

Legal Glossary



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1203.03 PC MOTION - Request to cancel, modify, change or terminate probation.

1203.4 PC MOTION - Request to take back guilty plea or set aside a guilty verdict, and dismiss the accusations or information. (Made after probation has either terminated or defendant was discharged from probation prior to termination.)

170.6 PC MOTION - Request to disqualify the assigned judge from hearing a matter.

995 PC MOTION - Request made by a defendant to dismiss a count of information.

ABANDONMENT - When a parent leaves a child without enough care, supervision, support, or parental contact for an excessive period of time.

ABATE - To put an end to; to cancel out.

ABATEMENT OF ACTION - A suit which has been set aside and ended.

ABDUCTION – The offense of taking away a wife, child, or ward, by deceitful persuasion, force, or violence.

ABROGATE - To repeal or cancel an old law using another law or constitutional power.

ABSTRACT - A summary of what a court or government agency does. In Traffic, document that is sent to the Department of Motor Vehicles (DMV) to update driving record.

ABSTRACT OF JUDGMENT- Summary of the court's final decision. Can be used as a lien if you file it with the county recorder.

ABSTRACT OF RECORD - Short form of the case.

ABUSE – (1) immoderate or improper use; (2) to do physical, sexual, or psychological harm to someone.

ABUSE OF PROCESS - Misuse of the power of the court.

ACCESSORY - A person who helps someone else commit a crime, either before or after the crime.

ACCIDENT AND MISFORTUNE – An unintentional event; unforeseen event causing misfortune.

ACCOMPLICE - A person that helps someone else commit a crime. Can be on purpose or not.

ACCORD - A satisfaction agreed upon between the parties in a lawsuit, which prevents further actions after the claim.

ACCORD AND SATISFACTION - Agreement by the parties to settle a claim or dispute in which the parties typically agree to give or accept something.

ACCRUAL – The total amount of child support payments that are owed or that are late.

ACCUSATION - A formal charge against a person.

ACCUSED - The person that is charged with a crime and has to go to criminal court. (See DEFENDANT).

ACKNOWLEDGMENT - Saying, testifying, or assuring that something is true.

ACKNOWLEDGMENT OF SATISFACTION OF JUDGMENT – A court form that the person who wins the case must fill out, sign, and file with the court when the judgment is fully paid. If there are no liens, the back of the *Notice of Entry of Judgment* can be signed and filed with the court (See JUDGMENT CREDITOR, JUDGMENT.)

ACQUIT - To legally find the innocence of a person charged with a crime. To set free, release or discharge from an obligation, burden or accusation. To find a defendant not guilty in a criminal trial.

ACQUITTAL - When a judge or jury finds that the person on trial is not guilty.

ACTION - In court, when one person sues someone else to, defend or enforce a right, stop something bad from happening or fix something, or punish them for a crime.

ACTION IN PERSONAM - Proceeding against the person for the recovery of a specific object, usually an item of personal property such as an automobile.

ACTION IN REM - Proceeding "against the thing" as compared to personal actions (*in personam*). Usually a proceeding where property is involved.

ACTIVE STATUS – A case that is in court but is not settled or decided has active status. (See DISPOSITION, PENDING.)

ACTUAL LOSS – This is a showing that the plaintiff or injured party has undergone some loss of property or other thing of value by reason of fraud, forgery, or other illegal action. For the crime of forgery the existence of a specific intent to defraud is an essential element; however, there is no requirement of actual loss to complete the crime.

AD LITEM - Comes from Latin meaning for the "purposes of the lawsuit." For example, a *guardian ad litem* is a person appointed by the court to protect the interests of a minor or legally incompetent person in a lawsuit.

ADD-ON - Refers to an additional matter that is added to a specific calendar at a time after the initial preparation of the calendar.

ADDENDUM - A thing added or to be added.

ADDICTION – A person who has become emotionally dependent on the use of a drug and the effect is an irresistible need to continue its use and has developed a tolerance to the drug and requires larger stronger doses.

ADDITUR - The power of a trial court to increase the amount of an award of money to one party made by jury verdict, as a condition of denial of motion for new trial. The defendant must consent to the increased money award, the plaintiff need not consent.

ADHESION CONTRACTS – Contract where one party has no real choice as to its terms.

ADJOURNMENT - To put off a court hearing until another time or place.

ADJUDICATE - When a judge hears and decides a case.

ADJUDICATION - The judge's decision in a case or action.

ADMIN PER SE - Latin meaning, "*by itself, inherently.*" Requires the Department of Motor Vehicles (DMV) to automatically suspend or cancel the driver's license of a driver whose blood alcohol content measures more than .08%, or who refuses to take a test to measure his/her blood alcohol level.

ADMINISTER – (1) to manage; (2) taking a drug by injection, inhalation, ingestion, or any other means, to the body for that person's immediate needs.

ADMINISTRATIVE PROCEDURE – The way an executive government agency makes and enforces support orders without going to court.

ADMINISTRATIVE REVIEW OR “AR” – A review of the welfare of a child in long-term foster care by a panel of people selected by the state Department of Health & Human Services (DHHS). The review is conducted at least once a year, in place of a 6-month placement hearing by the Court. The panel reviews a report from DHHS. The review is open to the parents of the child, parents' attorney and child's attorney.

ADMINISTRATOR - 1. Man who represents the estate of a person who dies without a will. 2. A court official.

ADMINISTRATRIX - Woman who represents the estate of a person who dies without a will.

ADMISSIBLE - Pertinent and proper to be considered in reaching a decision.

ADMISSIBLE EVIDENCE - Evidence that can be legally and properly be used in court.

ADMISSION - Saying that certain facts are true. But not saying you are guilty. (Compare with CONFESSION).

ADMONISH - To warn, advise, or scold.

ADMONITION - Advice or caution by the court to the jury respecting their duty or conduct as jurors, and the purpose for which evidence may be considered.

ADMONITION TO JURORS - What the judge says to the jury about what they must do and how they must behave, what evidence they can use to make their decision (called "admissible" evidence), and how they can use that evidence to make a decision.

ADOPTION - The way to make the relationship between a parent and child legal when they are not related by blood.

ADOPTIVE ADMISSION – Action by a party that communicates agreement with the statements of another person.

ADVERSARY SYSTEM - The system of trial practice in the United States and some other countries in which each of the opposing (or "adversary") parties has the opportunity to present and establish opposing positions before the court.

ADVERSE WITNESS – A person called to testify for the other side.

AFFIANT - A person who makes and signs an affidavit.

AFFIDAVIT - A written statement that someone swears to under oath in front of someone that is legally authorized, like a judge or notary public.

AFFIRMATION – When an appellate court says that the lower court's decision was right.

AFFIRMATIVE DEFENSE - When a defendant or person responding to a civil case has a reason that would make him or her "not guilty" or not at fault and gives the court new evidence to prove that. The defense has to prove what it says (called BURDEN OF PROOF). The defense has to explain this defense in their ANSWER.

AFFIRMED - In appellate courts, it means that the decision of the trial court is correct.

AFTER ACQUIRED INTENT – When the defendant did not intend to commit a crime until after the crime had been committed.

AGENT - Someone who has authority to act for another.

AGENCY – One person acts for or represents another by authority. In Traffic, the department issuing the citation.

AGGRAVATION - Circumstances that may be considered as magnifying, or adding to, the degree of punishment.

AGGRAVATED ARSON – Aggravated Arson – Deliberately setting fire with specific intent to cause injury or damage structures where defendant has been previously convicted of arson, the damage exceeds \$5m, or at least 5 residences were damaged.

AGGRAVATED BATTERY - Unlawful use of force against another such as using a dangerous weapon.

AGGRAVATED MAYHEM – Causing permanent disability or disfigurement with specific intent to cause the injury and with extreme indifference to well-being of other person.

AGGRAVATED TRESPASS – Unlawfully entering property of another with specific intent to carry out prior threat of serious bodily injury.

AGGRAVATING FACTORS - Any factors associated with the commission of a crime which increase the seriousness of the offense.

AGGREGATE TERM - The total length of imprisonment

AGREED STATEMENT OF FACTS - Statement of all important facts, which all the parties agree is true and correct, and which is submitted to a court for a decision.

AGREEMENT - When the people involved in a legal dispute agree about something.

AID AND ABET - to help or assist, in committing a crime.

AIDER AND ABETTOR – One who has criminal intent and assists another to commit a crime.

ALLEGE - To say, declare, or charge that something is true even though it is not proved yet.

ALLEGED - Said to be true as described; a person who is accused, but has not yet been tried in court.

ALLEGATION - A statement or claim that is made and has not been proved to be true or false.

ALLEGED FATHER – A man who may be the father of the child.

ALIAS - Known by another name; or means "also known as" which A.K.A. is short for.

ALIBI - A defense claim that the accused was somewhere else at the time a crime was committed.

ALIMONY - Money the court orders you to pay to a spouse or ex-spouse. (See SPOUSAL SUPPORT).

ALLOCUTION - Defendant's statement to try to reduce punishment.

ALTERATION, FORGERY BY – Adding, erasing, or changing a document with the specific intent to cause it to appear different from what it originally was intended to be to cheat another person.

ALTERNATIVE DISPUTE RESOLUTION (ADR) - Methods of resolving disputes without official court proceedings. These methods include **MEDIATION** and **ARBITRATION**.

AMEND - To add to or change a claim that has been filed in court.

AMENDMENT - A change made by correction, addition, or deletion.

AMICUS CURIAE (A-MI'KUS KU'RIE) - Someone that gives advice to the court about the law in a case, but is not part of the case. Comes from the Latin for "friend of the court."

ANNOTATION - A case summary or commentary on the law cases, statutes, and rules.

ANNUAL REVIEW - Yearly judicial review.

ANNULMENT – A legal action that says your marriage was never legally valid because of unsound mind, incest, bigamy, being too young to consent, fraud, force, or physical incapacity.

ANONYMOUS – When someone's name is kept secret.

ANSWER - A statement that a defendant writes to answer a civil complaint and says what defense they will use.

ANTICIPATORY BREACH - When a person who is to perform as set forth in a contract, clearly indicates to the other party that he will not or cannot perform.

APPEAL - When someone that loses at least part of a case asks a higher court (called an "APPELLATE COURT") to review the decision and say if it is right. This is called "to appeal" or "to take an appeal." The person that appeals is called the "APPELLANT." The other person is called the "APPELLEE."

APPEARANCE - Going to court. Or a legal paper that says you will participate in the court process.

APPEARANCE PROGRESS REPORT (APR) – A court order for a report by the Department of Health and Human Services (DHHS) on an issue requested by the court.

APPELLANT - Someone that APPEALS a court's decision. (Compare with APPELLEE.)

APPELLATE - Having to do with appeals. An APPELLATE COURT can review a lower court's (called a "TRIAL COURT" or "superior court." Decision. For example, California Court of Appeal review the decisions of the superior courts.

APPELLATE COURT - A court that can review how the law was used to decide a case in a lower court.

APPELLATE JURISDICTION - The appellate court has the right to review and change the lower court decision.

APPELLEE - A person that answers an appeal in higher court.

ARBITRATION - When a person that isn't involved in the case looks at the evidence, hears the arguments, and makes a decision. (Compare with **MEDIATION**.)

ARGUMENT - Remarks made by an attorney to a judge or jury on the facts of the case or on points of law.

ARMING CLAUSE - A conduct enhancement alleging that defendant or an accomplice was armed.

ARRAIGN - Process where the person who is accused is brought before the court to hear the criminal charge(s) against him or her and to plead guilty, not guilty or no contest.

ARRAIGNMENT - When a person that is accused of committing a crime is taken to court, told about the charges, and asked to plead "guilty" or "not guilty."

ARREARAGE – Child support that is overdue or unpaid.

ARREST - The legal capture of a person who is charged with a crime.

ARREST OF JUDGMENT - Postponing the result of a judgment already entered.

ARSON - The malicious burning of someone's own house or of someone else's house, or of someone's commercial or industrial property.

ASSAULT - When someone tries or threatens to hurt someone else. Can include violence, but is not battery. (See BATTERY.)

ASSAULT WITH A DEADLY WEAPON - When someone tries to hurt someone and there is threat to do bodily harm without justification by use of a weapon like a gun or a knife.

ASSESSMENT – Additional charges added to a case.

ASSIGNEE - A person or business that is put in the place of the original creditor, such as a collection agency. You can assign your JUDGMENT to another person or business.

ASSIGNMENT – Choosing someone to do something. Usually for: Cases - when the court uses a calendar to give (or "assign" cases to judges; Lawyers - when lawyers are chosen (or "appointed") to represent juveniles, conservatees or defendants; and Judges - when judges are sent (or "assigned") to different courts to fill in while other judges are on vacation, sick, etc., or to help with cases in a court.

ASSIGNMENT OF SUPPORT RIGHTS – When a person who gets public assistance agrees to give the state any child support they get in the future. The person gets money and other benefits from the state. So the state can use part of the child support to pay for the cost of that public assistance.

ASSIGNMENT ORDER – A court order (made after a MOTION that says a JUDGMENT DEBTOR must assign certain rights to the JUDGMENT CREDITOR. Useful for payments that the judgment debtor would usually get, like rent from tenants, wages from the federal government, sales commissions, royalties, a business's accounts receivable, or installment payments on IOUs (also called "PROMISSORY NOTES" or JUDGMENTS).

ASSUMPTION OF RISK - A defense to a lawsuit for personal injury. The essence of the defense is that the plaintiff assumed the known risk of whatever dangerous condition caused the injury.

AT ISSUE - The time in a lawsuit when the complaining party has stated his or her claim and the other side has responded with a denial and the matter is ready to be tried.

AT ISSUE MEMORANDUM – A legal paper filed in a civil case that says the case is ready to go to trial.

ATTACHMENT - (1) Document attached to court papers to give more information; (2) A way to collect judgment: by getting a court order that says you can take a piece of property.

ATTACHMENT FOR DEFAULTER - A process by the court for the arrest of a person other than a defendant. (See ATTACHMENT, BENCH WARRANT.)

ATTEMPT - An effort to do an act or commit a crime.

ATTEST - To witness, to affirm to be true or genuine, to certify.

ATTESTATION - The act of witnessing something in writing, at the request of a party.

ATTORNEY - Someone that is qualified to represent clients in court and to give them legal advice. (See COUNSEL).

ATTORNEY OF RECORD - The lawyer whose name is listed in a case record as representing someone in the case.

ATTORNEY-AT-LAW - An advocate, counsel, or official agent employed in preparing, managing, and trying cases in the courts.

ATTORNEY-IN-FACT - A private person (who is not necessarily a lawyer) authorized by someone to act in his or her place, either for some particular purpose, or for the transaction of business in general. This authority is given in writing, called a power of attorney.

AUDIT – When records or accounts are looked at to check that they are right and complete.

AUTHENTICATE - To give authority or legal authenticity to a statute, record, or other written document.

AUTO TAMPERING - The manipulation of an automobile and its parts for a specific purpose.

AUTOMATED ADMINISTRATIVE ENFORCEMENT OF INTERSTATE CASES (AEI) – Part of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) that lets states file, put a lien on, and take property from people in a different state who owe money.

AUTOMATED VOICE RESPONSE SYSTEM (AVR) – Phone system that gives information to people over the phone.

AVERAGE ADULT PERSON – A hypothetical person who is used as an example of the entire community. This hypothetical person represents the interests of all, including persons religious and irreligious; persons of all nationalities, all adult ages and all economic, educational and social standings; persons with normal, healthy, average contemporary attitudes, instincts and interests concerning sex. (in the context of obscenity)

BACKLOG – All the cases that haven't been settled or decided in the time the law says they should be.

BAD FAITH – Generally implies actual or constructive fraud, or a design to mislead or deceive another.

BAIL - A security deposit (usually money) given to release a defendant or witness from custody and to make sure that they go to court when they're supposed to.

BAIL BOND - A legal paper that you buy from a bondsman and give to the court instead of bail. The defendant signs it and is let go. But if they don't come to court when they're supposed to, they must pay the amount of money on the bail bond.

BAIL BONDSMAN - Person who is responsible for paying the bond for the defendant's release from jail.

BAIL EXONERATION – When you get your bail back. Or when a bail bondsman or insurance ("surety") company isn't responsible for your bail anymore.

BAIL FORFEITURE - A court order to let the court keep the bail deposit because the defendant didn't go to court when they were supposed to.

BAILIFF - Person who is in charge of security in the court. Bailiffs are picked by sheriffs.

BAILMENTS – A delivery of goods from one person to another in trust for purpose of carrying out agreed upon services.

BAIL NOTICE – A legal paper from the court that says the court will make a WARRANT for arrest unless the defendant goes to court or pays bail.

BAIL RECEIPT – A written statement that the court gives a defendant that says bail was paid.

BAIL REVIEW - A hearing established to re-evaluate the bail amount that was originally set for the accused.

BALLARD MOTION - A motion for psychiatric examination of prosecutor's witnesses (victims).

BANK LEVY – Way to enforce a decision against someone who owes money. The money is taken from their checking or savings account at a bank, savings and loan, or credit union.

BANKRUPT - The state or condition of a person who is unable to pay his or her debts when they are due.

BANKRUPTCY - The legal way for a business or person to get help when they can't pay the money they owe. In bankruptcy court, they can get rid of debts by paying part of what they owe. There are special bankruptcy judges at these hearings.

BAR - All of the lawyers qualified to practice law. For example, a state bar includes all of the lawyers qualified to practice law in that state.

BAR EXAMINATION - A state examination that is taken in order to be admitted and licensed to practice law.

BASE TERM - A term of imprisonment selected by the court according to the Determinate Sentencing Law.

BATTERED CHILD SYNDROME (B.C.S.) - Physical condition of a child where external or internal injuries result from acts committed by a parent or custodian.

BATTERY - Illegal beating or physical violence or control of a person without their permission. (Compare with ASSAULT.)

BATTERY, SPOUSAL - An offensive touching or use of force on a spouse without the spouse's consent. See BATTERY.

BEAGLE MOTION - A request to exclude any reference of the defendant's prior conviction to the jury.

BEHAVIOR INTERVENTION PLAN – Plan made by a local educational agency (LEA) as part of an individualized education program (IEP), to change the behavior of students who harm themselves, assault others, or are destructive.

BENCH - (1) the desk where a judge sits in court; (2) Judges in general, or a specific judge.

BENCH CONFERENCE - A meeting either on or off the record at the judge's bench between the judge, counsel, and sometimes the defendant, out of the hearing of the jury.

BENCH TRIAL - Trial without a jury. The judge decides the case.

