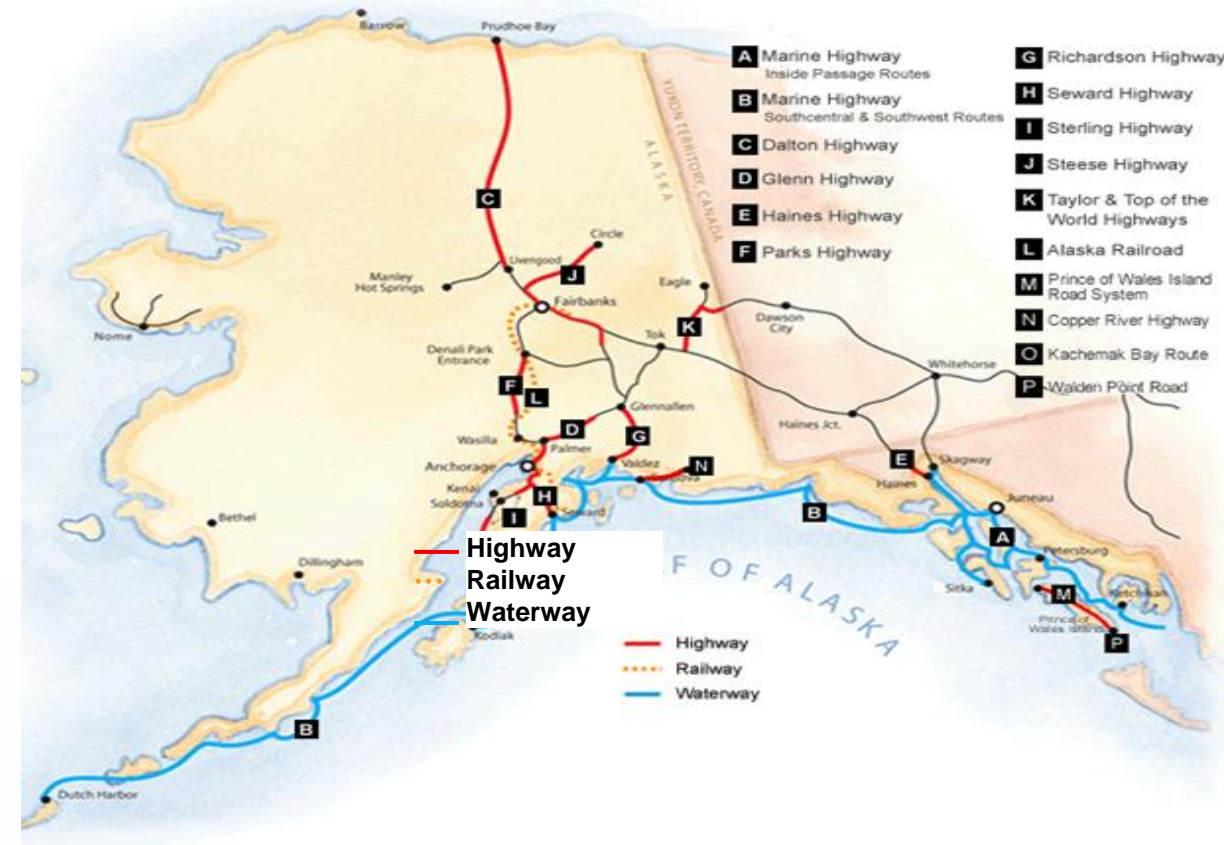
