

**Primary Caregivers in Custody with Dependent Children**

**Making Children Visible in the Court Process**

<b>Court stage</b>	<b>Who</b>	<b>Process</b>	<b>Supporting form</b>	
<b>Pre Court – Arrested / Custody</b>	<b>Arresting officer</b>	The arresting officer, when taking a defendant into custody, records whether there are dependent children and if care arrangements have been made. The arresting officer will record this information on the <i>Police – Internal Instructions - POL258 report</i> and provide the form to Police Prosecutions. (Awaiting IT implementation)	<b>Police – Internal Instructions - POL258 report – awaiting IT implementation</b>	
<b>First Appearance</b>	<b>Judiciary</b>	Judge records notes on Record of Hearing pages of Charging Document. Tick box noting Dependent Children is on top of Record of Hearing pages and can act as prompt for Judge to query as to existence of dependent children. This information can be updated on subsequent pages if circumstances change.	<b>Charging Document – P2 “Record of Hearing” (&amp; subsequent pages)</b>	
	<b>Police Prosecution</b>	The Police Prosecutor, where appropriate, will inform the court of the existence of dependent children through oral submission.	<b>Police – Internal Instructions - POL258 report– awaiting IT implementation</b>	
	<b>Defence Counsel</b>	<b>Public Defence Service</b>	Where the Public Defence Service are informed that a defendant they are representing has dependent children they will record this information on the PDS <i>Client Information Sheet</i> .  The Public Defence Service lawyer, through written or oral submissions, and with the consent of the client, will inform the court of the existence of dependent children where the defendant may be remanded or sentenced to custody.	<b>PDS Client Information Sheet</b>
		<b>Private Bar</b>	NZLS encourages all Counsel to enquire whether a defendant they are representing is the sole or primary caregiver and obtain information regarding care arrangements. With consent from their client, Counsel has opportunity to bring this information to the attention of the court through written or oral submission.	<b>NZLS Practice Briefing: “Primary caregivers facing restrictive sentences – information for defence counsel”</b>
		<b>Duty Lawyer</b>	Where the Duty Lawyer is informed that a defendant they are representing has dependent children they will record this information on the Duty lawyer check list or where applicable, on the Young Adult List – Duty Lawyer Checklist.  The Duty Lawyer, through written or oral submissions, and with the consent of the client, will inform the court of the existence of dependent children where the defendant may be remanded or sentenced to custody and provide the form to assigned defence counsel.	<b>Duty Lawyer Instruction Sheet</b>  <b>Young Adult List – Duty Lawyer Checklist</b>
	<b>Bail Support Services</b>	Through written or oral submission, provides information gathered from address checks, meeting with defendant and family and request for information to Oranga Tamariki. Completes and submits Address Suitability Report.	<b>Address Suitability Report</b>	
	<b>Judiciary</b>	Judge considers all information provided through oral submission by Defence Counsel, Police Prosecution, and Bail Support Services and sets conditions of bail or signs Warrant to Detain – existence of dependent children is noted on the Warrant.	<b>Warrant to Detain Defendant</b>	
<b>Subsequent appearances / Sentencing</b>	<b>Probation officer</b>	The probation officer can record the existence of dependent children and any care arrangements in the PAC report which is submitted to the court before sentencing.	<b>Section 26 of the Sentencing Act Pre-Sentence Report (Provision of Advice to Court or “PAC” report)</b>	
	<b>Judiciary</b>	The Judge records their notes on Record of Hearing pages of Charging Document. Tick box noting Dependent Children is on the top of Record of Hearing pages and can act as prompt for Judge to query as to existence of dependent children. This information can be updated on subsequent pages if circumstances change.  Judge considers all information provided in PAC report and through written and oral submission by Defence Counsel, Police Prosecution, Bail Support Services, Probation and makes decision to impose a custodial sentence (or not). Signs Warrant for Imprisonment – existence of dependent children is noted on the Warrant. This documentation is then provided to Corrections.	<b>Charging Document – P2 “Record of Hearing” (&amp; subsequent pages)</b>  <b>Warrant for Commitment for Imprisonment. Form is provided to Corrections upon sentencing.</b>	