BENCH WARRANT - An order given by the judge (or "bench") to arrest a person who didn't do what the court ordered. For example, didn't go to court when they were supposed to. (See **WARRANT**, **WRIT**).

BENEFICIARY - Someone who gets something from a trust.

BENEFIT OF THE BARGAIN RULE – Rule which provides that a person may recover the difference between the actual value of the property and the value that was represented.

BEQUEATH - To leave someone something in a will.

BEQUESTS - What you leave someone in a will.

BEST EVIDENCE - Primary proof; the best proof available. For example, an original letter is “best evidence,” and a photocopy is “secondary evidence.”

BEYOND A REASONABLE DOUBT - The burden of proof in a criminal case requiring that the jury be convinced that every element of a crime has been proven by the prosecution.

BIAS - A pre-conceived opinion or a predisposition to decide a cause or an issue a certain way.

BIFURCATE - To try issues separately, such as guilt and criminal responsibility in a criminal proceeding or liability and damages in a civil action.

BIFURCATION MOTION - A request to change the order in which issues are heard at trial.

BILL OF PARTICULARS - A statement of the details of the charge made against the defendant.

BIND – To make yourself or someone else legally responsible for something.

BIND OVER - A judge's decision before a trial that says there is enough evidence for a trial.

BLOOD-ALCOHOL CONTENT (BAC) - The measurement in grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

BLOOD TEST – Testing someone's blood sample to: (1) see how much of a certain chemical is in the blood, (2) see who is the parent of a child.

BODY ATTACHMENT - A written order issued by a court directing a peace officer to take custody of someone and bring them before the court: 1) A witness who fails to comply with a subpoena, 2) a party who fails to comply with a court order in a civil action, or 3) a material witness in a criminal case.

BONA FIDE – Sincere, real without fraud or deceit. Comes from the Latin "in good faith."

BOND - A certificate or evidence of a debt.

BOOK (BOOKING) - What the police do when they arrest someone. Includes taking fingerprints, photographs, and writing down personal information about the person.

BOOKING NUMBER - The number assigned to the criminal record that corresponds to the person's arrest.

BOOKMAKING - Collecting the bets of others or making odds on future gambling events.

BRADY MOTION - A motion made by defense when they believe the District Attorney has not turned over exculpatory and material evidence.

BRANDISHING A WEAPON - Showing a weapon to another person, typically the police or the victim.

BREACH - The breaking or violating of a law, right, obligation, or duty either by doing an act or failing to do an act.

BREACH OF PEACE – Every person who unlawfully fights in a public place or willfully and maliciously disturbs another person by loud and unreasonable noise, or in a public place, says offensive words to one or more persons which are likely to start an immediate violent reaction.

BREAKING AND ENTERING - Going into someone's house at night with intent to commit a felony.

BREATHALYZER TEST - Testing someone's breath to see how much alcohol is in their blood.

BRIBE - A gift, not necessarily of monetary value, given to influence the conduct of the receiver.

BRIEF - A written statement that each side gives the court to say why the court should decide that they are right.

BURDEN OF PROOF - When one person in the case has to prove more than the other person.

BURGLARY - When someone unlawfully breaks into or enters a building or home, and they intend to or do commit a theft or other serious crime.

BYSTANDERS - A chance onlooker; one who has no concern with the business being conducted.

CALENDAR - A list, in alphabetical order, of all the cases in each courtroom every day. "To calendar" something means to give a day, time, and courtroom to a case.

CALIFORNIA RULES OF COURT – The rules for practices and procedures in California's state courts.

CALJIC – California Jury Instructions, Criminal.

CALLING THE DOCKET - The public calling of the docket or list of causes at the beginning of court, for setting a time for trial or entering orders.

CAPACITY - The person with the ability to perform under his or her will.

CAPITAL CASE - A criminal case where the defendant can get the death penalty.

CAPITAL CRIME - A crime punishable by death.

CAPITAL OFFENSE – A crime that you can get the death penalty for committing.

CAPITAL PUNISHMENT - Punishment by death. (See DEATH PENALTY.)

CAPTION - What is written at the top of all papers (called "pleadings") given to the court. It says things like case name, court, and case number.

CARJACKING – Taking a motor vehicle that belongs to someone else against his will, by means of force or fear.

CASE - A lawsuit. Or a complaint filed in criminal, traffic, or civil court.

CASE FILE – The folder that has official court papers for a case.

CASEFLOW MANAGEMENT – How a case is managed from the first paper filed to the final decision.

CASE ID – Identification number given to case by the court.

CASE LAW - Law made by earlier decisions in similar cases.

CASELOAD – The number of cases a judge has in a specific time.

CASE NUMBER - The number that identifies a case. This number is on all papers filed in the case. Also called "case ID." Also called DOCKET NUMBER.

CAUSATION - The act which causes something else to happen.

CAUSE - A lawsuit, litigation, or action.

CAUSE OF ACTION - The charges that make up the case or lawsuit. (See COUNTS).

CAUSTIC CHEMICALS – Corrosive acid or flammable substance.

CAUTIONARY INSTRUCTIONS – When the judge tells the jury to consider certain evidence only for a specific purpose.

CAVEAT - A warning; a note of caution.

CAVEAT EMPTOR - A theory that says you buy things at your own risk. Comes from the Latin for "let the buyer beware."

CEASE AND DESIST ORDER - An order of an administrative agency or court prohibiting a person or business from doing something.

CERTIFICATE OF PROBABLE CAUSE - An order signed by the court granting a defendant the right to appeal from a plea of guilty.

CERTIFICATION - A judge's order to move a criminal case to another court in a different county.

CERTIFIED - Saying that something is true or an exact reproduction.

CERTIFIED COPY - An official copy of a paper from a case file that is marked as being true, complete, and a real copy of the original legal case.

CERTIORI - Appeal to U.S. Supreme Court.

CHAIN OF CUSTODY - A method to track the whereabouts of evidence from the moment it is received in custody until it is offered in court.

CHALLENGE - Someone's right to object to or fight something in a legal case.

CHALLENGE FOR CAUSE - Reasons that a lawyer gives for removing a juror or judge from a case. (Compare with PEREMPTORY CHALLENGE.)

CHALLENGE TO THE ARRAY - Questioning the qualifications of an entire jury panel, usually on the ground of partiality or some fault in the process of summoning the panel.

CHAMBERS - A judge's private office.

CHANGE OF VENUE - When a civil or criminal case is moved from one court jurisdiction to another. (See VENUE).

CHARACTER EVIDENCE - Evidence pertaining to whether a criminal defendant is a good or bad person.

CHARGE - In criminal law, each thing the defendant is accused of. (See COUNT).

CHARGE TO THE JURY - The judge's instructions to the jury concerning the law that applies to the facts of the case on trial.

CHARGING DOCUMENT - A written accusation saying a defendant has committed an offense. Includes a citation, an indictment, information, and statement of charges.

CHATTEL – A piece of personal property.

CHIEF JUDGE - Presiding or Administrative Judge in a court.

CHILD ABUSE - Hurting a child physically, sexually or emotionally.

CHILD ABDUCTION – The offense of taking away a child by deceit and persuasion, or by violence.

CHILD MOLESTATION - Any form of indecent or sexual activity on, involving, or surrounding a child under the age of 18.

CHILD PORNOGRAPHY - Any obscene material that depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct.

CHILD PROCUREMENT - Intentionally giving, transporting, providing, or making available or offering to give, transport, provide, or make available a child under the age of 16 for the purpose of any lewd or lascivious act. Also causing, inducing, or persuading a child under the age of 16 to engage in any lewd or lascivious act with another person.

CHILD SUPPORT - Money paid by a parent to help support a child or children.

CHILD SUPPORT ENFORCEMENT (CSE) AGENCY - Agency that exists in every state to find parents that don't have custody. (called "noncustodial parents," or "NCPs"). Or to find a person assumed to be the father of the child ("Putative father" or "PF"). Also, makes, enforces, and changes child support. Collects and gives out child support money.

CIRCUMSTANTIAL EVIDENCE - All evidence that is indirect. Testimony not based on actual personal knowledge or observation of the facts in dispute.

CITATION - A COURT ORDER or SUMMONS that tells a defendant what the charges are. Also tells the defendant to go to court and/or post bail.

CITED – When a defendant is not in custody, but has signed a ticket promising to go to court on a certain day.

CIVIL ACTION - Noncriminal case in which one private individual or business sues another to protect, enforce private or civil rights.

CIVIL CASE - A lawsuit to get property back, to force someone to complete a contract, or to protect someone's civil rights.

CIVIL JURISDICTION – A court’s right or power to hear noncriminal civil cases.

CIVIL PROCEDURE - The rules and process by which a civil case is tried and appealed, including the preparations for trial, the rules of evidence and trial conduct, and the procedure for pursuing appeals.

CIVIL PROCESS – Court papers that tell the people in a civil case that it has started. Or papers that try to force the court to reach a judgment.

CIVIL RIGHTS VIOLATIONS – Violations of the personal, natural rights guaranteed and protected by the Constitution.

CLAIM - The statement of a right to money or property.

CLAIM OF EXEMPTION – A court paper filed by the JUDGMENT DEBTOR that lists each piece of property that the judgment debtor claims is an exempt asset under certain provisions of the law and, therefore, can’t be taken to pay the JUDGMENT.

CLAIM SPLITTING – When you split up a civil claim and file two lawsuits to stay below the limit of how much money you can ask for. Not allowed in most cases.

CLASS ACTION - A lawsuit brought by one or more persons on behalf of a larger group.

CLEAR AND CONVINCING EVIDENCE - Standard of proof commonly used in civil lawsuits and in regulatory agency cases. It governs the amount of proof that must be offered in order for the plaintiff to win the case.

CLEMENCY OR EXECUTIVE CLEMENCY - Act of grace or mercy by the president or governor to ease the consequences of a criminal act, accusation, or conviction. It may take the form of *commutation* or *pardon*.

CLERICAL ERROR - An unintentional mistake, in writing, which may be made by clerk, counsel, or court. (See NUNC PRO TUNC.)

CLERK - Officer of the court who files pleadings, motions, judgments, etc., issues process, and keeps records of court proceedings.

CLERK’S TRANSCRIPT - Those pleadings, minute orders, affidavits, written opinions of the Court, trial exhibits, etc., designated by the attorneys which have been filed during the course of the litigation process are put together with the appeal documents and collectively form the Clerk’s Transcript.

CLOSING ARGUMENT - Counsel's final statement to the judge/and or jury after all parties have concluded their presentation of evidence.

CODE - The law created by statutes. For example, the California Code of Civil Procedure, California Civil Code, California Vehicle Code, California Penal Code, and California Health and Safety Code.

CODE OF PROFESSIONAL RESPONSIBILITY - The rules of conduct that govern the legal profession. The Code contains general ethical guidelines and specific rules written by the American Bar Association.

CO-DEFENDANT - In a criminal case, an individual charged with involvement in the same crime as another.

CODICIL (kod'i-sil) - A legal paper that adds to or changes a will.

COERCION – Compulsion; constraint; compelling by force or arms or threat.

COHABITANT – One who lives with another.

COLLATERAL - 1. Property that is pledged as security against a debt. 2. A person belonging to the same ancestry (a relation), but not in a direct line of descent.

COLLATERAL ATTACK - An attack on a judgment other than a direct appeal to a higher court.

COMBUSTIBLE MATERIAL OR DEVICE – Capable of blowing up; apt to catch fire; inflammable.

COMMISSIONER - A person chosen by the court and given the power to hear and make decisions in certain kinds of legal matters.

COMMIT - To do something, like "to commit" a crime, or to put someone in a sheriff's custody. Or to use a court order to send a person to jail.

COMMITMENT - 1. The action of sending a person to a prison or mental institution. 2. The order directing an officer to take a person to a prison or mental institution.

COMMITMENT ORDER - A court order that says a person must be kept in custody, usually in a jail or mental institution.

COMMON BARRATRY (also called BARRETRY) – Making a habit of starting fights or lawsuits. Starting lawsuits without a good reason.

COMMON CARRIER – Required by law to carry passengers or freight without refusal if the fare is paid; in contrast to a private or contract carrier.

COMMON LAW - Laws that come from court decisions and not from statutes ("codes") or constitutions.

COMMUNITY OBLIGATIONS – Debts that a husband and wife owe together. In most cases, that includes anything that you still owe on any debts either of you had during the time you were living together as husband and wife. For example, if you bought furniture on credit while you were married and living together, the unpaid balance is a part of your community obligations.

COMMUNITY PROPERTY - Everything that a husband and wife own together. In most cases that includes: (1) Money or benefits like pensions and stock options that you now have which either of you earned during the time you were living together as husband and wife; and (2) Anything either of you bought with money earned during that period.

COMMUNITY SERVICE - Work performed as punishment for a crime. It may also be performed instead of a fine, or as a condition of probation.

COMMUTATION - The reduction of a sentence, such as from death to life imprisonment.

COMPARATIVE FAULT – Percentage of fault which is assigned to any one party.

COMPARATIVE NEGLIGENCE - A legal doctrine by which acts of the opposing parties are compared to determine the liability of each party to the other for negligent acts.

COMPENSATORY DAMAGES – Money that one person must pay another to cover the cost of a wrong or injury. (See DAMAGES).

COMPETENCE ORDER – An order from a superior court that says that a defendant is mentally able to go to trial. Tells the trial court to go ahead with the criminal case.

COMPETENCY - The ability for a person to understand and communicate, especially with regard to standing trial and assisting counsel in his or her defense.

COMPLAINANT - Person who wants to start a court case against another person. In a civil case, the complainant is the PLAINTIFF. In a criminal case, the complainant is the state.

COMPLAINT - The legal document that usually begins a civil lawsuit and is also used to start a criminal case. Says what the plaintiff thinks the defendant did and asks the court for help. Also called the "initial pleading" or "petition."

COMPLY - To act in accordance with, to accept, to obey.

COMPOSITE DRAWING - A picture of an alleged criminal created by a professional police artist using verbal descriptions given by the victim or a witness.

CONCEALMENT – Withholding of something which one knows and which one, in duty, is bound to reveal.

CONCILIATION - A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps lower tensions, improve communications, and explore possible solutions. Similar to mediation, but it may be less formal.

CONCURRENT JURISDICTION - The territory of two or more courts, that are each authorized to deal with the same subject matter.

CONCURRENT PLANNING – Refers to the legal requirement in dependency cases that reunification services be provided at the same time an alternative plan is developed (e.g., adoption , guardianship) if needed.

CONCURRENT SENTENCES - Sentences you can serve at the same time. For example, if you have concurrent sentences of 10 years and 5 years, you must serve a total of 10 years. (Compare with CONCURRENT SENTENCES).

CONCURRING CAUSES – Acting contemporaneously and together causing injury, which would not have resulted in absence of either.

CONDEMNATION - The legal process by which the government takes private land for public use, paying the owners a fair price. (See EMINENT DOMAIN.)

CONDITIONS – Certain things that someone has to do, or not do, to be released.

CONDITIONAL RELEASE - Freedom from custody which regulates the activities and associations of the defendant. If a defendant fails to meet the conditions, the release is cancelled.

CONDUCT ENHANCEMENTS - A kind of punishment-enhancing allegation (such as the arming clause of Penal Code section 12022) that relates to the nature of the offense at the time the crime was committed.

CONFESSION - When someone admits out loud or in writing that they committed a certain kind of crime. (Compare with ADMISSION).

CONFESSION OF JUDGMENT - The act of a debtor in a written statement that permits judgment to be entered against him by his creditor, without legal proceedings.

CONFIDENTIAL - A file or record that is not available for public viewing. Authorized viewing allowed only in statute and/or court policy. Files and records are identified and receive special handling.

CONFIDENTIAL RECORD – Information in a court case that is not available to the public.

CONFIDENTIALITY – Treated as private and not for publication.

CONFISCATE - To seize or take private property for public use (the police took the weapon).

CONFLICT OF INTEREST - When you have two different interests at the same time. For example, a lawyer who represents two sides at the same time can't be fair.

CONFORM COPIES - To make copies identical to an original; e.g., copies with duplicate signatures, duplicate dates.

CONFRONTATION RIGHT – Defendant's right to be face-to-face with the witnesses against him or her. It generally includes the right to ask questions and object, and to have witnesses testify in person.

CONSANGUINITY – COLLATERAL - The relationship that exists between persons who have the same ancestors, but who do not descend, or ascend, one from the other; as between uncle and nephew.

CONSANGUINITY – LINEAL - The relationship that exists persons of whom one is descended in a direct line from the other, as between son, father, grandfather, and so upwards in the direct ascending line; or between son, grandson, great-grandson, and so downwards in the direct descending line.

CONSECUTIVE SENTENCES - Successive sentences, one beginning at the end of another, imposed against a person convicted of two or more violations.

CONSERVATEE - Someone who can't take care of themselves and has a caretaker (called the "CONSERVATOR") who the court picked.

CONSERVATOR - Someone picked by the court to either take care of someone who can't take care of themselves (called a "CONSERVATEE") or take care of that person's property , or both.

CONSERVATORSHIP - A court proceeding where a judge picks someone (a conservator) to take care of an adult's personal needs and/or his or her finances. For minors, see GUARDIANSHIP.

CONSENT – A written agreement to obey a decision or deal.

CONSIDERATION - The cause, price, or impelling influence which makes a party enter into a contract.

CONSOLIDATION OF ACTIONS – When at least two cases that involve the same people are grouped together.

CONSORTIUM, LOSS OF – Unable to have a sexual relationship between a husband and a wife.

CONSPIRACY – Where two or more persons intentionally agree to commit crime and do an act towards committing the crime.

CONSTRUCTIVE POSSESSION - Where a person does not actually possess a thing, but knowingly has control over it.

CONSTITUTION – The central law of our country that sets up the creation, character, and organization of its power and how that power is exercised. The rule, principles, descriptions of the government's power, and the main rights that the people of a country or state have.

CONSTITUTIONAL RIGHT - A right guaranteed by the U. S. Constitution, interpreted by the federal courts; also, a right guaranteed by some other constitution (such as a state constitution).

CONTEMNOR - One who has committed contempt of court.

CONTEMPORARY COMMUNITY STANDARD – What is, objectively acceptable to the community as a whole. Ascertainment of the standard must be based upon an objective determination of what is unacceptable to the community as a whole. Your own personal, social, or moral views on the material involved in the case may not be considered.

CONTEMPT (OF COURT) - Disobeying a court order. Punishment can be a fine or jail.

CONTINUANCE - Putting off a court case to a later date. (See ADJOURNMENT).