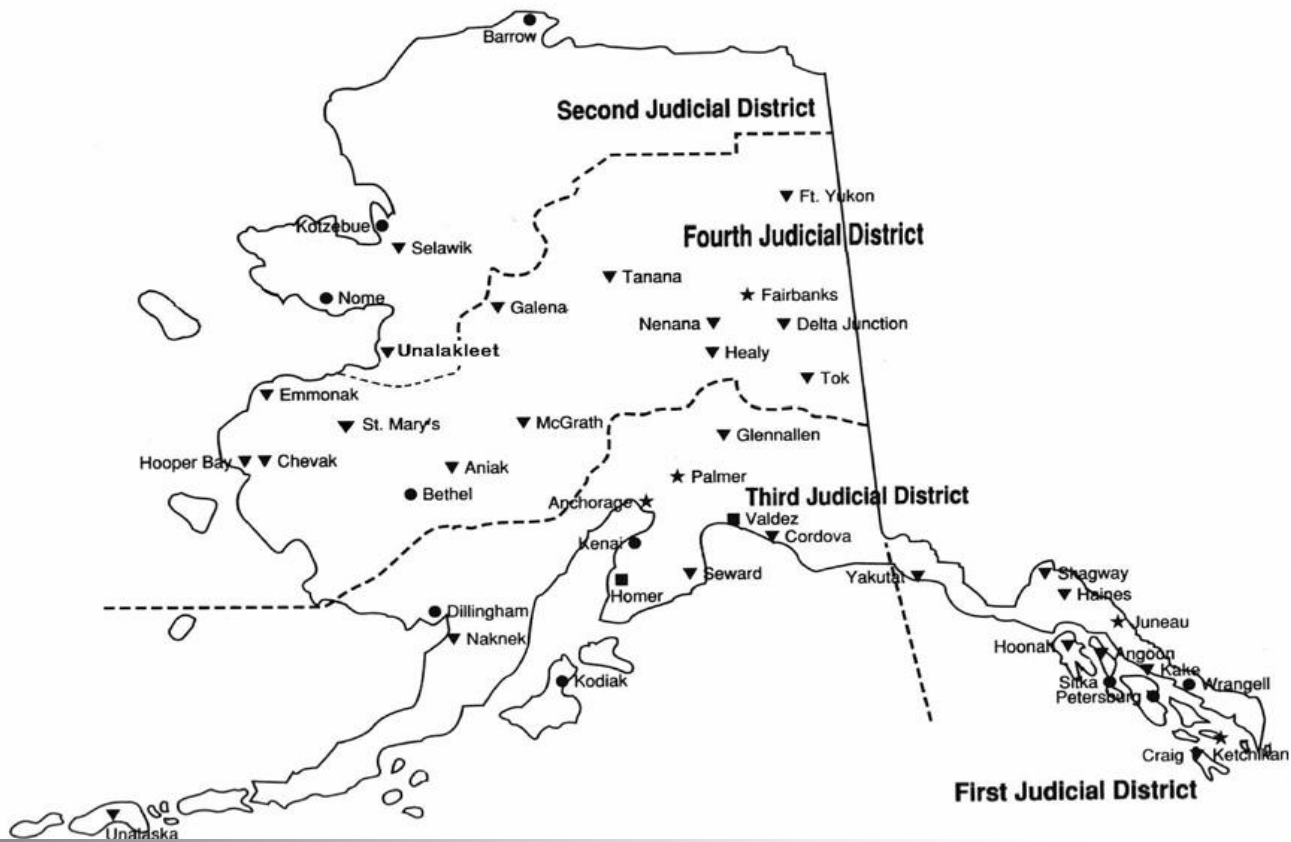
500 miles