CONTINUING EXCLUSIVE JURISDICTION – Theory that only one support order should be valid between the same people at a time. And when a court hears a child support case, it can add to and change that order. The court of continuing exclusive jurisdiction has control over a support case until another court takes it away. This is defined in the Uniform Interstate Family Support Act (UIFSA).

CONTRACT - (1) an agreement between two or more people to do or not to do a particular thing; (2) an agreement between two or more people that makes, changes, or ends a legal relationship.

CONTRIBUTORY NEGLIGENCE - A legal doctrine that says if the plaintiff in a civil action for negligence also was negligent, in any way, he or she cannot recover damages from the defendant for the defendant's negligence.

CONTROLLED SUBSTANCES – Any drug identified by law whose availability is restricted. Unless otherwise specified, a drug, substance, or immediate precursor which is listed in any schedule in Health & Safety Code sections 11054, 11055, 11056, 11057 or 11058.

CONVERSION - The wrongful assumption of ownership over the goods or personal property belonging to another.

CONVEY – (1) to give the title to property to someone else. (2) to make known or communicate.

CONVICT - (1) A person who has been found guilty of a crime and is serving a sentence for that crime; a prison inmate. (2) To find a person guilty of an offense by either a trial or a plea of guilty.

CONVICTION - When a judge or jury finds a criminal defendant guilty.

CORONER - Public official charged to inquire into the causes and circumstances of any death which occurs through violence or suddenly (suspicious causes).

CORPORATION - A group of persons who get a charter granting them as a body certain legal powers, rights, privileges, and liabilities as an individual.

CORPUS DELECTI - Body of the crime. The objective proof that a crime has been committed. It sometimes refers to the body of the victim of a homicide or to the charred remains of a burned house, but the term has a broader meaning. For the state to introduce a confession or to convict the accused, it must prove the occurrence of a specific injury or loss and a criminal act was the source of that particular injury or loss.

CORROBORATE - To support with evidence or authority; make more certain.

CORROBORATING EVIDENCE - Supplementary evidence that tends to strengthen or confirm the initial evidence.

CORROBORATION - Confirmation or support of a witness' statement or other fact.

CORRUPTLY - Dishonestly.

COSTS - (1) Fees and charges that a party pays to file and present a court case or to enforce a judgment; (2) money won in a civil suit to pay for expenses.

COUNSEL - One or more lawyers who represent a client. Also, legal advice. (See ATTORNEY).

COUNSEL TABLE - The physical location where the defense and prosecuting parties are seated during the trial.

COUNT - Each separate charge (or statement) in a criminal case. (See CHARGE).

COUNTERCLAIM - An independent charge by one side in a case (either the plaintiff or defendant) that goes against the claim made by the other side.

COUNTERFEIT - To forge, to copy or imitate, without authority or right, and with the purpose to deceive by passing off the copy as genuine.

COUNTY JAIL - A building or structure used to put alleged criminals and/or convicted criminals of local area crimes.

COURT - A judge or group of judges whose job is to hear cases and carry out justice. (See BENCH.)

COURT APPOINTED SPECIAL ADVOCATES (CASA) - These are volunteers who represent abused and neglected children.

COURT ATTENDANT - Provide courtroom support in selected courtrooms by performing limited security-related and clerical duties and serving as the court liaison for juries, witnesses, attorneys and the public.

COURT ADMINISTRATOR/CLERK OF COURT - An officer appointed by the Court or elected to oversee the administrative, non-judicial activities of the court.

COURT APPOINTED COUNSEL - A defense attorney assigned by the court to represent a defendant who cannot afford to hire an attorney.

COURT COSTS - The expenses of prosecuting or defending a lawsuit, other than the attorneys' fees. An amount of money may be awarded to the successful party (and may be recoverable from the losing party) as reimbursement for court costs.

COURT OF RECORD - A court in which the proceedings are recorded, transcribed, and maintained as permanent records.

COURT ORDER - A decision made by a judicial officer that gives someone certain rights or tells someone to do something.

COURT REPORTER - Someone who writes down, word for word, what is said in court. What is recorded is called a TRANSCRIPT.

COURT TRIAL - A trial without a jury. A judge decides the case.

COURT, APPEALS - In some states, the highest appellate court, where it is the Court's decision whether to hear the case.

COURT, DISTRICT - (1) Federal - A trial court with general Federal jurisdiction. (2) State - Meaning varies from state to state.

COURT, JUVENILE - A court having jurisdiction over cases involving children under a specified age, usually 18. Cases generally involve delinquent, dependent, and neglected children.

COURT, NIGHT - A specialized court that deals with cases during the late evening and early morning hours.

COURT, SUPERIOR - Trial court; meaning varies from state to state.

COURT, TRAFFIC - A specialized court that hears crimes dealing with traffic offenses.

COURTESY NOTICE - A notice made by a computer that is usually sent for traffic violations to tell a defendant about a court date, bail, etc.

COURTROOM - The section of a courthouse in which the judge presides over the proceedings.

COURTROOM CLERK - Courtroom personnel who attends court sessions and prepares record of court proceedings in conformance with statutes, policies, and the direction of a Judge; swears in witnesses and juries; maintains exhibits offered in evidence.

CREDIBILITY - The quality in a witness which makes his or her testimony believable.

CREDIT – Arrangement or understanding by the maker of a check with the person/institution upon which the order is drawn, for the payment of that check upon its presentation.

CRIME - Something you do, or don't do, that breaks a law. If you are found guilty, you can be punished by: death; jail or prison; fine; being removed from office; being unable to hold any office of honor, trust, or profit.

CRIMINAL - Someone convicted of a felony or a misdemeanor.

CRIMINAL CASE - A court case that starts because of a crime.

CRIMINAL CONDUCT – The nature of or involving a crime.

CRIMINAL INSANITY - Lack of mental ability to do or keep from doing a particular act; not able to distinguish right from wrong.

CRIMINAL NEGLIGENCE – Act(s) which are aggravated, reckless or flagrant and which depart from the conduct of an ordinarily prudent, careful person under the same circumstances as to be contrary to a proper regard for human life or to constitute an indifference to the consequences of those acts.

CRIMINAL RECORD - (1) Arrest record. A written account listing all the instances in which a person has been arrested. (2) A form completed by a police officer when a person is arrested.

CRIMINAL STREET GANG - An ongoing organization, association, or group of three or more persons, having as one of its primary activities the commission of one or more criminal acts, having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

CRIMINAL SUMMONS - An order commanding an accused to appear in court.

CROSS-CLAIM - A claim filed by defendant(s) or plaintiff(s) against each other.

CROSS-EXAMINATION - When the other side's lawyer asks a witness questions in a hearing or trial.

CUMULATIVE SENTENCES - Sentences for two or more crimes to run consecutively, rather than concurrently. (See **CONCURRENT SENTENCES AND CONSECUTIVE SENTENCES**.)

CUSTODIAL PARENT – The parent that has primary care, custody, and control of the child(ren).

CUSTODY - (1) When someone is under the physical control of the court to make sure they go to court when they're supposed to; (2) when the judge sends a person to jail after they are found guilty of a crime; (3) the care and control of children.

CUSTODY ORDER - A court order that says who a child will live with and who should make decisions about health care, education, and other important things.

CUSTOM – A usage or practice of the people, which, by common adoption and acquiescence, has become compulsory.

DAMAGES - Money that the losing side must pay to the winning side to make up for losses or injuries. There are two kinds of damages: (1) "compensatory," meaning money to pay for the actual cost of an injury or loss; and (2) "punitive" or "exemplary," meaning an amount of money that's more than the actual damages. This is a punishment for willful or malicious acts.

DEADLY WEAPON – Any weapon, instrument or object that is capable of being used to inflict death or great bodily injury.

DEATH PENALTY - Death imposed by the state as punishment for a serious crime. (See **CAPITAL PUNISHMENT**.)

DEATH ROW - The area of a state or federal prison where criminals who are sentenced to death are confined until their sentence is commuted or carried out.

DECEDENT – In criminal law, it means a murder victim; in probate law, it means a dead person.

DECISION - A court's judgment or decree that settles a dispute. (See also **DECREE, JUDGMENT**.)

DECLARATION - A statement that a person writes and files with the court. It tells the judge why the person should win the case. Sometimes, a person signs this under penalty of perjury.

DECLARATION OF PATERNITY – Form signed by unmarried parents, generally at the hospital, where the parents declare who is the father of the child.

DECLARATORY JUDGMENT - A judgment of the court that explains what the existing law is or expresses the opinion of the court without the need for enforcement.

DECREE - A court decision. It can be (1) "interlocutory," which means it is not a final decision, or (2) "final," which means all issues of the case are settled.

DE FACTO PARENT – A person found by the court to have assumed, on a day-to-day basis, the role of parent, fulfilling both the child's physical and psychological needs for care and affection, and who has assumed that role for a substantial period.

DE FACTO - To exercise power in a juvenile dependency case. Latin meaning "from the fact."

DEFAMATION - When one person hurts another person's character, fame, or reputation by making false and malicious statements that are not protected by law.

DEFAULT - When a defendant in a civil case doesn't file an answer or go to court when they're supposed to, but was properly notified.

DEFAULT JUDGMENT - A court decision in favor of the plaintiff when the defendant doesn't answer or go to court when they're supposed to.

DEFENDANT - In a civil case, the person or company being sued. In a criminal or traffic case, the person accused of the crime.

DEFENSE - In a civil case, the facts or arguments presented by the defendant to show why the plaintiff doesn't have a right to the relief asked for. In a criminal case, the reasons why a defendant should not be convicted of the charge(s).

DEFENSE ATTORNEY - In a criminal case, the lawyer that represents the accused person (called the "defendant").

DEFRAUD – To make a misrepresentation of an existing material fact, knowing it to be false or making it recklessly without regard to whether it is true or false. To practice fraud; to cheat or trick. To deprive a person of property or any interest, estate, or right by fraud, deceit or artifice.

DEGREE - Scope of an action or charge.

DELIBERATE - To consider all the evidence and arguments related to a case that were presented in court.

DELIBERATION - When a jury, for either a civil or criminal case, goes into the jury room to discuss the evidence and testimony and reach a verdict.

DELINQUENCY COURT - The division of the Juvenile Court hearing cases where juveniles have been charged with committing a crime.

DELINQUENCY, JUVENILE - Antisocial behavior by a minor; especially behavior that would be criminally punishable if the minor were an adult, but instead is usually punished by special laws pertaining only to minors.

DEMURRER - When a defendant says the facts presented by a plaintiff may be true, but they aren't enough to prove the defendant's legal responsibility.

DENNIS H. – A hearing to determine if there is sufficient evidence to sustain a juvenile court petition.

DE NOVO - Starting a case all over again as if it had not been heard before. In Latin, *novo* means "new." (See TRIAL DE NOVO.)

DEPENDENCY COURT - The division of the Juvenile Court hearing cases of child abuse and neglect.

DEPENDENT CHILD - In family law, this usually means a child that is financially supported by another person. In juvenile law, this means a minor that is in the custody of the court because he or she was abused, neglected, or molested or is physically dangerous to the public because of a mental or physical disorder.

DEPORTATION - The act of removing a person to another country. Order issued by an immigration judge, expelling an illegal resident from the United States. A deportation has certain consequences regarding the number of years within which a deportee may not legally immigrate. There are also criminal consequences for reentry within a prescribed time period.

DEPOSITION - Written or oral testimony given under oath in front of an authorized third person like a court reporter. Depositions take place outside of the court. They allow the parties to get a record of a person's testimony, or to get testimony from a witness that lives far away. They can help the lawyers prepare their court papers called "pleadings." (See also DISCOVERY.)

DEPRIVATION OF CUSTODY - The court transfer of legal custody of a person from parents or legal guardian to another person, agency, or institution. It may be temporary or permanent.

DEPUTY - One appointed to substitute for another with power to act for him in his name or on his behalf. For example, a Deputy County Clerk is appointed on behalf of the County Clerk.

DEPUTY D.A. - An assistant lawyer to the district attorney.

DESCENT AND DISTRIBUTION STATUTES - State laws that provide for the distribution of estate property of a person who dies without a will. Same as **INTESTACY LAWS**.

DESTRUCTIVE DEVICE / EXPLOSIVE - any substance, the purpose of which is detonation or rapid combustion, and which is capable of rapid release of gas and heat.

DETENTION - When a person is temporarily locked up until the court makes a final decision.

DETENTION HEARING - The initial hearing in Dependency Court soon after the child has been removed from the parent.

DETERMINATE (SENTENCE) - Confinement for a fixed period as specified by statute.

DEVELOPMENTALLY DISABLED - Those persons, not psychotic, who are so developmentally disabled from infancy or before reaching maturity that they are incapable of managing themselves and their affairs independently, with ordinary prudence, or of being taught to do so, and who require supervision, control, and care for their own welfare, or for the welfare of others, or for the welfare of the community. (Formerly termed "mentally retarded.")

DEVISE - A gift of real property by a will.

DEVISEE - A person who receives real property by will.

DIRECT EVIDENCE - Proof of facts by witnesses who saw acts done or heard words spoken.

DIRECT EXAMINATION - When a witness testifies and answers questions asked by the party that asked them to testify. (Compare **CROSS-EXAMINATION**.)

DIRECTED VERDICT - An instruction by the judge to the jury to return a specific verdict. Now called Judgment as a Matter of Law.

DISBARMENT - Form of discipline of a lawyer resulting in the loss (often permanently) of that lawyer's right to practice law. It differs from censure (an official reprimand or condemnation) and from suspension (a temporary loss of the right to practice law).

DISCLAIM - To refuse a gift made in a will.

DISCLAIMER - The repudiation or renunciation of a claim or power vested in a person or which he had formerly alleged to be his. The disavowal, denial, or renunciation of an interest, right, or property imputed to a person or alleged to be his.

DISCOVERY - The gathering of information (facts, documents, or testimony) before a case goes to trial. Discovery is done in many ways, such as through depositions, interrogations, or requests for admissions. It can also be done through independent investigation or by talking with the other side's lawyer.

DISCOVERY MOTION - A motion to have evidence disclosed to the moving party.

DISCRIMINATION – An act which confers particular privileges on a class arbitrarily selected.

DISMISS - To terminate legal action involving outstanding charges against a defendant in a criminal case.

DISMISSAL WITH PREJUDICE - When a court dismisses a case and will not allow any other suit to be filed on the same claim in the future.

DISMISSAL WITHOUT PREJUDICE - When a court dismisses a case, but will allow other suits to be filed on the same claim.

DISORDERLY CONDUCT - Any behavior, contrary to law, which disturbs the public peace or decorum, scandalizes the community, or shocks the public sense of morality.

DISPARITY – Marked difference in quantity or quality between two things.

DISPOSITION - The final decision by the court in a dispute.

DISPOSITIONAL HEARING – The hearing held after a petition is sustained (allegation found true), to determine whether the child will become a dependent of the court, where the child will reside, and what reunification services, if any, will be provided to the parent.

DISSENT - To disagree. An appellate court opinion setting forth the minority view and outlining the disagreement of one or more judges with the decision of the majority.

DISSOLUTION - A marriage that is ended by a judge's decision, also known as a "divorce." (Compare NULLITY.)

DISSOLUTION OF MARRIAGE - The act of terminating a marriage; divorce; but the term does not include annulment.

DISTINCTIVELY MARKED – A vehicle, operated by a peace officer, is “distinctively marked” when in addition to a lighted red lamp and activated siren, the vehicle is of such appearance that a reasonable person would be able to recognize it as a peace officer’s vehicle, and a person fleeing is on reasonable notice that pursuit is by a peace officer.

DISTRICT ATTORNEY - A lawyer appointed or elected to represent the state in criminal cases in his or her respective judicial districts. (See PROSECUTOR.)

DISTURBING THE PEACE - Conduct which tends to annoy all citizens, including unnecessary and distracting noisemaking.

DIVERSION - Instead of going to jail, a defendant goes to a rehabilitation ("rehab") program and is supervised by a probation officer. When the defendant finishes the program, the charges are dismissed and the defendant is not sentenced. (Compare ELECTRONIC MONITORING, HOME MONITORING.)

DIVORCE - A common name for a marriage that is legally ended. See DISSOLUTION.

DOCKET - A record with the complete history of each case a court hears. It contains short chronological summaries of the court proceedings.

DOCKET NUMBER - Identification number that the court clerk's office gives a case. This number is on all papers filed in the case. Also called CASE NUMBER.

DOE - Used in law courts, legal papers, etc., to refer to any person whose name is unknown.

DOMESTIC VIOLENCE - An assault committed by one member of a household against another.

DOMICILE - The place where a person has his or her permanent legal home. A person may have several residences, but only one domicile.

DOUBLE JEOPARDY - The constitutional prohibition under the Fifth Amendment against a person being put on trial more than once for the same offense.

DRIVE-BY MURDER - Murder perpetrated by means of discharging a firearm from a motor vehicle intentionally at another person outside of the vehicle. When the perpetrator specifically intended to inflict death, the murder is of the first degree.

DRIVING WHILE INTOXICATED (DWI) - The unlawful operation of a motor vehicle while under the influence of drugs or alcohol. In some jurisdictions it is synonymous with **DRIVING UNDER THE INFLUENCE (DUI)**, but in others, driving while intoxicated is a more serious offense than driving under the influence.

DRUNK DRIVING - The operation of a vehicle in an impaired state after consuming alcohol that when tested is above the state's legal alcohol limit.

DUE PROCESS OF LAW - The regular way that the law is administered through the courts. The U.S. Constitution says that everyone has to have a day in court, has the right to be represented by a lawyer, and the right to benefit from court procedures that are speedy, fair, and impartial.

DURESS – Consists in any illegal imprisonment or threats of bodily harm in order to coerce the will of another and inducing him to do an act contrary to his free will.

EASEMENTS – A right of use over the property of another.

ELEAZER MOTION - A motion to require prosecution to disclose the whereabouts of an informant or show that reasonable effort has been made to locate him.

ELECTRONIC MONITORING – Use of an electronic device to keep an eye on where a sentenced person is in the community and to restrict his or her activities, instead of putting the person in jail. (See also HOME MONITORING).

ELECTRONIC TECHNOLOGY - includes, but is not limited to computer modem, magnetic media, optical disk, facsimile machine, or telephone.

ELEMENTS OF A CRIME - Specific factors that define a crime which the prosecution must prove beyond a reasonable doubt in order to obtain a conviction. The elements that must be proven are 1) that a crime has actually occurred, 2) that the accused intended the crime to happen, and 3) a timely relationship between the first two factors.

EMANCIPATION – A legal way for children to become adults before they are 18. Once a child is emancipated, his or her parents don't have custody or control of him or her anymore.

EMBEZZLE - To willfully take or convert to one's own use, another's money or property, which the wrongdoer initially acquired lawfully, because of some office, employment, or some position of trust.

EMBEZZLEMENT – Taking property by a person to whom the property has been entrusted.

EMINENT DOMAIN - The right of the state to take private property for public use after giving fair compensation to the owner.

EN BANC - Court sessions where all the judges of a court participate, instead of the usual number. For example, the U.S. circuit courts of appeals usually use panels of three judges, but all the judges in the court

may decide certain matters together. When that happens, they are sitting "en banc" (sometimes spelled "in banc"). It comes from the French language and means "on the bench."

ENDORSE - To sign your name on a document to authorize its contents or transfer (as in a check that is endorsed to transfer money).

ENDORSED-FILED COPIES - Copies of court papers that are stamped in the top right corner to show when they are filed. (Compare with CERTIFIED COPY.)

ENDORSEMENT, FORGERY BY – Falsely writing or endorsing check to cheat another person.

ENHANCE - To make greater in value, to increase.

ENHANCEMENT - An allegation added to a basic charge which, if proven, increases the basic sentence. Example: "use of a gun in the commission of a crime" may be added to the felony charge.

ENJOINING - An order by the court telling a person to stop something.

ENTER A GUILTY PLEA - The formal statement before the court that the accused admits committing the criminal act.

ENTRAPMENT - A defense to criminal charges alleging that agents of the government induced a person to commit a crime he or she otherwise would not have committed.

ENTRY OF DEFAULT - The clerk's record that the defendant has defaulted by not answering, or not answering on time. The plaintiff must request this record entry.

EQUAL PROTECTION - The guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons be treated equally by the law.

EQUITABLE ACTION - An action which may be brought for the purpose of restraining the threatened infliction of wrongs or injuries, and the prevention of threatened illegal action.

EQUITY - A system of law that supplements the statutory and case law and is based on principles of what is "fair and right."

ERROR CORAM NOBIS - Petition filed in trial court seeking relief from conviction based on new facts.

ERROR CORAM VOBIS - Petition filed in appellate court seeking relief from conviction based on new facts.

ESCAPE BY FORCE OR VIOLENCE – Using force to escape from custody.

ESCHEAT (ES-CHET) - The process by which a deceased person's property goes to the state if there is no will or no heirs.

ESCROW - Money or a written instrument such as a deed that, by agreement between two parties, is held by a neutral third party (held in escrow) until all conditions of the agreement are met.

ESTATE - Everything a person (alive or dead) owns and owes. There are different types of estates, like probate, nonprobate, trust and taxable estates. Probate estate: The property in someone's will. Or, if they do not have a will, the property the probate court handles. Nonprobate estate: The property the probate court does not handle. For example, if there's a trust or joint tenancy. Trust estate: Property in a trust. A trustee controls the trust. Taxable estate: The property subject to federal estate tax when a person dies. For example, life insurance.

ESTATE TAX - Generally, a tax on the privilege of transferring property to others after a person's death. In addition to federal estate taxes, many states have their own estate taxes.

ESTOPPEL - An act or statement that prevents a person from later making claims to the contrary.

ET AL - In Latin, this means "and others." Refers to parties not included in the formal name of a court case.

ET SEQ - An abbreviation for et sequentes, or et sequentia. Latin meaning "and the following," ordinarily used in referring to a section of statutes.

ET UX - In Latin, this means "and wife."

EVICTION - Recovery of land or rental property from another by legal process. (See UNLAWFUL DETAINER.)

EVIDENCE - Any proof legally presented at trial through witnesses, records, and/or exhibits.

EVIDENCE, CIRCUMSTANTIAL - Conclusion drawn from proven facts.

EVIDENCE, DIRECT - Evidence in form of a witness's testimony, who actually saw, heard, or touched the subject in question.

EVIDENCE, EVANESCENT - Evidence which can disappear relatively quickly, such as the amount of alcohol in a person's blood.

EXAMINATION, DIRECT - The first examination of a witness by the counsel who called the witness to testify.

EXAMINATION, RECROSS - A second examination of a witness by the opposing counsel after the second examination (or redirect examination) by the counsel who called the witness to testify is completed.

EXAMINATION, REDIRECT - A second examination of a witness by the counsel who called the witness to testify. This examination is usually focused on certain matters that were discussed by the opposing counsel's examination.

EXCEPTIONS - Declarations by either side in a civil or criminal case reserving the right to appeal a judge's ruling upon a motion. Also, in regulatory cases, objections by either side to points made by the other side or to rulings by the agency or one of its hearing officers.

EXCESSIVE FORCE – Use of unreasonable amount of force by police officer.

EXCLUSION OF WITNESSES - An order of the court requiring all witnesses to remain outside the courtroom until each is called to testify, except the plaintiff or defendant. The witnesses are ordered not to discuss their testimony with each other and may be held in contempt if they violate the order.

EXCLUSIONARY RULE - The rule preventing illegally obtained evidence to be used in any trial.

EXCLUSIVE JURISDICTION - The matter can only be filed in one court.

EX CONTRACTU - Arising from a contract.

EXCULPATORY EVIDENCE - Evidence which tends to indicate that a defendant did not commit the alleged crime.

EXECUTE - (1) To carry out all terms of a contract or court order; (2) to sign (a document); (3) to kill.

EXECUTION - The name of a court order issued to a sheriff, marshal, or constable authorizing and requiring him to carry out the judgment of the court.

EXECUTION OF SENTENCE SUSPENDED - Imposing a sentence that will not be served. This is frequently ordered in combination with grants of probation. If the defendant is subsequently found in violation of probation, the suspension will be lifted and the sentence carried out.

EXECUTOR - Person or company named in a will to carry out the will's instructions and requests. The executor is usually supervised by the probate court.

EX DELICTO - Arising from a wrong, breach of duty. (See TORT.)

EXEMPLARY DAMAGES - Monies awarded to the plaintiff that exceed the normal or expected amount. Serve as punishment for willful or malicious acts by the defendant, rather than act of negligence.

EXEMPLIFICATION - An extremely formal type of certification in which the Clerk signs the certification of the document or record. The Presiding Judge then signs attesting to the fact of the identity of the Clerk, and that the signature is authentic. Finally, the Clerk signs again, this time attesting to the fact that the judge is a Judge of that county's General Jurisdiction Court, and that the signature is authentic.

EXHIBIT - A document or an object shown and identified in court as evidence in a case.

EXHIBIT, PEOPLE'S - Exhibit and/or evidence that is offered by the prosecution.

EXONERATE - To clear of blame or to relieve from responsibility.

EX PARTE - A court procedure with only one side. For emergencies only.

EX PARTE PROCEEDING - The legal procedure in which only one side is represented.

EXPERT TESTIMONY - Testimony given in relation to some scientific, technical, or professional matter by experts, i.e., person qualified to speak authoritatively by reason of their special training, skill, or familiarity with the subject.

EXPLOSIVE/DESTRUCTIVE DEVICE – Any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion, and which is capable of a relatively instantaneous or rapid release of gas and heat, or any substance, the primary purpose of which, when combined with others, is to form a substance capable of a relatively instantaneous or rapid release of gas and heat.

EX POST FACTO - Latin meaning, "after the fact." The Constitution prohibits the enactment of ex post facto laws. These are laws that permit conviction and punishment for a lawful act performed before the law was changed and the act made illegal.

EXPUNGEMENT - Official and formal erasure of a record or partial contents of a record.

EXTENUATING CIRCUMSTANCES - Circumstances which render a crime less aggravated, heinous, or reprehensible than it would otherwise be.

EXTORTION - The act of obtaining the property of another person through wrongful use of actual or threatened force, violence, or fear.

EXTRADITION - Bringing a person that is in custody in one state to the authorities of another state where that person has been accused or convicted of a crime.

EXTRAORDINARY WRIT - A court order, often issued by an appellate court, making available remedies not regularly within the powers of lower courts. They include writs of habeas corpus, mandamus, prohibition and quo warranto.

EYE WITNESS - One who saw the act, fact, or transaction to which he or she testifies.

FACTUAL BASIS - The underlying facts supporting a defendant's guilty or NOLO CONTENDERE plea.

FACTUALLY INNOCENT - No reasonable cause exists to believe the person arrested committed the offense.

FAILURE TO APPEAR - The act of not appearing in court after being presented with a subpoena or summons.

FAILURE TO COMPLY - The act of not following an order that is directed by the court.

FAIR HEARING - A hearing in which certain rights are respected such as the right to present evidence, to cross examine and to have findings supported by evidence.

FAIR MARKET VALUE - The cash value price that the property would have brought at the time it was taken.

FALSE ARREST - Any unlawful physical restraint of another's personal liberty, whether or not carried out by a peace officer.

FALSE IMPRISONMENT - The unlawful restraint by one person of another person's physical liberty.

FALSE PRETENSES - Representation of some fact or circumstance which is not true and is calculated to mislead, by which a person obtains another's money or goods.

FALSE TOKEN - Any tangible object or a document that is not genuine, is not what it appears or claims to be, and is intended to be used and is used to deceive the person to whom it is presented.

FAMILY ALLOWANCE - A small amount of money kept from the estate of the deceased to provide for the surviving family members during the administration of the estate.

FEDERAL EMPLOYER'S LIABILITY ACT - Federal workers' compensation law which protects railroad employees.

FEES - A specific amount of money that's paid in exchange for a service, such as filing a court paper.

FEE SIMPLE - The most complete, unlimited form of ownership of real property, which lasts until the current holder dies without an heir.

FEE WAIVER - Permission not to pay the court's filing fees. People with very low income can ask the court clerk for a fee waiver form.

FELONY - A serious crime that can be punished by more than one year in prison or by death. (Compare INFRACTION, MISDEMEANOR).

FELONY MURDER - A murder committed during the commission of a felony such as robbery, burglary, or kidnapping.

FIDUCIARY - A person that acts for another person's benefit, like a trustee or guardian. It also means something that is based on a trust or confidence. (See also TRUSTEE.)

FIELD SOBRIETY TEST - A method of determining whether a person is intoxicated using a motor skills test which is administered by testing the driver's speaking ability and/or physical coordination.

FIFTH AMENDMENT - Among other rights, the Fifth Amendment to the U.S. Constitution guarantees that a person cannot be forced to present self-incriminating testimony in a criminal proceeding.

FILE - When a person officially gives a paper to a court clerk and that paper becomes part of the record of a case.

FIND GUILTY - For the judge or jury to determine and declare the guilt of the defendant.

FINDING - When a judicial officer or jury says something is a fact.

FINDINGS OF FACT - An oral or written statement by a judge after a review of the evidence stating that the facts given are found to be true.

FINE - The money a person must pay as punishment for doing something illegal or for not doing something they were supposed to do.

FINGERPRINT - The distinctive pattern of lines on human fingertips that are used as a method of identification in criminal cases.

FIREARM - A weapon which acts by force of gunpowder, such as a rifle, shotgun or revolver.

FIRST APPEARANCE - The initial appearance of an arrested person before a judge to determine whether there is probable cause for his or her arrest. Generally, the person comes before a judge within hours of the arrest, and are informed of the charges against him or her and of his or her rights to a preliminary hearing, to counsel, and to bail. No plea is asked for at this time. Also called **INITIAL APPEARANCE**.

FITNESS HEARING – A court hearing to decide if a juvenile (minor) should be tried as an adult.

FORCIBLE AND ATROCIOUS CRIME – Any felony that by its nature and the manner of its commission threatens, or is reasonably believed by the defendant to threaten life or great bodily injury so as to instill in him a reasonable fear of death or great bodily injury. Murder, mayhem, rape, and robbery are all forcible and atrocious crimes.

FORCIBLE ENTRY AND DETAINER - Ordinarily refers to a summary proceeding for restoring possession of land to one who has been wrongfully deprived of possession.

FORECLOSURE - Procedure by which mortgaged property is sold on default of the mortgagor in satisfaction of mortgage debt.

FORFEIT - To lose, or lose the right to. In Traffic – to forfeit means to enter an implied guilty plea and pay total bail to close a case.

FORFEITURE - When a person must give up money or property because he or she didn't meet a legal obligation. (See also **BAIL FORFEITURE**).

FORGERY - The act of claiming one's own writing to be that of another.

FORMAL PROBATION - Court-ordered terms and conditions placed upon a defendant instead of a sentence. Formal probation involves supervision of the defendant by a probation officer. Summary probation involves no probation officer; the defendant is responsible directly to the court.

FORUM NON CONVENIENS - A doctrine patterned upon the right of the court in the exercise of its equitable powers to refuse the imposition upon its jurisdiction of the trial of cases even though the venue is

properly laid if it appears that for the convenience of litigants and witnesses and in the interest of justice the action should be instituted in another forum where the action might have been brought.

FOSTER CARE - A program that gives money to a person, family, or institution to raise someone else's child.

FOUNDATION - In a trial, a foundation must be laid to establish the basis for the admissibility of certain types of evidence. For example, an expert witnesses's qualifications must be shown before expert testimony will be admissible.

FOURTEENTH AMENDMENT - Among other matters, the 14th Amendment to the U.S. Constitution prohibits states from depriving any person of life, liberty, or property without adequate DUE PROCESS.

FRAUD - Deceiving someone on purpose in a way that financially hurts others.

GAG ORDER - Orders restraining parties and counsel to a criminal proceeding from talking about the case to the press or public.

GAMBLING - The act of staking money, or other thing of value, on an uncertain event or outcome.

GARNISH - To withhold a debtor's money, and turn it over to another in order to pay a debt. Typically, the one withholding the money is the debtor's employer.

GARNISHMENT - A legal process that allows part of a person's wages or property to be withheld for payment of a debt.

GENERAL ASSIGNMENT - The voluntary transfer, by a debtor, of all property to a trustee for the benefit of all of his or her creditors.

GENERAL JURISDICTION - Refers to courts that have no limit on the types of criminal and civil cases they may hear.

GLUE SNIFFING - The act of inhaling glue in order "to get high."

GOOD CAUSE - A good reason. For example, a person must have good cause (better than not having a car or a baby-sitter) for not coming to a court hearing.

GOOD FAITH - An honest belief, the absence of malice, and the absence of design to defraud.

GOOD SAMARITAN RULE - One who assists a person in imminent and serious danger, though negligence of another cannot be charged with negligence in attempting a rescue.

GOOD TIME - A reduction in sentenced time in custody as a reward for good behavior. It usually is one-third to one-half off the maximum sentence.

GRAND JURY - A group of 16 to 23 citizens that listen to the prosecutor's evidence of criminal allegations and decide whether there is probable cause to believe a person committed a crime and to charge them with that crime.

GRAND THEFT - Taking and carrying away the personal property of another person of a value in excess of an amount set by law with the intent to deprive the owner or possessor of it permanently.

GRANTOR OR SETTLOR - The person who sets up a trust.

GREAT BODILY INJURY – Injury which involves a substantial risk of death, serious permanent disfigurement, or loss of function of any part of an organ of the body. Is a graver and more serious than

ordinary battery.

GROSS NEGLIGENCE – A negligent act(s) which is reckless or flagrant and which is such a departure from conduct of an ordinary, prudent person under the same circumstances as to be contrary to a proper regard for human life or to constitute indifference to the consequences of those acts. The facts must be such that the consequences of the negligent act(s) could reasonably have been foreseen and it must appear that the death/danger to human life was not the result of inattention or mistaken judgment, but the natural and probable result of reckless or flagrantly negligent act.

GROUND - A foundation or basis; points relied on.

GUARDIAN - A person appointed by will or by law to assume responsibility for incompetent adults or minor children. If a parent dies, this will usually be the other parent. If both die, it probably will be a close relative. In Juvenile Dependency cases, once a guardian is appointed, dependency may be terminated.

GUARDIAN AD LITEM - An adult appointed by a court who represents a minor child or legally incompetent person. (See also AD LITEM).

GUARDIANSHIP - A court proceeding where a judge chooses someone to care for a person under age 18 or to manage the minor's estate (property), or both. In some states, conservatorship of an adult is called guardianship, but not in California. (Compare with CONSERVATORSHIP.)

GUILTY - A court decision that a defendant committed a crime.

GUILTY PLEA - When a person admits in court that he or she is guilty of a crime.

HABEAS CORPUS - The name of a writ used to bring a person before a court or judge to decide whether that person is being unlawfully denied his or her freedom. The term comes from Latin.

HANDCUFFS - Chains or shackles for the hands to secure prisoners.

HARASSMENT - Words, gestures, and actions which tend to annoy, alarm, and verbally abuse another person.

HARMLESS ERROR - An error committed during a trial that was corrected or was not serious enough to affect the outcome of a trial and therefore was not sufficiently harmful (prejudicial) to be reversed on appeal.

HARVEY WAIVER – The facts, relating to a charge that was dismissed as part of a plea bargain, are “related to” the particular charge for which the minor is being sentenced may be considered at the time of disposition.

HEARING - A formal court proceeding with the judge and opposing sides present, but no jury.

HEARING, CONTESTED - A hearing held for the purpose of deciding issues or fact of law that both parties are disputing.

HEARING DE NOVO - A full, new hearing.

HEARING, PRELIMINARY - The hearing given to person accused of crime, by a magistrate or judge, to determine whether there is enough evidence to warrant the confinement and holding to bail the person accused.

HEARSAY - Statements by a witness who did not see or hear the incident in question, but heard about it from someone else. Hearsay usually can't be used as evidence in court.

HEIR - A person that has the right to inherit money or property from someone who dies without a will.

HIT AND RUN - Crime in which the driver of a vehicle leaves the scene of an accident without identifying himself or herself.

HITCH MOTION - A request to exclude evidence.

HOLDING CELL - A temporary location inside a courthouse where prisoners are held before and after their court appearance.

HOLOGRAPHIC WILL - A handwritten will. The court needs to see proof of the person's handwriting. No one has to witness or notarize a handwritten will.

HOME MONITORING - An alternative to imprisonment where an individual is confined to his or her home and monitored electronically.

HOME SUPERVISION – Temporary house arrest for a minor while awaiting the court's final decision. Also used as punishment after the court's final decision.

HOMICIDE - The unlawful killing of one human being by another.

HOSTILE WITNESS - A witness whose testimony is not favorable to the party who calls him or her as a witness. May be asked leading questions and may be cross-examined by the party who calls him or her to the stand.

HUNG JURY - A jury whose members cannot agree upon a verdict.