Alaska: 663,267 sq. mi.

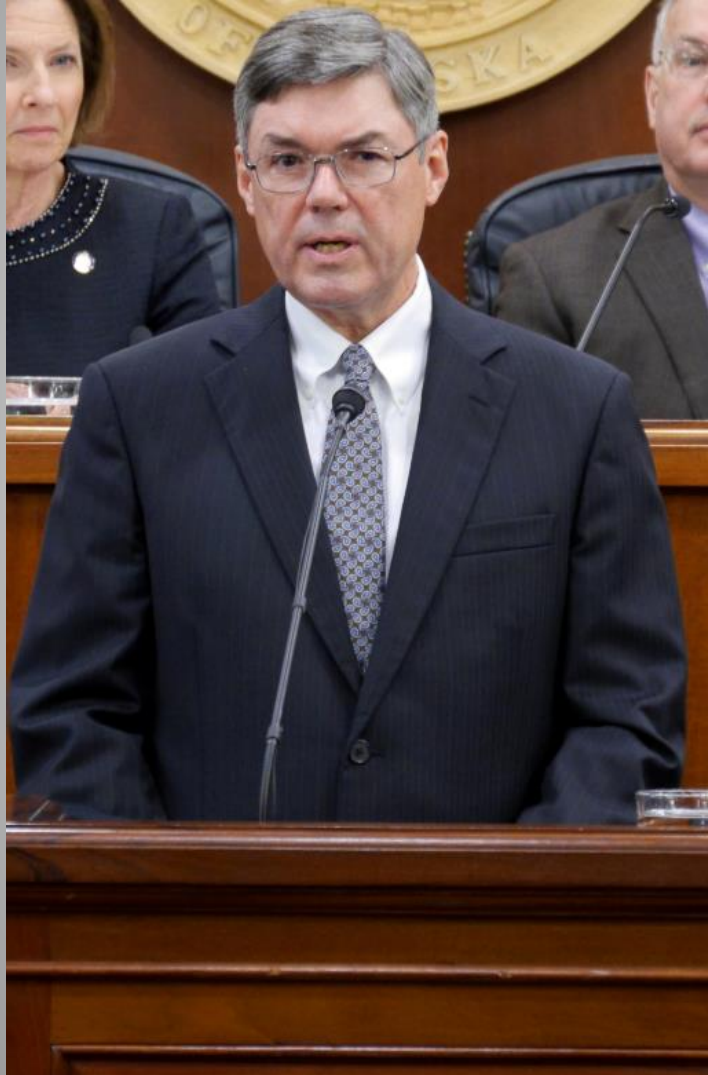
Texas, California, and Montana: 567,264 sq. mi.

World RADAR image courtesy of:  
NASA Jet Propulsion Laboratory  
[http://www2.jpl.nasa.gov/srtm/world\\_radar\\_images.htm](http://www2.jpl.nasa.gov/srtm/world_radar_images.htm)

# Most courts not on the road system



# Traffic pilot planning



Alaska Court System  
Palmer Minor Offense Case Dispositions  
Cases Disposed During FY18