HYPOTHETICAL QUESTION - An imaginary situation, using facts previously admitted into evidence, upon which an expert witness is permitted to give an opinion as to a condition resulting from the situation.

IDIOCY- It is the complete absence of mind that is generally the result of a birth defect rather than a disease.

IGNORANCE OF FACT- The lack of knowledge of some fact or facts relating to the subject matter at hand. May sometimes be used as a defense or ground for relief.

ILLEGAL - Against, or not authorized by law.

IMMINENT PERIL – Certain, immediate, and impending danger.

IMMUNITY - A right to be excepted from duty or penalty. (See also PRIVILEGE.)

IMPANEL - To seat a jury. When voir dire is finished and both sides have exercised their challenges, the jury is impaneled. The jurors are sworn in and the trial is ready to proceed.

IMPEACHMENT OF WITNESS - To call into question the truthfulness of a witness.

IMPLIED – Where intention is not manifested by explicit words, but is gathered by implication.

IMPLIED CONTRACT - A contract in which the promise made by one party is not expressed, but inferred by that party's conduct or is implied in law.

IMPOUND - To take and keep an animal or an object in custody.

IMPRISONMENT – The act of putting or confining a man in prison, or the restraint of a man's personal liberty.

INADMISSIBLE - Cannot be admitted as evidence in a trial or hearing.

IN CAMERA - A hearing held in the judge's chambers or in a court with all spectators (including the jury) excluded. From the Latin that means "in chamber."

INCAPACITY - The lack of power or the legal ability to act.

INCARCERATE - To put in jail or prison.

INCEST - Sexual intercourse between persons so closely related that marriage between them would be unlawful.

INCOMPETENCY - Lack of capacity to understand the nature and object of the proceedings, to consult with counsel, and to assist in preparing a defense.

INCRIMINATE - To hold yourself or another person responsible for criminal actions.

INDECENT EXPOSURE - Showing private body parts in a lewd or indecent manner in a public place.

INDEMNIFY - Liability for loss is shifted from one person held legally responsible to another.

INDEMNITY - An obligation to provide compensation (usually money) for a loss, hurt or damage.

INDEPENDENT EXECUTOR - A special kind of executor, permitted by the laws of certain states, who performs the duties of an executor without intervention by the court.

INDETERMINATE SENTENCE - A sentence of imprisonment to a specified minimum and maximum period of time, specifically authorized by statute, subject to termination by a parole board or other authorized agency after the prisoner has served the minimum term.

INDIAN CHILD WELFARE ACT (ICWA) - Federal law to protect the integrity of Indian families.

INDICTMENT - A formal charge by a grand jury saying there is enough evidence that the defendant committed the crime to justify having a trial. Used primarily for felonies.

INDIGENT - A person who is poor, needy, and has no one to look to for support.

INDIVIDUAL EDUCATION PLAN (IEP): Plan for a student who is entitled to special education services.

INDORSEMENT - That which is written on the back of a negotiable instrument. It is also used with reference to writs, insurance policies, certificates of stocks, etc.

IN FORMA PAUPERIS - When the court says a person does not have to pay a filing fee because the person can't afford it. In Latin, means "in the manner of a pauper."

INFORMANT - An undisclosed person who confidentially discloses material information of a crime to the police, which is usually done in exchange for a reward or special treatment.

INFORMATION - A written accusation charging a person with a crime. It is presented in court by a prosecuting officer under oath and does not come from a grand jury.

INFRACTION - A minor violation of a law, contract, or right that is not a misdemeanor or a felony and can't be punished by time in prison. Minor traffic offenses are generally considered infractions.

INHABITED – Act of residing actually and permanently in a given place or dwelling. Synonymous with domicile, dwell, live, sojourn.

INHABITED DWELLING – A structure which is currently used as a residence whether occupied or not. Courts flexibly interpret this term. It is still inhabited even if the occupants are temporarily absent.

INHERITANCE TAX - A state tax on property that an heir or beneficiary under a will receives from a deceased person's estate. The heir or beneficiary pays this tax.

INITIAL APPEARANCE - In criminal law, the hearing at which a judge determines whether there is sufficient evidence against a person charged with a crime to hold him or her for trial. The Constitution bans secret accusations, so initial appearances are public unless the defendant asks otherwise; the accused must be present, though he or she usually does not offer evidence. Also called **FIRST APPEARANCE**.

INJUNCTION - A court order that says a defendant can't perform, or must perform, a specific act. (See **RESTRAINING ORDER**.)

IN LOCO PARENTIS - Latin meaning "in the place of the parent." Refers to actions of a custodian, guardian, or other person acting in the parent's place.

INMATE - A person confined to a prison, penitentiary, or jail.

INNOCENT UNTIL PROVEN GUILTY - A belief in the American legal system which states that all people accused of a criminal act are considered not to have committed the crime until the evidence leaves no doubt in the mind of the court or the jury that the accused did or did not commit the crime.

IN PERSONAM - An act or proceeding done or directed against or with reference to a specific person.

IN PROPIA PERSONA (IN PRO PER) - When a person represents himself or herself without a lawyer. This comes from the Latin for "in one's own proper person." (See also **PRO PER** AND **PRO SE**.)

IN REM - A procedural term used to designate proceedings or actions instituted against the thing in contrast to actions instituted **IN PERSONAM** or against the person.

INSANITY PLEA - A claim by a defendant that he or she lacks the soundness of mind required by law to accept responsibility for a criminal act.

INSTRUCTIONS - The explanation of constitutional rights given by a judge to a defendant.

INTANGIBLE ASSETS - Property that you own, but do not physically have. For example, stocks, bonds, bank accounts, copyrights, patents, etc.

INTENT - The purpose to use a particular means to bring about a certain result.

INTENT TO DEFRAUD –To have in mind a purpose to cheat or trick someone. For example, purposely writing a bad check.

INTER ALIA - Among other things.

INTER VIVOS GIFT - A gift made during the giver's life.

INTER VIVOS TRUST - A trust made while the owner is still alive. Another name for a *living trust*.

INTERLINEATIONS - The act of writing between the lines of a document.

INTERLOCUTORY - Provisional; not final. An interlocutory appeal concerns only a part of the issues raised in a lawsuit. (Compare to DECREE.)

INTERPLEADER - When two or more people say they have a claim to the same thing held by a third party. The third party may force them to go to trial with each other to settle their dispute.

INTERPRETER - A person who is certified as being able to translate, orally or in writing, spoken or sign language into the common language of the court.

INTERROGATORIES - Written questions asked by one party in a lawsuit for which the opposing party must answer them in writing.

INTERVENOR - A person who voluntarily interrupts in an action or other proceeding with the leave of the court.

INTERVENTION - An action by which a third person who may be affected by a lawsuit is permitted to become a party to the suit. Differs from the process of becoming an AMICUS CURIAE.

INTESTACY LAWS - See DESCENT AND DISTRIBUTION STATUTES.

INTESTATE - To die without making a will or leaving instructions for disposal of your property after death. (See TESTATE.)

INTESTATE SUCCESSION - The process by which the property of a person who has died without a will passes on to others according to state law.

INTOXICATION – A diminished ability to act with full mental and physical capabilities because of alcohol or drug consumption; drunkenness.

INTRODUCTORY INSTRUCTIONS – Pre-trial admonitions or statements by judge or other court official that explain to the jury, lawyers, and/ or audience their duties, and obligations during court proceedings.

INVESTIGATION - A legal inquiry to discover and collect facts concerning a certain matter.

INVOLUNTARY MANSLAUGHTER – The unlawful killing of a human being in which there is no intention to kill or do grievous bodily harm, but that is committed with criminal negligence or during the commission of a crime not included within the felony murder rule. (Also called negligent manslaughter.)

INVOLUNTARY INTOXICATION – The ingestion of alcohol or drugs against one's will or without one's knowledge. This may be used as an affirmative defense to a criminal negligence charge.

IRRELEVANT - Evidence not sufficiently related to the matter at issue.

IRREVOCABLE TRUST - A trust that cannot be changed or cancelled after it is made.

ISSUE - 1) The disputed point in a disagreement between parties in a lawsuit. 2) To send out officially, as when a court issues an order.

JAIL - A place of confinement that is more than a police station and less than a prison. It is usually used to hold persons convicted of misdemeanors or persons awaiting trial.

JEOPARDY - Risk to a defendant of possible conviction and punishment. In a criminal case, the defendant is usually said to be "in jeopardy" after the preliminary hearing has taken place and the jury has been sworn in.

JOHNSON MOTION - A motion to discuss grand jury indictment.

JOIN - To unite, to combine, to enter into an alliance.

JOINDER - Generally, a bringing or joining together. For example, plaintiff's joining in a suit, or a joining of actions or defense.

JOINT AND SEVERAL LIABILITY - A legal doctrine that makes each of the parties who are responsible for an injury liable for all the damages awarded in a lawsuit if the other parties responsible cannot pay.

JOINT TENANCY - When two or more people own something and have rights of survivorship. This means that if one tenant dies, his or her share goes to the other tenants.

JOINT VENTURE - An association of persons jointly undertaking some commercial enterprise. Unlike a partnership, a joint venture does not entail a continuing relationship among the parties.

JOYRIDING - Illegally taking an automobile without intent to deprive the owner permanently of the vehicle, often involving reckless driving.

JUDGE - An elected or appointed public official with authority to hear and decide cases in a court of law.

JUDGMENT (JUDGEMENT) - The judge's final decision in a case. It says how much the person who lost has to pay the person who won, and when. Sometimes, you can change part of the judgment with a hearing.

JUDGMENT CREDITOR - The person who wins the case.

JUDGMENT DEBTOR - The person who loses the case.

JUDICIAL COUNCIL - The constitutionally mandated body responsible for improving the administration of justice in the state. The council is made up of judges, court executives, attorneys, and legislators. It was established to standardize court administration, practice, and procedure by adopting and enforcing court rules.

JUDICIAL NOTICE - A court's recognition of the truth of basic facts without formal evidence.

JUDICIAL OFFICER - Judges, referees, and commissioners who make court decisions as a judge.

JUDICIAL REVIEW - The authority of a court to review the official actions of other branches of government. Also, the authority to declare unconstitutional the actions of other branches.

JURAT - Certificate of officer or person before whom writing was sworn to. The clause written at the foot of an affidavit, stating where, when, and before whom the affidavit was sworn.

JURISDICTION - (1) The legal authority of a court to hear and decide a case. (2) The geographic area over which the court has authority to decide cases. (3) the territory, subject matter, or persons over which lawful authority may be exercised by a court.

JURISDICTIONAL HEARINGS – A hearing at which the court determines whether the child falls within the jurisdiction of the juvenile court.

JURISPRUDENCE - The study of law and the structure of the legal system.

JUROR - Member of the jury.

JUROR, ALTERNATE - Additional juror impaneled in case of sickness or disability of another juror.

JURY - A group of citizens picked according to law and authorized to decide a case.

JURY BOX - The specific place in the courtroom where the jury sits during the trial.

JURY COMMISSIONER - The local official responsible for giving the court lists of qualified potential jurors.

JURY FOREMAN - The juror who is in charge of the jury during deliberations and speaks for the jury in court when announcing the verdict.

JURY, HUNG - A jury which is unable to agree on a verdict after a suitable period of deliberation.

JURY INSTRUCTIONS - Directions that the judge gives the jury right before they decide a case. They tell the jury what laws apply to that particular case.

JURY TRIAL - A trial that is heard and decided by a jury.

JUSTIFICATION – A lawful or sufficient reason for one’s acts or omissions. A defense of justification is a showing of a sufficient reason for an action by defendant. For example, in an assault prosecution against a defendant, a justification would be that the violence was necessary.

JUSTIFIABLE - Issues and claims capable of being properly examined in court.

JUSTIFIABLE HOMICIDE – The intentional killing of another human being without any evil design, and under such circumstances of necessity or duty as render the act proper, and relieve the party from any shadow of blame.

JUVENILE - A person under 18 years old. (See also MINOR.)

JUVENILE COURT – Part of the Superior Court that handles delinquency and dependency cases involving minors.

JUVENILE HALL - The facility where juvenile offenders are held in custody.

JUVENILE WAIVER - A procedure by which a charge(s) against a minor is transferred from a juvenile to circuit court.

KIDNAPPING - The taking or detaining of a person against his or her will and without lawful authority.

KEEPER - An officer that the court appoints to be responsible for money or property legally seized in connection with a pending case.

KNOWINGLY - With knowledge, willfully or intentionally with respect to a material element of an offense.

LACKING CAPACITY – Lacking qualification, competency, power or fitness. Being incapable of giving legal consent. Lack of fundamental ability to be accountable for actions.

LARCENY - Stealing or theft.

LAW - Combination of rules and principles of conduct made known by legislative authority, derived from court decisions, and established by local custom.

LAW AND MOTION - A setting before a judge at which time a variety of motions, pleas, sentencing, orders to show cause or procedural requests may be presented. Normally, evidence is not taken. Defendants must be present.

LAW CLERKS - Persons trained in the law who assist judges in researching legal opinions.

LAW ENFORCEMENT AGENT - A sworn peace officer with legal authorization to arrest individuals under suspicion of breaking the law.

LAWSUIT - An action between two or more persons in the courts of law, not a criminal matter.

LAY PERSON - One not trained in law.

LEADING QUESTION - A question which instructs the witness how to answer or puts words in his mouth. Suggests to the witness the desired answer.

LEASE - An agreement for renting real property. Usually written and for a specific amount of time.

LEGAL AID - Professional legal services available usually to persons or organizations unable to afford such services.

LENIENCY - Recommendation for a sentence less than the maximum allowed.

LESSER INCLUDED OFFENSE - A crime composed of some, but not all, of the elements of a greater crime; commission of the greater crime automatically includes commission of the lesser included offense.

LETTERS OF ADMINISTRATION - Legal document issued by a court that shows an administrator's legal right to take control of assets in the deceased person's name.

LETTERS OF CONSERVATORSHIP - A court paper that states that the conservator is authorized to act on the conservatee's behalf. Also called "Letters."

LETTERS OF GUARDIANSHIP - The instrument by which a person is empowered to take charge of the person and/or estate of minors and insane or incompetent persons, whenever necessary or convenient.

LETTERS ROGATORY - A formal communication, in writing, sent by a court in which an action is pending to a court or judge of a foreign country, requesting that the testimony of a witness who lives within the jurisdiction of the foreign court may be taken under its direction and transmitted to the first court for use in the pending action.

LETTERS TESTAMENTARY - Legal document issued by a court that shows an executor's legal right to take control of assets in the deceased person's name.

LEVY - To obtain money by legal process through seizure and/or sale of property.

LEWD CONDUCT - Behavior that is obscene, lustful, indecent, vulgar.

LIABILITY - Legal debts and obligations.

LIABLE - Legally responsible.

LIBEL - False and malicious material that is written or published that harms a person's reputation. See DEFAMATION.

LIE DETECTOR - A machine which records by a needle on a graph varying emotional disturbances when answering questions truly or falsely, as indicated by fluctuations in blood pressure, respiration, or perspiration.

LIEN - The right to keep a debtor's property from being sold or transferred until the debtor pays what he or she owes.

LIFE IMPRISONMENT - A type of sentence where the convicted criminal is ordered to spend the rest of his or her life in prison.

LIMINE - A motion requesting that the court not allow certain evidence that might prejudice the jury.

LIMINE MOTION - A pretrial motion requesting the court to prohibit opposing counsel from referring to or offering evidence on matters.

LIMITATION OF ACTIONS – The time period imposed by law to bring an action in court. (Example—statutes of limitation)

LIMITED ACTION - A civil action in which recovery of less than a certain amount (as specified by statute) is sought. Simplified rules of procedure are used in such actions.

LIMITED JURISDICTION - Refers to courts that are limited in the types of criminal and civil cases they may hear. For example, traffic violations generally are heard by limited jurisdiction courts.

LINEUP - A police identification procedure by which the suspect to a crime is exhibited, along with others, before the victim or witness to determine if the victim or witness can identify the suspect as the person who committed the crime.

LIS PENDENS - A pending suit.

LITIGANT - A party, or side involved in a lawsuit.

LITIGATION - A case, controversy, or lawsuit.

LIVING TRUST - A trust set up and in effect during the lifetime of the person. Also called *inter vivos trust*.

LOCALITY DISCRIMINATION – Those either giving undue preference to any locality or subjecting it to undue prejudice.

LOCAL RULES - A set of rules you have to follow to start a court case. Every county and court has different local rules.

LOCUS DELICTI - The place of the offense.

LOITERING - To stand idly around, particularly in a public place.

LYNCHING - Putting a person to death, usually by hanging, without legal authority.

MAGISTRATE - Judicial officer with the power to issue arrest warrants.

MAKE OR DRAW – To cause to exist. To fashion or produce in legal form. To prepare a draft; to compose and write out in due form, such as a deed, contract, complaint, answer, petition, etc.

MALFEASANCE - Performance of an act that should not have been done at all.

MALICE - Ill will, hatred, or hostility by one person toward another which may prompt the intentional doing of a wrongful act without legal justification or excuse.

MALICE AFORETHOUGHT – Intending to kill another person or intending to do an act with knowledge that it is dangerous to human life.

MALICIOUS MISCHIEF - Willful destruction of property, from actual ill will or resentment toward its owner or possessor.

MALICIOUS PROSECUTION - An action with the intention of injuring the defendant and without probable cause, and which terminates in favor of the person prosecuted.

MALICIOUSLY – To annoy, or injure another, or an intent to do a wrongful act, and may consist in direct intention to injure, or in reckless disregard of another's rights

MALPRACTICE - Violation of a professional duty to act with reasonable care and in good faith without fraud or collusion. This term is usually applied to such conduct by doctors, lawyers, or accountants.

MANDAMUS - A writ issued by a court ordering a public official to perform an act.

MANDATE - A judicial command or order proceeding from a court or judicial officer, directing the proper officer to enforce a judgment, sentence, or decree.

MANDATORY - Required, ordered.

MANSLAUGHTER, INVOLUNTARY - Unlawful killing of another, without malice, when the death is caused by some other unlawful act not usually expected to result in great bodily harm.

MANSLAUGHTER, VOLUNTARY - Unlawful killing of another, without malice, when the act is committed with a sudden extreme emotional impulse.

MARIJUANA – "Cannabis" is an annual herb having angular rough stem and deeply lobed leaves. It is an illegal drug commonly used through smoke inhalation or ingestion, the use of which results in prolonged intoxication. Any person who cultivates, transports, or possesses marijuana, for personal use or sale, is guilty of a crime, unless they can assert a proper defense.

MARIJUANA, defense of compassionate use – The cultivation, transportation, or possession of marijuana is lawful for compassionate use under certain circumstances, such as when its medical use is deemed appropriate by a physician and has been recommended by the physician orally or in writing, provided it is for the personal use of the patient and it is a reasonable amount.

MARSDEN MOTION – A minor who is represented by appointed counsel requests the Court to remove the attorney and appoint new counsel if the minor's right to effective counsel would be substantially impaired by continuing with the original attorney.

MASSIAH MOTION - A motion to exclude fraudulently obtained confessions.

MASTER - An attorney who is appointed by the judges of a circuit court with the approval of the Chief Judge of the Court of Appeals, to conduct hearings and to make finding of facts, conclusions of law, and recommendations as to an appropriate order.

MATERIAL EVIDENCE - That quality of evidence which tends to influence the judge and/or jury because of its logical connection with the issue.

MATERIAL WITNESS - In criminal trial, a witness whose testimony is crucial to either the defense or prosecution.

MAYHEM - A malicious injury which disables or disfigures another.

MEDIATION - A process in which people that are having a dispute are helped by a neutral person to communicate so they can reach a settlement acceptable to both.

MEMORANDUM OF COSTS - A certified, itemized statement of the amount of costs after judgment.

MEMORIALIZED - To mark by observation in writing.

MENACE – A threat; the declaration or show of a disposition or determination to inflict an evil or injury upon another.

MENS REA - The “guilty mind” necessary to establish criminal responsibility.

MENTAL HEALTH - The wellness of a person's state of mind.

MENTAL INCAPACITY – Where a person is found to be incapable of understanding and acting with discretion in the ordinary affairs of life due to a loss of reasoning faculties.

MENTAL STATE – Capacity or condition of one’s mind in terms of ability to do or not to do a certain act.

MERITS - A decision "on the merits" is one that reaches the right(s) of a party, as distinguished from disposition of a case on a ground not reaching the right(s) raised in an action.

MINOR – A child under the age of 18 years. (See also JUVENILE).

MINUTE ORDER - Document prepared by the clerk recording the orders of the clerk.

MIRANDA RIGHTS - Requirement that police tell a person who is arrested or questioned their constitutional rights before they question him or her: specifically, the right to remain silent; that any statement made may be used against him or her; the right to an attorney; and if the person cannot afford an attorney, one will be appointed if he or she desires.

MIRANDA WARNING - See MIRANDA RIGHTS.

MISDEMEANOR - A crime that can be punished by up to one year in jail.

MISTAKE – Some unintentional act, omission, or error arising from ignorance, surprise, imposition, or misplaced confidence.

MISTRIAL - A trial that has been ended and declared void (of no legal effect) due to prejudicial error in the proceedings or other extraordinary circumstances.

MITIGATING CIRCUMSTANCES - Facts which do not constitute a justification or excuse for an offense but which may be considered as reasons for reducing the degree of blame.

MITIGATING FACTORS - Facts that do not constitute a justification or excuse for an offense but which may be considered as reasons for reducing the degree of blame.

MITIGATION OF DAMAGES – Imposes on the injured party duty to minimize his damages after injury has been inflicted.

MITTIMUS - The name of an order in writing, issuing from a court and directing the sheriff or other officer to take a person to a prison, asylum, or reformatory, and directing the jailer or other appropriate official to receive and safely keep the person until his or her fate shall be determined by due course of law.

MODIFICATION - A spoken or written request that one side makes to ask the judge to make a decision or an order on a specific point.

MOOT - A point or question related to a legal case that usually has no practical importance or relevance to the case. A moot point is a point that can't be resolved by the judge, is not disputed by either side, or is resolved out of court.

MORAL TURPITUDE - Immorality. An element of crimes inherently bad, as opposed to crimes bad merely because they are forbidden by statute.

MOTION - Oral or written request made by a party to an action before, during, or after a trial asking the judge to issue a ruling or order in that party's favor.

MOTION DENIED - Ruling or order issued by the judge refusing the party's request.

MOTION GRANTED - Ruling or order issued by the judge approving the party's request.

MOTION IN LIMINE - A written motion which is usually made before or after the beginning of a jury trial for a protective order against prejudicial questions and statements.

MOTION TO QUASH - A request to make something null or ineffective, such as to "quash a subpoena."

MOTION TO SEVER - A request usually by defense, to have a separate trial as to either jointly tried defendants or jointly charged counts.

MOTION TO SUPPRESS - A request to suppress as evidence at trial things or statements obtained as a result of an allegedly illegal search and seizure (commonly referred to as 1538.5 PC motions.)

MUGSHOT - Pictures taken after a suspect is taken into custody (booked), usually used as an official photograph by police officers.

MULTIPLICITY OF ACTIONS - Numerous and unnecessary attempts to litigate the same issue.

MURDER - The unlawful killing of a human being with deliberate intent to kill.

MURGIA MOTION - A request made by defense counsel to dismiss based on a group of people being systematically discriminated against.

NECESSITY – Controlling force; irresistible compulsion; a power or impulse so great that it admits no choice of conduct.

NE EXEAT - A writ or court order which forbids the person to whom it is addressed to leave the country, the state, or the jurisdiction of the court.

NEGLECT – Absence of care or attention in the doing or omission of a given act.

NEGLIGENCE - When someone fails to be as careful as the law requires to protect the rights and property of others.

NEGOTIABLE INSTRUMENTS – A written and signed unconditional promise or order to pay a specified sum of money on demand or at a definite time payable to the bearer.

NEXT FRIEND - One acting without formal appointment as guardian for the benefit of an infant, a person of unsound mind not judicially declared incompetent, or other person under some disability.

NO BILL - This phrase, endorsed by a grand jury on the written indictment submitted for approval, means that the evidence was found insufficient to indict.

NO-CONTEST CLAUSE - Language in a will that is meant to keep people from challenging the will. It says that if a person challenges the will and loses, the person gives up anything he or she would have inherited.

NO-FAULT PROCEEDINGS - A civil case in which parties may resolve their dispute without a formal finding of error or fault.

NOLLE PROSEQUI - Decision by a prosecutor not to go forward with charging a crime. It translates, "I do not choose to prosecute." Also loosely called nolle pros.

NOLO CONTENDRE - Same as pleading guilty, except that your plea cannot be used against you in civil court. This can only be used in traffic or criminal court. From the Latin for "I do not wish to contend."

NOMINAL PARTY - One who is joined as a party or defendant merely because the technical rules of pleading require his presence in the record.

NON COMPOS MENTIS - Not of sound mind; insane.

NON-CAPITAL CASE - A criminal case in which the allowable penalty does not include death.

NON EST (INVENTUS) - A return of process when the sheriff could not find the person who is to be served. Latin meaning "not to be found."

NON OBSTANTE VERDICTO (N.O.V.) - A verdict entered by the judge contrary to a jury's verdict.

NONSUIT - The name of a judgment given against a plaintiff when he is unable to prove a case, or when he refuses or neglects to proceed to trial and leaves the issue undetermined.

NOT GUILTY - The form of verdict in criminal cases where the jury acquits the defendant.

NOT GUILTY BY REASON OF INSANITY - The jury or the judge must determine that the defendant, because of mental disease or defect, could not commit the offense.

NOTARY PUBLIC - A person authorized to certify a person's signature, administer oaths, certify that documents are authentic, and take depositions.

NOTICE - Written information or warning. For example, a notice to the other side that you will make a motion in court on a certain date.

NOTICE OF MOTION - A notice to the opposing party, that on a certain date a motion will be made in court.

NOTICE TO PRODUCE - A notice in writing requiring the opposite party to produce a certain described paper or document at the trial, or in the course of pre-trial discovery.

NUISANCE - That activity which arises from unreasonable, unwarranted or unlawful use by a person of his own property, and producing such material annoyance resulting in damage.

NULL AND VOID - Having no force, legal power to bind, or validity.

NULLITY - A legal action that says a marriage never existed and the persons are still single. (Compare DISSOLUTION.)

NUNC PRO TUNC - When a court order is issued on one date, but is effective as of a date that is in the past. From the Latin for "now for then."

NUNCUPATIVE WILL - An oral (unwritten) will.

OATH - When a witness promises to tell the truth in a legal proceeding.

OBJECT - To protest to the court against an act or omission by the opposing party.

OBJECTION - A formal protest made by a party over testimony or evidence that the other side tries to introduce in court.

OBJECTION OVERRULED - A ruling by the court upholding the act or omission of the opposing party.

OBJECTION SUSTAINED - A ruling by the court in favor of the party making the objection.

OBSCENITY – Conduct tending to corrupt the public morals by its indecency or lewdness.

OF COUNSEL - A phrase commonly applied to counsel employed to assist in the preparation or management of the case, or its presentation on appeal, but who is not the principal attorney for the party.

OFFENDER - One who commits a crime, such as a felony, misdemeanor, or other punishable unlawful act.

OFFENSE - An act that breaks the law.

OFFENSIVE WORDS – Language that offends; displeasing or annoying language.

OFFER OF PROOF - Presentation of evidence to the court (out of the hearing of the jury) for the court's decision of whether the evidence is admissible.

ON A PERSON'S OWN RECOGNIZANCE - Release of a person from custody without the payment of any BAIL or posting of BOND, upon the promise to return to court.

ONE-THIRD THE MIDTERM RULE - The rule that limits a person's sentence when they have been convicted of multiple offenses.

OPENING ARGUMENT - The initial statement made by attorneys for each side, outlining the facts each intends to establish during the trial.

OPENING STATEMENT - See OPENING ARGUMENT.

OPINION - A judge's written explanation of a decision of the court or of a majority of judges. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law on which the decision is based. A concurring opinion agrees with the decision of the court but offers further comment. A PER CURIAM OPINION is an unsigned opinion "of the court."

OPINION EVIDENCE - Witnesses are normally required to confine their testimony to statements of fact and are not allowed to give their opinions in court. However, if a witness is qualified as an expert in a particular field, he or she may be allowed to state an opinion as an expert based on certain facts.

OPPOSITION - (1) act of opposing or resisting. (2) confronting another.

ORAL ARGUMENT - The part of the trial when lawyers summarize their position in court and also answer the judge's questions.

ORAL COPULATION – the act of copulating the mouth of one person with the sexual organ or anus of another person, however slight. Penetration of the mouth, sexual organ or anus is not required.

ORDER TO SHOW CAUSE - Court order that makes someone go to court to explain to the judge why he or she did not follow the rules.

ORDER, COURT - (1) Decision of a judicial officer; (2) a directive of the court.

ORDINARY NEGLIGENCE – The failure to use that degree of care which the ordinary or reasonably prudent person would have used under the circumstances and for which the negligent person is liable.

ORDINANCE - A regulation made by a local government to enforce, control, or limit certain activities.

ORIGINAL JURISDICTION - The court in which a matter must first be filed.

OVERRULE - A judge's decision not to allow an objection. A decision by a higher court finding that a lower court decision was wrong.

OVERRULED - See OVERRULE.

OVERT ACT - An open act showing the intent to commit a crime.

OWN RECOGNIZANCE - Release of a person from custody without the payment of any bail or posting of bond.

PANDERING – Pimping. Arranging for acts of prostitution.

PARALEGAL - A person with legal skills, but who is not an attorney, and who works under the supervision of a lawyer or who is otherwise authorized by law to use those legal skills.

PARDON - When the chief executive of a state or country releases a convicted person from the punishment given him or her by a court sentence.

PARENS PATRIAE - The power of the state to act in the parents' place to protect a child or his or her property.

PAROLE - Supervised release of a prisoner that allows the person to serve the rest of the sentence out of prison if all conditions of release are met.

PAROLE EVIDENCE - Oral or verbal evidence rather than written. The Parole Evidence Rule limits the admissibility of parole evidence which would directly contradict the clear meaning of terms of a written contract.

PARTY - One of the sides of a case. The person who started the case is called the plaintiff or defendant. The person being sued is called the defendant or respondent.

PAT DOWN SEARCH – A limited search of the outer clothing of a person in an attempt to discover weapons which might be used to assault the officer and may be conducted if the officer has a reasonable belief that the detained person is armed and dangerous.

PATENT - A government grant giving an inventor the exclusive right to make or sell his or her invention for a term of years.

PATERNITY - Who the birth (biological) parents of a child are.

PEACE OFFICER – Includes sheriffs and their deputies, members of the police force of cities, and other officers whose duty is to enforce and preserve the public peace.

PENALTY - Punishment for breaking a law.

PENALTY ASSESSMENT - An amount of money added to a fine.

PENALTY OF PERJURY – Circumstances under which a person takes an oath that he will testify, declare, depose or certify truthfully.

PENDING - The status of a case that is not yet resolved by the court.

PENETRATION, UNLAWFUL – Unlawful insertion of the male part into the female parts, however slight an extent.

PENITENTIARY - A prison or place of confinement where convicted felons are sent to serve out the term of their sentence.

PEOPLE (PROSECUTION) - A state, for example, the People of the State of California.

PER CURIUM OPINION - An unsigned OPINION of the court.

PEREMPTORY CHALLENGE - The right to challenge a juror without assigning a reason for the challenge.

PERJURY - A false statement made on purpose while under oath in a court proceeding.

PERMANENCY HEARING – The hearing for children placed in or awaiting placement in foster care who were under age three at the time of detention, and for all children, to monitor the welfare of the child, evaluate the parents' reunification efforts and establish a permanent plan for the child.

PERMANENT INJUNCTION - A court order requiring that some action be taken, or that some party refrain from taking action. It differs from forms of temporary relief, such as a TEMPORARY RESTRAINING ORDER or PRELIMINARY INJUNCTION.

PERMANENT PLANNED LIVING ARRANGEMENT (PPLA) – One of the permanent plans that may be ordered for a child who is not returned to parental custody (formerly long term foster care).

PERMANENT RESIDENT - One who lives in a location for a period of time and indicates that it is their official address or residence.

PERSON IN NEED OF SUPERVISION - Juvenile found to have committed a status offense rather than a crime that would provide a basis for a finding of delinquency. Typical status offenses are habitual truancy, violating a curfew, or running away from home. These are not crimes, but they might be enough to place a child under supervision. In different states, status offenders might be called children in need of supervision or minors in need of supervision. (See STATUS OFFENDERS.)

PERSONAL PROPERTY - Things that you own and can move, like furniture, equipment, or paintings.

PERSONAL RECOGNIZANCE - Pre-trial release based on the person's own promise that he or she will show up for trial (no bond required). Also referred to as release on own recognizance or ROR. (See ON A PERSON'S OWN RECOGNIZANCE.)

PERSONAL REPRESENTATIVE - A person picked by the court to collect, manage and distribute a person's property (estate) when they die. If named in a will, that person's title is an EXECUTOR. If there is no valid will, that person's title is an ADMINISTRATOR.

PETIT JURY or (TRIAL JURY) - A group of citizens that listen to the evidence presented by both sides at trial and figure out the facts in dispute. Criminal juries are made up of 12 people; civil juries are made up of at least 6 people.

PETITION - A court paper that asks the court to take action. For example, in juvenile cases, the Petition starts the court case. (Compare MOTION.)

PETITIONER - A person who presents a petition to the court.

PETTY OFFENSE - An offense for which the authorized penalty does not exceed imprisonment for 3 months or a fine of \$500.

PETTY THEFT - The act of taking and carrying away the personal property of another of a value usually below \$100.00 with the intent to deprive the owner of it permanently.

PIMP - (1) the act of getting customers for a whore or prostitute; (2) one who gets customers for a whore or prostitute.

PITCHESS MOTION - A request made by the defendant for discovery of a peace officer's personnel file with regards to any complaints or acts of excessive force and violence.

PLAINTIFF - The person or company that files a lawsuit.

PLEA - In a criminal case, the defendant's statement pleading "guilty" or "not guilty" in answer to the charges. (See also NOLO CONTENDRE).

PLEA BARGAIN - An agreement between the prosecutor and the defendant. It lets the defendant plead guilty to a less serious charge, if the court approves.

PLEAD - To admit or deny committing a crime.

PLEADING - Written statements filed with the court that describes a party's legal or factual claims about the case and what the party wants from the court.

POLLING THE JURY - A practice in which jurors are asked individually whether they agree with the final verdict in the case they just decided.

POLYGRAPH - Lie detector test and the apparatus for conducting the test.

POSSESSION OF DRUGS – The presence of drugs on the accused for recreational use or for the purpose to sell.

POST CONVICTION – A procedure by which a convicted defendant challenges the conviction and/or sentence on the basis of some alleged violation or error.

POSTPONEMENT – To put off or delay a court hearing.

POUR-OVER WILL – A will that leaves some or all estate property to a trust established before the will-maker's death.

POWER OF ATTORNEY – Formal authorization of a person to act in the interest of another person.

PRAYER- A request of the court to grant the process, aid, or relief which the complainant desires; also, that portion of a document containing such request.

PRECEDENT –A court decision in an earlier case that the court uses to decide similar or new cases.

PREINJUNCTION – Court order requiring action or forbidding action until a decision can be made whether to issue a permanent injunction. It differs from a TEMPORARY RESTRAINING ORDER.

PREJUDICE – When an act or decision affects a person's rights in a negative way.

PREJUDICIAL ERROR – Synonymous with *reversible error* ; an error which authorizes the appellate court to reverse the judgment before it.

PREJUDICIAL EVIDENCE – Evidence which might unfairly sway the judge or jury to one side or the other.

PRELIMINARY HEARING – The hearing available to a person charged with a felony to determine if there is enough evidence (probable cause) to hold him for trial.

PRELIMINARY INJUNCTION – In civil cases when it is necessary to preserve the status quo prior to trial, the court may issue this or a temporary restraining order ordering a party to carry out a specified activity.

PREMEDITATION –The planning of a crime before the crime takes place, rather than committing the crime on the spur of the moment.

PREMISES – That which is put before; that which precedes; the foregoing statements.

PREPERMANENCY HEARING – The hearing conducted according to Welfare and Institutions Code Section 366.21(e) for foster care placement children who were over age three at the time of detention, to monitor the welfare of the child and evaluate the parents' reunification efforts.

PREPONDERANCE OF THE EVIDENCE – To win a civil case, the plaintiff has to prove that most of the evidence is on his or her side.

PRESENTENCE REPORT – A report prepared by the probation department for the judge when sentencing a defendant. Describes defendant's background: financial, job, and family status; community ties; criminal history; and facts of the current offense.

PRESENTMENT – Declaration or document issued by a grand jury that either makes a neutral report or notes misdeeds by officials charged with specified public duties. It ordinarily does not include a formal charge of crime. A presentment differs from an INDICTMENT.