| Category   | Disposition  | Number of Cases                                  |   |
|--|--|--|---|
| Alcohol/Drugs  | Default Judgment (MO 9 & 10)                         | 1  |   |
|  | Dismissed - Furtherance of Justice MO Rule 11(b)     | 3,745  |   |
|  | Dismissed by Prosecution - CR433A / MO 11            | 88   |   |
|  | Guilty Plea at Hearing                               | 88   |   |
|  | No Contest Plea                                      | 188  |   |
|  | No Contest Plea by E-Payment                         | 4  |   |
|  | No Contest Plea on All Counts                        | 214  |   |
|  | Non-Jury Trial: Acquittal on All Counts              | 2  |   |
|  | Non-Jury Trial: Guilty Verdict on One or More Counts | 88   |   |
|  | Total  | 4,334  |   |
| Fish & Game  | Default Judgment (MO 9 & 10)                         | 1  |   |
|  | Dismissed - Furtherance of Justice MO Rule 11(b)     | 1,334  |   |
|  | Dismissed - Offense/Witness Failed to Appear         | 2  |   |
|  | Dismissed by Prosecution - CR433A / MO 11            | 2  |   |
|  | Guilty Plea at Hearing                               | 2  |   |
|  | No Contest Plea                                      | 2  |   |
|  | No Contest Plea by E-Payment                         | 2  |   |
|  | No Contest Plea on All Counts                        | 2  |   |
|  | Non-Jury Trial: Acquittal on All Counts              | 2  |   |
|  | Non-Jury Trial: Guilty Verdict on One or More Counts | 2  |   |
| Total  | 1,342  |  |   |
| Not Classified                                       | Default Judgment (MO 9 & 10)                         | 1  |   |
|  | Dismissed - Furtherance of Justice MO Rule 11(b)     | 1  |   |
|  | Dismissed - Offense/Witness Failed to Appear         | 1  |   |
|  | Dismissed by Prosecution - CR433A / MO 11            | 1  |   |
|  | Guilty Plea at Hearing                               | 1  |   |
|  | No Contest Plea                                      | 1  |   |
|  | No Contest Plea by E-Payment                         | 1  |   |
|  | No Contest Plea on All Counts                        | 1  |   |
|  | Non-Jury Trial: Acquittal on All Counts              | 1  |   |
|  | Non-Jury Trial: Guilty Verdict on One or More Counts | 1  |   |
| Total  | 10   |  |   |
| Maneuvers  | Dismissed by Prosecution - CR433A / MO 11            | 1  |   |
|  | Guilty Plea at Hearing                               | 1  |   |
|  | No Contest Plea                                      | 1  |   |
|  | No Contest Plea by E-Payment                         | 1  |   |
|  | No Contest Plea on All Counts                        | 1  |   |
|  | Non-Jury Trial: Acquittal on All Counts              | 1  |   |
|  | Non-Jury Trial: Guilty Verdict on One or More Counts | 1  |   |
|  | Total  | 7  |   |
|  | Equipment/Vehicle Reg/Defect/Misc                    | Default Judgment (MO 9 & 10)                     | 1 |
|  |  | Dismissed - Furtherance of Justice MO Rule 11(b) | 1 |
| Dismissed - Offense/Witness Failed to Appear         |  | 1  |   |
| Dismissed by Prosecution - CR433A / MO 11            |  | 1  |   |
| Guilty Plea at Hearing                               |  | 1  |   |
| No Contest Plea                                      |  | 1  |   |
| No Contest Plea by E-Payment                         |  | 1  |   |
| No Contest Plea on All Counts                        |  | 1  |   |
| Non-Jury Trial: Acquittal on All Counts              |  | 1  |   |
| Non-Jury Trial: Guilty Verdict on One or More Counts |  | 1  |   |
| Total  | 10   |  |   |
| Imp Driver Behavior                                  | Default Judgment (MO 9 & 10)                         | 1  |   |
|  | Dismissed - Furtherance of Justice MO Rule 11(b)     | 1  |   |
|  | Dismissed - Offense/Witness Failed to Appear         | 1  |   |
|  | Dismissed by Prosecution - CR433A / MO 11            | 1  |   |
|  | Guilty Plea at Hearing                               | 1  |   |
|  | No Contest Plea                                      | 1  |   |
|  | No Contest Plea by E-Payment                         | 1  |   |
|  | No Contest Plea on All Counts                        | 1  |   |
|  | Non-Jury Trial: Acquittal on All Counts              | 1  |   |
|  | Non-Jury Trial: Guilty Verdict on One or More Counts | 1  |   |
| Total  | 10   |  |   |
| Spending   | Default Judgment (MO 9 & 10)                         | 1  |   |
|  | Dismissed - Furtherance of Justice MO Rule 11(b)     | 730  |   |
|  | Dismissed - Offense/Witness Failed to Appear         | 4  |   |
|  | Dismissed by Prosecution - CR433A / MO 11            | 21   |   |
|  | Guilty Plea at Hearing                               | 31   |   |
|  | No Contest Plea                                      | 1  |   |
|  | No Contest Plea by E-Payment                         | 40   |   |
|  | Non-Jury Trial: Acquittal on All Counts              | 4  |   |
|  | Non-Jury Trial: Guilty Verdict on One or More Counts | 738  |   |
|  | Total  | 1,785  |   |
| Maneuvers  | Default Judgment (MO 9 & 10)                         | 32   |   |
|  | Dismissed - Furtherance of Justice MO Rule 11(b)     | 154  |   |
|  | Dismissed - Offense/Witness Failed to Appear         | 13   |   |
|  | Dismissed by Prosecution - CR433A / MO 11            | 12   |   |
|  | Guilty Plea at Hearing                               | 12   |   |
|  | No Contest Plea                                      | 12   |   |
|  | No Contest Plea by E-Payment                         | 12   |   |
|  | No Contest Plea on All Counts                        | 12   |   |
|  | Non-Jury Trial: Acquittal on All Counts              | 12   |   |
|  | Non-Jury Trial: Guilty Verdict on One or More Counts | 12   |   |
| Total  | 238  |  |   |