PRESUMED FATHER – A man who is married to the mother of the child, who has signed a declaration of paternity, or has received the child into his home and held the child out to the community as his child, whether that man is the biological father of the child, or not.

PRESUMPTION – An inference of the truth or falsity of a proposition or fact, that stands until rebutted by evidence to the contrary.

PRESUMPTION OF INNOCENCE – A hallowed principle of criminal law that a person is innocent of a crime until proven guilty. The government has the burden of proving every element of a crime beyond a reasonable doubt and the defendant has no burden to prove his innocence.

PRESUMPTION OF LAW – a rule of law that courts and judges shall draw a particular inference from a particular fact, or from particular evidence.

PRETERMITTED CHILD - A child born after a will was written, who is not provided for by the will. Most states have laws that provide for a share of estate property to go to such children.

PRETRIAL CONFERENCE - Any time both sides of the case go to court before trial. In criminal cases, it's usually when the defendant and prosecutor talk about settling the case.

PRIMA FACIE CASE - A case that is sufficient and has the minimum amount of evidence necessary to allow it to continue in the judicial process. From the Latin for "from first view."

PRINCIPAL – The source of authority or right.

PRINCIPALS – Persons who are involved in committing or attempting to commit a crime. Includes those who directly and actively commit or attempt to commit the crime, or those who assist (aid and abet) in the commission or attempted commission of the crime.

PRINCIPLE TERM - Greatest term of imprisonment imposed by the court on any one count, imposed of base term plus any enhancements, to which subordinate terms are added.

PRIORS - Term meaning previous conviction(s) of the accused.

PRIOR CONVICTION - As used in Superior Court pleadings, an allegation that defendant has previously been imprisoned.

PRIOR INCONSISTENT STATEMENT – In evidence, these are prior statements made by the witness which contradict statements the witness made on the witness stand.

PRISON – A federal or state public building or other place for the confinement of persons. It is used as either a punishment imposed by the law or otherwise in the course of the administration of justice. Also known as penitentiary, penal institution, adult correctional institution, or jail.

PRIVACY, RIGHT OF – The right to be left alone; the right of a person to be free from unwarranted publicity.

PRIVILEGE - An advantage not enjoyed by all; a special exemption from prosecution or other lawsuits. (See also IMMUNITY.)

PRIVILEGED COMMUNICATIONS - Confidential communications to certain persons that are protected by law against any disclosure, including forced disclosure in legal proceedings. Communications between lawyer and client, physician and patient, psychotherapist and patient, priest, minister, or rabbi and penitent are typically privileged.

PRIVITY - Mutual or successive relationships to the same right of property, or the same interest of one person with another which represents the same legal right.

PROBABLE CAUSE - A good reason to believe that a crime has or is being committed; the basis for all lawful searches, seizures, and arrests.

PROBATE - The judicial process to determine if a will of a dead person is genuine or not; lawful distribution of a decedent's estate.

PROBATE COURT - The court with authority to deal with the estates of people who have died.

PROBATE ESTATE - All the assets in an estate that are subject to probate. This does not include all property. For example, property in joint tenancy are not part of the probate estate.

PROBATION - A sentencing alternative to imprisonment in which the court releases a convicted defendant under supervision of a probation officer that makes certain that the defendant follows certain rules, for example, gets a job, gets drug counseling.

PROBATION BEFORE JUDGMENT (PBJ) - A conditional avoidance of imposing a sentence after conviction.

PROBATION DEPARTMENT - The department that oversees the actions of those who are on probation as well as the location of where probation officers work.

PROBATION OFFICER - One who supervises a person placed on probation and is required to report the progress and to surrender them if they violate the terms and conditions of the probation.

PRO BONO - Legal work done for free. From the Latin meaning "for the public good."

PROCEDURAL LAW - The method, established normally by rules to be followed in a case; the formal steps in a judicial proceeding.

PRODUCTS LIABILITY – Refers to the legal liability of manufacturers and sellers to compensate buyers, users and even bystanders for damages or injuries suffered because of defects in goods purchased.

PROFFER - An offer of proof as to what the evidence would be if a witness were called to testify or answer a question.

PRO HAC VICE - for this one particular occasion. For example, an out-of-state lawyer may be admitted to practice in a local jurisdiction for a particular case only. From the Latin meaning "for this turn."

PROHIBITION - Act or law that forbids something.

PROMISSORY NOTE - A written document that says a person promises to pay money to another.

PROOF - Any fact or evidence that leads to a judgment of the court.

PROOF OF SERVICE - A form filed with the court that proves that court papers were properly delivered to someone.

PRO PER - Person who presents their own cases in court without lawyers (See also IN PROPIA PERSONA and PRO SE.)

PROPERTY – Something tangible or intangible that someone holds legal title.

PRO SE - Person who presents their own cases in court without lawyers (See also PRO PER and PRO SE.)

PROSECUTING ATTORNEY - A public office who prosecutes criminal cases for the state. See PROSECUTOR and DISTRICT ATTORNEY.

PROSECUTION - The party that starts a criminal case and files criminal charges. The prosecution is the lawyer for the state. A common name for the state's side of the case.

PROSECUTOR - A trial lawyer representing the government in a criminal case and the interests of the state in civil matters. In criminal cases, the prosecutor has the responsibility of deciding who and when to file charges.

PROSTITUTION - The performance or agreement to perform a sexual act for hire.

PROTECTIVE ORDER - A court order to protect a person from further harassment, service of process, or discovery.

PRO TEM - A temporary assigned official with authority to hear and decide cases in a court.

PROXIMATE CAUSE - The act that caused an event to occur.

PUBLIC DEFENDER - A lawyer picked by the court to represent a defendant who cannot afford a lawyer.

PUNITIVE DAMAGES - Money awarded to an injured person, over and above the measurable value of the injury, in order to punish the person who hurt him.

PURGE - To clean or clear, such as eliminating inactive records from court files; with respect to civil contempt, to clear the noncompliance that caused the contempt finding.

QUANTUM MERUIT - Latin meaning "as much as he deserves," and describes the extent of liability on a contract implied by law.

QUASH - To overthrow, to vacate, to annul or make void.

QUASI JUDICIAL - Authority or discretion vested in an officer whose actions are of a judicial character.

QUID PRO QUO - Something for something; giving one valuable thing for another.

QUO WARRANTO - A writ issuable by the state, through which it demands an individual show by what right he or she exercises authority which can only be exercised through a grant from the state or why he or she should not be removed from a state office.

RAP SHEET - A written summary of a person's criminal history.

RAPE - Unlawful intercourse with an individual without their consent.

RAPE, STATUTORY - See STATUTORY RAPE.

RATIFICATION - The confirmation or adoption of a previous act done either by the party himself or by another.

RATIO DECIDENDI - The ground or reason of the decision in a case.

RE - In the matter of; in the case of.

REAL EVIDENCE - Evidence given to explain, repel, counteract, or disprove facts given in evidence by the adverse party.

REAL PROPERTY - Land and buildings.

REASONABLE DOUBT, BEYOND A - The degree of certainty required for a juror to legally find a criminal defendant guilty. An accused person is entitled to acquittal if, in the minds of the jury, his or her guilt has not been proved beyond a "reasonable doubt"; that state of mind of jurors in which they cannot say they feel a persisting conviction as to the truth of the charge.

REASONABLE PERSON - A phrase used to define a hypothetical person who exercises qualities of attention, knowledge, intelligence, and judgment that society requires of its members for the protection of his or her own interest and the interests of others. Thus, the test of negligence is based on either a failure to

do something that a reasonable person, guided by considerations that ordinarily regulate conduct, would do, or on the doing of something that a reasonable and prudent (wise) person would not do.

REBUTTAL - Evidence presented at trial by one party in order to overcome evidence introduced by another party.

RECALL - Cancellation by a court of a warrant before its execution by the arrest of a defendant; also, a process by which a retired judge may be asked to sit on a particular case.

RECEIVING STOLEN PROPERTY – Offense of receiving any property with the knowledge that it has been feloniously, or unlawfully stolen, taken, extorted, obtained, embezzled, or disposed of.

RECIDIVISM – The continued, habitual, or compulsive breaking the law after having been convicted of prior offenses.

RECKLESS DRIVING – Operation of a motor vehicle that shows a reckless disregard of possible consequences and indifference of other's rights.

RECLASSIFY - To change the jurisdiction of the case from Limited (up to \$25,000) to Unlimited (more than \$25,000) and vice versa.

RECOGNIZANCE – The practice which enables an accused awaiting trial to be released without posting any security other than a promise to appear before the court at the proper time. Failure to appear in court at the proper time is a separate crime.

RECORD – The official papers that make up a court case.

RECUSE – When you remove yourself or are removed from a criminal or civil proceeding because you have a conflict of interest. For example, a judge can recuse himself because someone in the case is a friend or business partner.

REDACT - To adapt or edit for public record.

RE-DIRECT EXAMINATION – Opportunity to present rebuttal evidence after one's evidence has been subjected to cross-examination.

REDRESS – To set right; to remedy; to compensate; to remove the causes of a grievance.

REFEREE – A person appointed by the court to hear and make decisions on limited legal matters, like juvenile or traffic offenses.

REGULATION – A rule or order prescribed for management or government.

REHEARING – Another hearing of a civil or criminal case by the same court in which the case was originally heard.

REINSTATED - To bring back to a previous condition. When bail that had been forfeited, exonerated, or reduced is reestablished in its original amount.

REJOINDER – Opportunity for the side that opened the case to offer limited response to evidence presented during the REBUTTAL by the opposing side.

RELEVANT – Evidence that helps to prove a point or issue in a case.

RELINQUISHMENT – A forsaking, abandoning, renouncing, or giving over a right.

REMAND – (1) When an appellate court sends a case to a lower court for further proceedings; (2) to return a prisoner to custody.

REMEDY – The means by which a right is enforced or the violation of a right is prevented, redressed or compensated.

REMITTITUR - The transfer of records of a case from a court of appeal to the original trial court for further action or other disposition as ordered by the appellate court.

REMOVAL – The transfer of a state case to federal court for trial; in civil cases, because the parties are from different states; in criminal and some civil cases, because there is a significant possibility that there could not be a fair trial in state court.

REPLEVIN – An action for the recovery of a possession that has been wrongfully taken.

REPLY – The response by a party to charges raised in a pleading by the other party.

REPORT – An official or formal statement of facts or proceedings.

RES - A thing; an object; a subject matter; or a status.

RES IPSA LOQUITUR - Latin meaning "a thing that speaks for itself." In tort law, the doctrine which holds a defendant guilty of negligence without an actual showing that he or she was negligent.

RES JUDICATA - A rule of civil law that once a matter has been litigated and final judgment has been rendered by the trial court, the matter cannot be relitigated by the parties in the same court, or any other trial court.

RESCUE DOCTRINE – Rescue doctrine is that one who has, through his negligence, endangered safety of another and may be held liable for injuries sustained by third person who attempts to save other from injury.

RESPONDEAT SUPERIOR - "Let the master answer." The doctrine which holds that employers are responsible for the acts and omissions of their employees and agents, when done within the scope of the employees' duties.

RESPONDENT - If you are the person that answers the original Petition, you are the respondent. Even if you later file an action of your own in that case, you are still the respondent for as long as the case is open.

REST - When a party in a case has presented all the evidence it intends to offer.

RESTITUTION - Giving something back to its owner. Or, giving the owner something with the same value, like paying to fix his or her property.

RESTITUTION HEARING - A hearing that may be requested to dispute the amount of restitution ordered by the court.

RESTRAINING ORDER - A court order that tells a person to stop doing something for a certain amount of time, usually until a court hearing is held.

RETAINER - Act of the client employing the attorney or counsel. Also, the fee the client pays when he or she retains the attorney to act for him or her.

RETALIATION – Infliction upon someone in response to an injury that he/she has caused another.

RETURN - A report to a judge by police on the implementation of an arrest or search warrant. Also, a report to a judge in reply to a subpoena, civil or criminal.

REUNIFICATION SERVICES – Services that help parents get their children back after they are taken away.

REVERSE - An action of a higher court in setting aside or revoking a lower court decision.

REVERSIBLE ERROR - A procedural error during a trial or hearing sufficiently harmful to justify reversing the judgment of a lower court. (See PREJUDICIAL ERROR.)

REVOCABLE TRUST - A trust that the grantor may change or revoke.

REVOKE - To change or take back.

RIGHTS, CONSTITUTIONAL - The rights of a person guaranteed by the state or federal constitutions.

RIOT – A public disturbance involving acts of violence by persons where three or more persons are gathered.

ROBBERY - The act of taking money, personal property, or any other article of value that is in the possession of another by means of force or fear.

ROUT - Two or more persons, assembled and acting together, making any attempt or advance toward the commission of an act which would be a riot if actually committed.

RULE - An established standard, guide, or regulation.

RULE OF COURT - An order made by a court having competent jurisdiction. Rules of court are either general or special; the former are the regulations by which the practice of the court is governed, the latter are special orders made in particular cases.

RULES OF EVIDENCE - Standards governing whether information can be admitted and considered in a civil or criminal case.

SANCTION - A financial punishment meant to make someone obey the law. For example, a judge can order someone to pay for not following court orders.

SATISFACTION OF JUDGMENT - Payment of a judgment amount by the losing party.

SEALING - The closure of court records to inspection, except to the parties.

SEARCH AND SEIZURE - A person or place is searched and evidence useful in the investigation and prosecution of a crime is taken. The search is conducted after an order is issued by a judge.

SEARCH WARRANT - An order that tells the police to search a specific place to find specific people or things. A judge can order a search warrant if there is probable cause.

SECURED DEBT - In bankruptcy proceedings, a debt is secured if the debtor gave the creditor a right to repossess the property or goods used as collateral.

SELECTION AND IMPLEMENTATION HEARING - The hearing conducted post-reunification failure according to Welfare and Institutions Code Section 366.26, to decide whether to terminate parental rights and free the child for adoption, order a legal guardianship, or order permanent planned living arrangement.

SELF-DEFENSE - Claim that an act was legally justifiable because it was necessary to protect a person or property from the threat or action of another.

SELF-INCRIMINATION - Acts or declarations by which one implicates oneself in a crime.

SELF-PROVING WILL - A will that is signed under penalty of perjury by two people who will not get anything from the will. You do not have to get an affidavit from the witnesses.

SENTENCE - A judge's formal pronouncement of the punishment to be given to a person convicted of a crime.

SENTENCE REPORT - A document containing background material on a convicted person. It is prepared to guide the judge in the imposition of a sentence. Sometimes called a PRE-SENTENCE REPORT.

SENTENCE, CONCURRENT - Two or more sentences of jail time to be served simultaneously.

SENTENCE, CONSECUTIVE - Two or more sentences of jail time to be served in sequence.

SENTENCE, SUSPENDED - A sentence postponed in which the defendant is not required to serve time unless he or she commits another crime or violates a court-imposed condition.

SENTENCING - The hearing where the court determines a person's punishment.

SEPARATE MAINTENANCE - Allowance ordered to be paid by one spouse to the other for support while the spouses are living apart, but not divorced.

SEPARATION - An arrangement where a husband and wife live apart from each other while remaining married either by mutual consent or by a judicial order.

SEQUESTRATION OF WITNESSES - Keeping all witnesses (except plaintiff and defendant) out of the courtroom except for their time on the stand, and cautioning them not to discuss their testimony with other witnesses. Also called separation of witnesses. This prevents a witness from being influenced by the testimony of a prior witness.

SERVE A SENTENCE - The act of spending an allotted amount of time in a designated location such as a prison as punishment for the crime committed.

SERVICE - When someone over 18 and not involved with your case gives the other party a copy of the court papers in person or by mail.

SERVICE OF PROCESS - The delivery of legal papers to the opposing party. The papers must be delivered by an adult aged 18 or older that is not involved in the case and that swears to the date and method of delivery to the recipient.

SETTLEMENT - When both sides reach an agreement that solves the case before the judge or jury makes a decision.

SETTLOR - The person who sets up a trust. Also called the GRANTOR.

SEVERANCE DAMAGES – Compensation, which may be recovered in the courts by any person who has suffered loss or detriment as a consequence of being cut off from something (i.e. employment).

SEXUAL ABUSE / ASSAULT - Unlawful sexual contact with another person.

SEXUAL BATTERY – The forced penetration of or contact with another’s sexual organs or the sexual organs of the perpetrator.

SEXUAL HARASSMENT – Sexual words, conduct, or action (usually repeated and persistent) that, being directed at a specific person, annoys, alarms, or causes substantial emotional distress in that person and serves not legitimate purpose.

SEXUAL MOLESTATION – Illegal sex acts performed against a minor by a parent, guardian, relative or acquaintance.

SEXUALLY VIOLENT PREDATOR - a person who has been convicted of a sexually violent offense against two or more victims and has a diagnosed mental disorder that makes him or her a danger to the health and safety of others.

SHERIFF – Elected officer of a county whose job is to conserve peace within his or her territorial jurisdiction as well as aid in the criminal and civil court processes.

SHOPLIFTING – The willful taking and concealing of merchandise from a store or business with the intention of using the goods for one’s personal use without paying the purchase price.

SHOW CAUSE – A court order telling a person to appear in court and present any evidence why the orders requested by the other side should not be granted or executed.

SIDEBAR – A conference between the judge and lawyers, usually in the courtroom, out of hearing of the jury and spectators.

SLANDER – Defamation of a person's character or reputation through false or malicious oral statements. See DEFAMATION.

SMALL CLAIMS COURT – A court that handles civil claims for \$5,000 or less. People often represent themselves rather than hire an attorney.

SODOMY – Oral or anal copulation between humans, or between humans or animals.

SOLICITATION – Getting someone else to commit a crime.

SOVEREIGN IMMUNITY - The doctrine that the government, state or federal, is exempt to lawsuit unless it gives its consent.

SPECIAL CIRCUMSTANCE - Allegation that a case or charge warrants the death penalty.

SPECIAL VERDICTS – A verdict that gives a written finding for each issue, leaving the application of the law to the judge.

SPECIFIC INTENT CRIME - A crime which requires a specific mental state.

SPECIFIC PERFORMANCE - A remedy requiring a person who has breached a contract to perform specifically what he or she has agreed to do. Ordered when damages would be inadequate compensation.

SPEEDY TRIAL - The right of an accused to an immediate trial as guaranteed by the 6th Amendment of the United States Constitution.

SPENDTHRIFT TRUST - A trust that says that the beneficiary cannot give away or sell their part of the trust. This means that creditors cannot take money from the trust.