# Plan

## Alaska Court System Minor Offense Online Dispute Resolution Proposal

### Introduction

The Alaska Court System is exploring options for creating an online dispute resolution (ODR) pilot program for resolving minor offense cases. The objective for this program is to offer litigants a fair, efficient, and accessible system for contesting and resolving minor offense citations. The goals for the program are to:

- shorten disposition times,
- reduce the number of in person hearings,
- balance minor offense workloads among judges,
- reduce law enforcement time spent in court, and
- decrease case dismissals due to law enforcement unavailability.

This summary describes the court system's current structure for resolving minor offense cases, the program model the court system intends to pilot, and the functions and capabilities the court system desires for the program software.

### Minor Offense Workload in Alaska Court System

Minor offense cases are violations of state laws or municipal ordinances that cannot be punished by jail time, loss of a valuable license, or a fine that is high enough to indicate criminality. The majority of minor offense cases in the Alaska Court System are traffic and vehicle equipment violations, but other case types include fish and game, underage alcohol consumption, tobacco enforcement, and vehicle weight and measurement offenses. In Fiscal Year 2017, the Alaska Court System received a statewide total of 56,626 minor offense filings and disposed of 55,820 minor offense cases.

The process for minor offenses begins with a citation issued to a defendant by a law enforcement officer for a violation of a state or municipal minor offense. The officer gives the defendant a paper copy of the citation, which gives the defendant notice of the fine amount, any applicable drivers' license points, and instructions on how to pay or contest the citation. If the defendant does not desire to contest the citation, the paper ticket provides information on submitting payment by mail. But the citation also gives instructions on pleading "not guilty" and requesting a trial before a judge.

When a person pleads not guilty and requests a trial on a minor offense citation, the court will calendar a district court minor offense trial before the local judicial officer who handles minor offenses, usually a magistrate judge. One unique and important aspect of minor offense cases is that they are classified as "quasi-criminal," meaning that under Alaska law they are designated as non-criminal but must be enforced and adjudicated using criminal procedures.<sup>1</sup>

<sup>1</sup> *State v. Dutch Harbor Seafoods, Ltd.*, 965 P.2d 738, 744-46 (Alaska 1998); *State v. Clayton*, 584 P.2d 1111, 1113 (Alaska 1978); *State v. Euteneier*, 31 P.3d 111, 113 (Alaska App. 2001); *State v. ...*, 2010 WL 2222227, at \*2-3 (Alaska App. June 26, 2010) (not

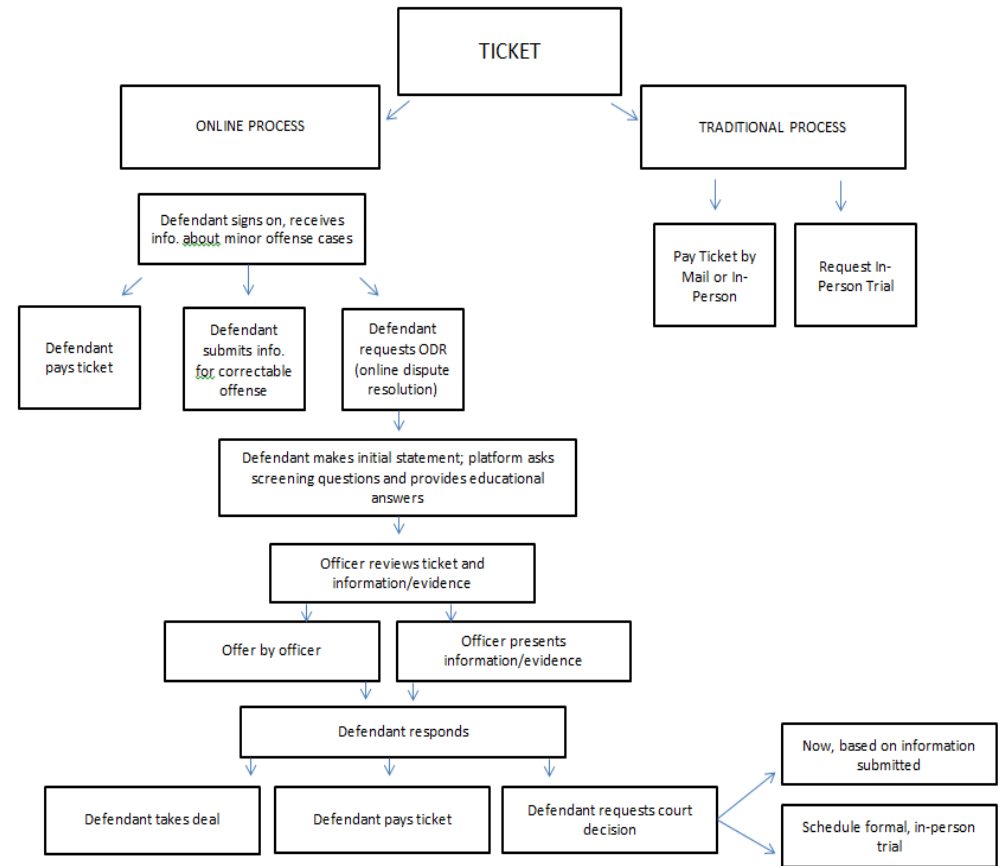
Detailed rules of procedure Procedure promulgated by a citation by the court and trial.

### Formal Trial Procedure

A minor offense trial appearances by the judge. Prosecutors and defense a trial is very similar to a civil evidence; this can include and the testimony of the of examine any witnesses for in his or her defense. At the factfinder and makes a defendant not guilty, the citation and fine are imposed and t

### Informal Trial Procedure

The Alaska Court System formal, in-person trials for facilitating an informal online ability to exchange information judge or magistrate that would The procedure would citation and wishes to plead defendant's rights:



### YOUR RIGHTS

FOR A MINOR OFFENSE, you have the right to: 1. A trial; 2. Hire a lawyer to represent you in court; 3. Confront and question witnesses; 4. Testify; and 5. Have subpoenas issued to compel witnesses to appear on your behalf.



# Barrier after barrier



# Changing direction



# Most civil proceedings

3 workflows that can be enabled by case type:

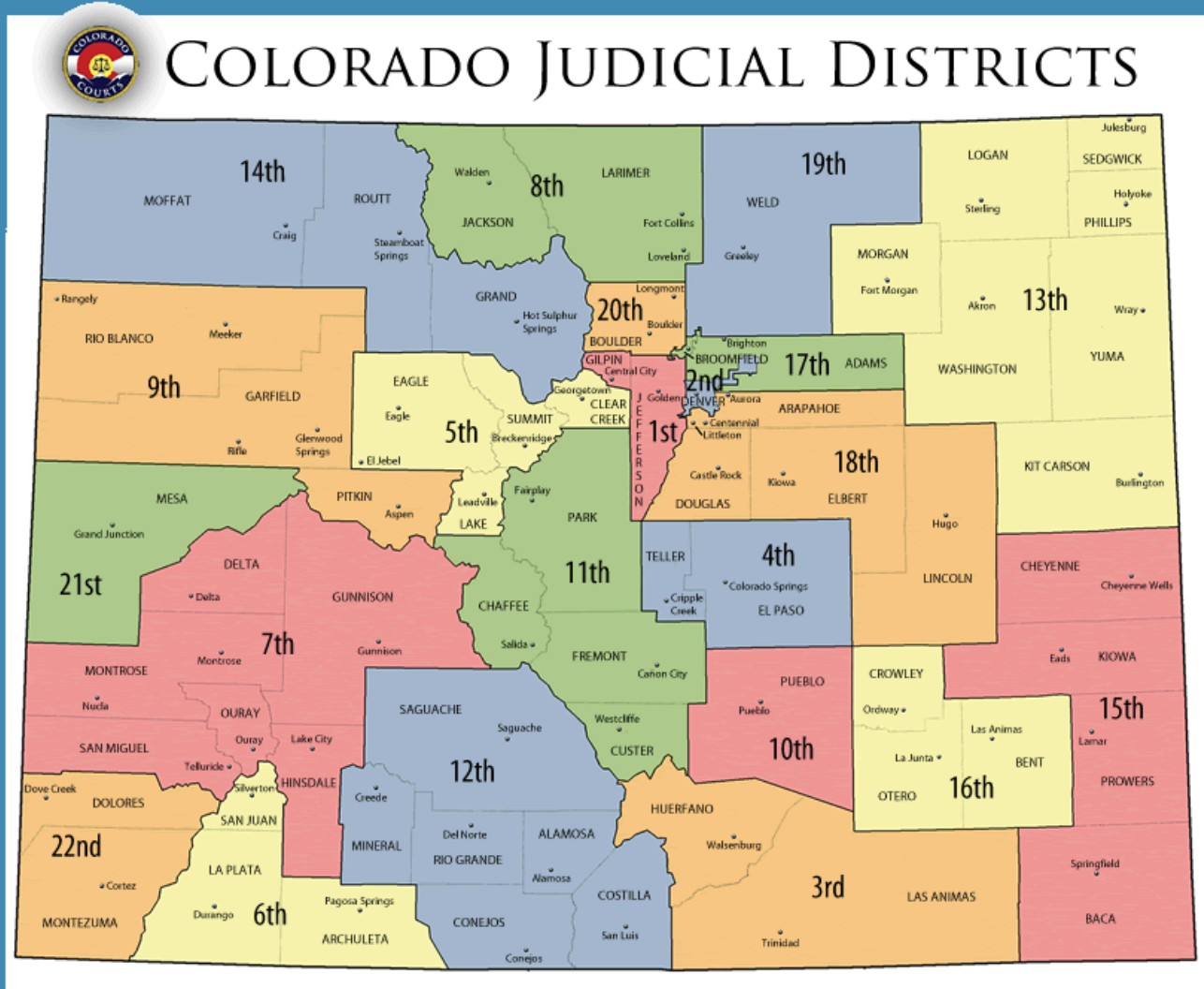
1. Negotiation
2. Mediation
3. Online asynchronous trials

- Platform portable between case types
- Simple look and not customized for case type
- Integrate with case specific educational information, options, and forms
- Pre-filing or post-filing

Hoping for a straight path ahead



COLORADO  
ODR




# COLORADO'S TIMELINE FOR ODR A WORK IN PROGRESS


  
**2015** Staff Reductions/Changes at Statewide Court Mediation Offices

  
**2016** Begin Exploration of Different Business Processes for Court Referred Mediation

  
**2017** Begin Exploration of ODR Tools

  
**2018** August - Advisory Board Dissolution  
November meeting with NCSC and Colorado Court Services Leadership

  
**2019** January- Pew Trusts Court Modernization Initiative/NCSC Tech Assist  
February Colorado Judicial ITS strategic realign  
March- Formation of Internal Working Group and initial IT Charter  
December- Prioritization of IT projects process

  
**2020** January- Discovery process with ITS managers  
March- COVID/ Funding / Budget Issues  
July- SIPA Grant

# STEP 1: IT CHARTER

WHAT IS THE  
PURPOSE OF  
THE IT  
CHARTER?



- Project Manager
- IT Resources
- Governance
- Leadership Commitment
- Roles and Expectations



**STEP 2:  
ESTABLISH COLORADO ODR  
INTERNAL WORKING GROUP:**

**EDUCATE**

**IDENTIFY LEADERS**

**VIEW ODR PRODUCTS**

**EXAMINE COURT DATA/CASE TYPES**

**DEVELOP OBJECTIVES/GOALS**

# COLORADO WORKING GROUP



**STEP 3: DEVELOP REQUIREMENTS  
FOR REQUEST FOR PROPOSALS**

# Q & A