SPOUSAL SUPPORT - Court-ordered support of a spouse or ex-spouse; also called "maintenance" or "alimony."

SPOUSE/COHABITANT BEATING – See DOMESTIC VIOLENCE

STALKING – The act or an instance of following another by stealth; the offense of following or loitering near another, often surreptitiously, with the purpose of annoying or harassing that person or committing a further crime such as assault or battery.

STANDARD OF PROOF - There are essentially three standards of proof applicable in most court proceedings. In criminal cases, the offense must be proven BEYOND A REASONABLE DOUBT, the highest standard. In civil cases and neglect and dependency proceedings, the lowest standard applies by a mere PREPONDERANCE OF THE EVIDENCE, (more likely than not). In some civil cases, and in juvenile proceedings such as a permanent termination of parental rights, an intermediate standard applies, proof by CLEAR AND CONVINCING EVIDENCE.

STANDING - The legal right to bring a lawsuit. Only a person with something at stake has the right to bring a lawsuit.

STARE DECISIS - The doctrine that courts will follow principles of law established in previous cases. Similar to PRECEDENT.

STATEMENT, CLOSING - The final statements by the attorneys to the jury or court summarizing the evidence that they have established and the evidence that the other side has failed to establish. Also known as CLOSING ARGUMENT.

STATEMENT, OPENING - Outline or summary of the nature of the case and of the anticipated proof presented by the attorney to the jury before any evidence is submitted. Also known as OPENING ARGUMENT.

STATEMENT OF FACT - Any written or oral declaration of facts in a case.

STATUS OFFENDERS - Youths charged with being beyond the control of their legal guardian or who are habitually disobedient, truant from school, or have committed other acts that would not be a crime if committed by an adult. They are not delinquents, but are persons in need of supervision, minors in need of supervision, or children in need of supervision, depending on the state in which they live. Status offenders are placed under the supervision of the juvenile court. (See PERSON IN NEED OF SUPERVISION.)

STATUTE - A law passed by Congress or a state legislature.

STATUTE OF LIMITATIONS - A law that says how much time you have to file a lawsuit after something happens.

STATUTORY - Relating to a statute; created, defined, or required by a statute.

STATUTORY ACTIONS – Actions relating or conforming to, or created, defined, or required by a statute.

STATUTORY CONSTRUCTION - Process by which a court seeks to interpret the meaning and scope of legislation.

STATUTORY LAW - Law enacted by the legislative branch of government, as distinguished from CASE LAW or COMMON LAW.

STATUTORY RAPE - The unlawful sexual intercourse with a person under an age set by statute, regardless of whether they consent to the act.

STAY - The act of stopping a judicial proceeding by order of the court.

STAY OF EXECUTION - An order that prevents the execution of an action, e.g. the serving of a sentence. The stay may be granted on a motion by the defendant, or it may be ordered in accordance with statutory law, e.g. Calif. Penal Code Section 654.

STIPULATE - To agree to something.

STRICT LIABILITY - A concept applied by courts in product liability cases in which a seller is responsible for any and all defective or hazardous products which unduly threaten a consumer's personal safety.

STRICKEN EVIDENCE – Evidence that has been removed from the record.

STRIKE - (1) to delete or remove. (2) To dismiss an allegation before sentencing. (3) A serious violent felony prior conviction that is charged as a prior allegation, e.g. a second strike, or third strike.

SUA SPONTE - Used to describe when a judge does something without being asked to by either party. Latin meaning "of one's own will."

SUB CURIA - Latin meaning "under the law;" the holding of a case by a court under consideration, sometimes to await the filing of a document, such as a presentence investigation report or memorandum of law, or to write an opinion.

SUBMIT - To yield to the will of another.

SUBPOENA - An official order to go to court at a certain time. Subpoenas are commonly used to tell witnesses to come to court to testify in a trial.

SUBPOENA DUCES TECUM - A court order to bring papers or records to court at a certain time.

SUBROGATION - To substitute one person for another in a legal claim.

SUBSTANTIAL PERFORMANCE – Where a party has honestly and faithfully performed the essential and material portions of the contract and the only non-performance consists of technical or unimportant provisions.

SUBSTANTIVE LAW - The law dealing with rights, duties, and liabilities, as contrasted with PROCEDURAL LAW, which governs the technical aspects of enforcing civil or criminal laws.

SUCCESSION - The acquisition of title to the property of one who dies without disposing of it by will.

SUE - To commence legal proceedings for recovery of a right.

SUIT - Any proceeding by one person or persons against another in a court of law.

SUMMARY JUDGMENT - When the judge decides a case without going to trial. The decision is based on the papers filed by both sides.

SUMMONS - (1) A notice to a defendant that he or she has been sued or charged with a crime and is required to appear in court. (2) A jury *summons* requires the person receiving it to report for possible jury duty.

SUPERSEDEAS - A writ issued by an appellate court to preserve the status quo pending review of a judgment, or pending other exercise of its jurisdiction.

SUPPORT TRUST - A trust that instructs the trustee to spend only as much income and principal (the assets held in the trust) as needed for the beneficiary's support.

SUPPRESS - To stop or put an end to someone's activities. See also EXCLUSIONARY RULE.

SUPPRESSION HEARING - A hearing on a criminal defendant's motion to prohibit the prosecutor's use of evidence alleged to have been obtained in violation of the defendant's rights. This hearing is held outside of the presence of the jury, either prior to or at trial. The judge must rule as a matter of law on the motion.

SURETY BOND - An insurance policy taken out by a defendant with a national insurance company in which the insurer agrees to pay the court the amount of bail required for the defendant's release if the defendant fails to come to court when he or she is supposed to. Often called a *fidelity bond*.

SURVIVORSHIP - Another name for JOINT TENANCY.

SUSPEND - To postpone, stay, or withhold certain conditions of a judicial sentence for a temporary period of time.

SUSTAIN - To maintain, to affirm, to approve.

SWEAR - To put to oath and declare as truth.

TANGIBLE - Capable of being perceived, especially by the sense of touch.

TANGIBLE PERSONAL PROPERTY MEMORANDUM (TPPM) - A legal document referred to in a will and used to guide the distribution of personal property that you can move or touch. For example, furniture, computers, jewelry, and artwork.

TAXATION OF COSTS - The process of ascertaining and charging up the amount of costs in an action to which a party is legally entitled, or which are legally chargeable. Adjustment; fixing the amount.

TEMPORARY RELIEF - Any form of action by a court granting one of the parties an order to protect its interest pending further action by the court.

TEMPORARY RESTRAINING ORDER (TRO)- A court order that says a person must not do certain things that are likely to cause harm that can't be fixed.

TENANCY - An interest in real estate which passes to the tenant.

TESTAMENT - A will disposing of personal property. (See WILL.)

TESTAMENTARY CAPACITY - The legal ability to make a will. To write a will, a person has to be at least 18 years old; know what property he or she owns; and know who he or she wants to give the property to.

TESTAMENTARY DISPOSITION - A disposition of property by way of gift, which is not to take effect unless the grantor dies or until that event.

TESTAMENTARY GUARDIAN - A guardian appointed by the last will of a father for the person and real and personal estate of his child until the child reaches full age.

TESTAMENTARY TRUST - A trust created in a will. The trust does not exist until the person dies.

TESTAMENTARY TRUSTEE - A person appointed to carry out a trust created by a will.

TESTATE - One who has died leaving a will or one who has made a will.

TESTATOR - Male person who makes a will (female: *testatrix*).

TESTATRIX - Female person who makes a will (male: *testator*).

TESTIFY - To give evidence under oath as a witness in a court proceeding.

TESTIMONY - Oral evidence at a trial or deposition.

THEFT - The act of stealing or the taking of property without the owner's consent.

THIRD-PARTY - A person, business, or government agency not actively involved in a legal proceeding, agreement, or transaction.

THIRD-PARTY CLAIM - An action by the defendant that brings a third party into a lawsuit.

THREE STRIKES LAW – Law that subjects person convicted of felony who has two or more prior serious or violent felonies to a life term in prison.

TIME SERVED - A sentence given by the court to a convicted criminal equal to the amount of time that the criminal was incarcerated during the trial.

TIME WAIVER - When you give up the right to have a certain phase of the legal process take place within the normally specified amount of time.

TITLE - Ownership or evidence of ownership of land or other property.

TORT - When a person is hurt because someone did not do what he or she was supposed to do. The most common tort action is a suit for damages as a result of an automobile accident. See EX DELICTO.

TORTURE – To inflict intense pain to body or mind for purposes of punishment, or to extract a confession or information, or for sadistic pleasure.

TRANSACTIONAL MALPRACTICE – Professional misconduct, unreasonable lack of skill in professional duties, or illegal or immoral conduct in regards to an act of transacting or conducting any business.

TRANSCRIPT - A record of everything that is said in a hearing or trial.

TRANSFERRED INTENT – Doctrine under which original malice is transferred from one against whom it was entertained to person who actually suffers consequence of unlawful act. When one attempts to kill a certain person, but by mistake or inadvertence kills a different person, the crime, if any, so committed is the same as though the person originally intended to be killed, had been killed.

TRANSITORY - Actions that might have taken place anywhere.

TRAVERSE – In common law pleading, a denial. Where a defendant denies any material allegation of fact in the plaintiff's declaration.

TRESPASSING - Unlawful interference with one's person, property and rights.

TRIAL - A court process in which the issues of fact and law are heard and decided according to legal procedures so a judicial officer or jury can make a decision.

TRIAL DE NOVO - A new trial or retrial held in an appellate court in which the whole case is heard as if no trial had been heard in the lower court or administrative agency.

TRIAL COURT - The first court to consider a case, generally the superior court. Compare APPELLATE COURT).

TRIAL, COURT (BENCH) - A trial where the jury is waived and the case is seen before the judge alone.

TRIAL, SPEEDY - The Sixth Amendment of the Constitution guarantees the accused to an immediate trial in accordance with prevailing rules, regulations and proceedings of law.

TRIAL STATUS/SETTING CONFERENCE - See PRETRIAL SENTENCE.

TRIER OF FACT – Term includes the jury or the judge in a jury-waived trial, who have the obligation to make finding of fact rather than rulings of law.

TRO – See TEMPORARY RESTRAINING ORDER.

TROMBETTA MOTION - A motion to suppress evidence for failure to preserve the same.

TRUE BILL – The endorsement made by a grand jury on a bill of indictment when it finds sufficient evidence for trial on the charge alleged.

TRUE FINDING – The juvenile court equivalent of a guilty verdict.

TRUE TEST COPY – A copy of a court document given under the clerk's seal, but not certified.

TRUST – A legal device used to manage real or personal property, established by one person (the *GRANTOR* or *SETTLOR*) for the benefit of another (the *BENEFICIARY*). A third person (the *TRUSTEE*) or the grantor manages the trust. In Traffic – Trust is an account into which bail is posted to insure appearance or compliance until the case is settled.

TRUST AGREEMENT OR DECLARATION – The legal document that sets up a trust.

TRUSTEE – The person or institution that manages the property put in trust.

TURNCOAT WITNESS – A witness whose testimony was expected to be favorable, but who later becomes an adverse witness.

UNCONSCIONABILITY – An absence of meaningful choice on the part of one of the parties to a contract, and contract terms which are unreasonably favorable to the other party.

UNCONSTITUTIONAL - That which is contrary to or in conflict with the federal or state constitutions.

UNDERCOVER - A person participating in a secret investigation in order to acquire information about the crime without the other party realizing their identity.

UNDERTAKING - A promise given during legal proceedings by a party or his attorney, usually as a condition of getting some concession from the court or third party.

UNDUE INFLUENCE - When someone pressures the person making a will (called testator) to include or leave out people or things from his or her will. This can be a reason to challenge a will.

UNDER THE INFLUENCE – Any abnormal mental or physical condition which is the result of indulging in any degree in intoxicating liquors, and which tends to deprive one of that clearness of intellect and control of himself which he would otherwise possess.

UNEMPLOYMENT - State or condition of not being employed.

UNILATERAL - One-sided, or having a relation to only one of two or more persons or things.

UNJUST ENRICHMENT, DOCTRINE OF - The principle that one person should not be permitted to unjustly enrich himself at the expense of another, but should be required to make restitution for the property or benefit received.

UNLAWFUL ASSEMBLY – At common law, the meeting together of three or more persons, to the disturbance of the public peace, and with the intention of forcible and violent execution of some unlawful private enterprise.

UNLAWFUL DETAINER - The eviction papers (Summons and Complaint) that a landlord gives a tenant.

UNRUH CIVIL RIGHTS ACT – This law provides protection from discrimination by all business establishments in California, including housing and public accommodations, because of age, ancestry, color, disability, national origin, race, religion, sex, or sexual orientation.

UNSECURED - In bankruptcy proceedings, for the purposes of filing a claim, a claim is unsecured if there is no collateral, or to the extent the value of collateral is less than the amount of the debt.

USURY- Charging a higher interest rate or higher fees than the law allows.

UTTER -- To use or to attempt to use a check, draft, or order to either (1) assert that it is genuine, or (2) represent to another person that it is genuine.

VACATE – To render an act void; to set aside.

VAGRANCY – The state or manner of living by wandering from place to place without a home, job, or means of support.

VANDALISM – Willful or malicious acts that are intended to damage or destroy public or private property.

VEHICULAR HOMICIDE – Caused by the illegal operation of a motor vehicle. Both intentional conduct and negligence maybe the basis for such charge though statutes vary from state to state as to the elements of the crime.

VENIRE - Describes the whole group of people called for jury duty from which the jurors are selected. Latin meaning "to come."

VENUE – The court where you can file your action.

VERDICT – A jury's or a judge's final decision.

VERIFICATION - An oral or written statement, usually made under oath, saying that something is true.

VEXATIOUS LITIGANT - A person shown to repeatedly file legal actions that have little or no merit.

VICARIOUS RESPONSIBILITY – Acting or serving in place of someone or something else.

VICTIM – A person who is the object of a crime or civil wrongdoing.

VICTIM IMPACT STATEMENT – A statement during sentencing which informs the judge of the impact of the crime on the victim or the victim's family.

VIOLATION – A breach of a right, duty, or law.

VIOLATION OF PROBATION - A new allegation against a defendant for non-compliance with a previous probation condition related to a criminal sentence.

VISITATION – Times when the parent who does not have custody is with the children and is responsible for them.

VOIR DIRE - The process of questioning potential jurors to choose the people who will decide a case. Latin meaning "to speak the truth."

VOLUNTARY ARRAIGNMENT LETTER – A notice sent by the District Attorney to a defendant indicating date, time and department for appearance in court on newly filed charges for which there is no signed promise to appear.

VOLUNTARY MANSLAUGHTER – Committed voluntarily during a heated moment; for example, during a sudden quarrel, two persons fight, and one of them kills the other.

VOLUNTARY UNDERTAKINGS – An act unconstrained by interference; spontaneous; or of oneself.

WAIVE (RIGHTS) – To give up a legal right voluntarily, intentionally, and with full knowledge of the consequences.

WAIVER AND ESTOPPEL – Voluntary surrender of some known right, benefit, or advantage.

WAIVER OF IMMUNITY – A means authorized by statute by which a witness, before testifying or producing evidence, may relinquish the right to refuse to testify against himself or herself, making it possible for his or her testimony to be used against him or her in future proceedings.

WARD - A minor who is under the care and control of the court instead of the parents.

WARD OF THE COURT – A person under the age of 18 when he/she violates a criminal law or ordinance. The minor is under the care and supervision of the court.

WARRANT – A court order telling an officer to do something.

WARRANT, ARREST – Commands a peace officer to arrest and bring before the court the person accused of an offense for purpose of commencing legal action.

WARRANT, SEARCH – A written order directing a law enforcement officer to conduct a search of a specified place and to seize any evidence directly related to the criminal offense.

WEAPON – An instrument used or designed to be used to threaten, injure or kill someone.

WEAPON, CONCEALED – A weapon that is carried by a person, but that is not visible by ordinary observation.

WEAPON, DEADLY – A weapon, device, instrument, material or substance, whether animate or inanimate, which if used as it is used or intended to be used is known to be capable of producing death or serious bodily injury.

WEIGHT OF THE EVIDENCE – The persuasiveness of certain evidence when compared with other evidence that is presented.

WHEELER MOTION - A motion to dismiss a jury panel due to the prosecution's exclusion of a particular class of people (i.e. black jurors, women, etc.).

WILL – A legal paper that says what a person wants to happen to his or her personal property after the person dies. A will can be changed or cancelled at any time before a person dies. (See TESTAMENT.)

WILLFUL – A “willful” act is one done intentionally, as distinguished from an act done carelessly or inadvertently.

WITH PREJUDICE – Applied to orders of judgment dismissing a case, meaning that the plaintiff is forever barred from bringing a lawsuit on the same claim or cause.

WITHOUT PREJUDICE – When rights or privileges are not waived or lost. If your case is dismissed without prejudice it means that there can be a new case about the same thing.

WITNESS – 1. A person called testify about what he or she saw, heard, or knows. 2. To sign your name to a document for the purpose of authenticity.

WITNESS STAND – The space in the courtroom occupied by a witness while testifying.

WITNESS, DEFENSE – A non-hostile witness that is called by the defense counsel to assist in proving the defense’s case.

WITNESS, EXPERT – Qualified by knowledge, skill, experience, training or education to provide a scientific, technical or specialized opinion of the subject about which he or she is to testify. That knowledge must not be generally possessed by the average person.

WITNESS, HOSTILE – An uncooperative witness.

WITNESS, MATERIAL – A witness who can give testimony relating to a particular matter that very few others, if any, can give.

WITNESS, PROSECUTION – The person whose complaint begins a criminal prosecution and whose testimony is mainly relied on to secure a conviction at the trial.

WOBLER - A felony which provides either a county jail sentence or a state prison commitment and which can be held to answer as a felony or a misdemeanor.

WORK FURLOUGH – A correctional program which allows inmates, primarily one’s being readied for discharge, to leave the institution for the purpose of continuing regular employment during the daytime but reporting back on nights and weekends.

WORK PROJECT – Program allowing sentenced person the option of performing labor instead of jail time.

WRAP AROUND SERVICES – Specialized and intensive social and health services for families with children concurrently residing in a group home or at risk of entering a group home, designed to reduce the level of foster care or facilitate the placement of a child with his/her parent instead of foster care.

WRIT - A court order that says certain action must be taken.

WRIT OF EXECUTION - A court order that tells the sheriff to enforce a judgment.

WRIT OF MANDATE - A petition used to compel the court, officer, or agency to perform a duty required by law or to compel a court to assume jurisdiction and exercise its discretion after its refusal to act.