# CONSORTIUM FOR STATE COURT INTERPRETER CERTIFICATION

# GLOSSARY OF COMMONLY USED COURT & JUSTICE SYSTEM TERMINOLOGY

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# Purpose and History of the Glossary

At the annual meeting of the Consortium for Court Interpreter Certification in July 1998, it was agreed that a master glossary of all terms typical of those used in any member state would be compiled. This glossary is the result of that effort. It represents a compilation of terms drawn from:

- *Glossary of Selected Legal Terms, English-Vietnamese,* Office of the Administrator for the Courts, State of Washington
- New Jersey Administrative Office of the Courts staff and interpreters
- *Glossary of Terms,* National Association for Court Management and other glossary sources from the state court systems states of Maryland and Florida

The purpose of creating the glossary is twofold:

1) to provide a core set of legal terms in English as a base document for the preparation of dictionaries or glossaries in languages for which no other published dictionaries or glossaries exist, and
2) to provide a source document for the selection of technical terms that are included on oral performance exams prepared by the Consortium for Court Interpreter Certification.

The glossary obviously is neither comprehensive nor complete; it is merely a compendium of selected terms collected under one cover as of the printing date. Other terms will be added from time to time as resources permit.

# ENGLISH
# LEGAL GLOSSARY

ABANDONMENT - A parent's or custodian's act of leaving a child without adequate care, supervision, support, or parental contact for an excessive period of time. Also, the desertion of one spouse by the other with the intent to terminate the marriage relationship.

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

ABSTRACT - A summary of a larger work, wherein the principal ideas of the larger work are contained.

ABSTRACT OF RECORD - A short, abbreviated form of the case as found in the record.

ABSTRACT OF TITLE - A chronological summary of all official records and recorded documents affecting the title to a parcel of real property.

ACCESSORY - A person who aids or contributes in the commission of a crime.

ACCOMPLICE - One who knowingly, voluntarily, and intentionally unites with the principal offender in the commission of a crime. A partner in a crime.

ACCORD - A satisfaction agreed upon between the parties in a lawsuit which bars subsequent actions on the claim.

ACCORD AND SATISFACTION - A method of discharging a claim upon agreement by the parties to give and accept something in settlement of the claim.

ACCUSATION - A formal charge against a person, to the effect that he has engaged in a punishable offense.

ACCUSED - The generic name for the defendant in a criminal case.

ACKNOWLEDGMENT - 1. A statement of acceptance of responsibility. 2. The short declaration at the end of a legal paper showing that the paper was duly executed and acknowledged.

ACQUIT - To legally certify the innocence of one 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 - In criminal law, a finding of not guilty. In contract law, a release, absolution, or discharge from an obligation, liability, or engagement.

ACTION - Case, cause, suit, or controversy disputed or contested before a court of justice.

ADJUDICATE - To determine finally.

ADJUDICATION - Giving or pronouncing a judgment or decree. Also the judgment given.

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

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

ADMISSIBLE EVIDENCE - Evidence that can be legally and properly introduced in a civil or criminal trial.

ADMISSION - Voluntary acknowledgment of the existence of certain facts relevant to the adversary's case.

# ENGLISH
# LEGAL GLOSSARY

ADMONISH - To advise or caution. For example the Court may caution or admonish counsel for wrong practices.

ADOPTION - To take into one's family the child of another and give him or her the rights, privileges, and duties of a child and heir.

ADVERSARY SYSTEM - The trial method used in the U.S. and some other countries. This system is based on the belief that truth can best be determined by giving opposing parties full opportunity to present and establish their evidence, and to test by cross-examination the evidence presented by their adversaries. All this is done under the established rules of procedure before an impartial judge and/or jury.

AFFIANT - A person who makes and signs an affidavit.

AFFIDAVIT - A written statement of facts confirmed by the oath of the party making it, before a notary or officer having authority to administer oaths. For example, in criminal cases, affidavits are often used by police officers seeking to convince courts to grant a warrant to make an arrest or a search. In civil cases, affidavits of witnesses are often used to support motions for summary judgment.

AFFIRMATIVE DEFENSE - Without denying the charge, the defendant raises circumstances such as insanity, self-defense, or entrapment to avoid civil or criminal responsibility.

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

AGENT - One who has authority to act for another.

AGGRAVATED ASSAULT - An attempt to cause serious bodily injury to another or purposely, knowingly or recklessly causing such injury, or an attempt to cause or purposely or knowingly cause bodily injury to another with a deadly weapon.

AGGRAVATED BATTERY - The unlawful use of force against another with unusual or serious consequences such as the use of a dangerous weapon.

AGGRAVATING FACTORS - Any factors associated with the commission of a crime which increase the seriousness of the offense or add to its injurious consequences.

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

AGREEMENT - A mutual understanding and intention between two or more parties. The writing or instrument which is evidence of an agreement. (Although often used as synonymous with contract, agreement is a broader term.)

AID AND ABET - Help, assist, or facilitate the commission of a crime.

ALFORD PLEA - A special type of guilty plea by which a defendant does not admit guilt but concedes that the State has sufficient evidence to convict; normally made to avoid the threat of greater punishment. Source: Black's Law Dictionary (1996); *North Carolina v. Alford*, 400 U.S. 25 (1970).

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

# ENGLISH
# LEGAL GLOSSARY

ALIMONY - A court-ordered allowance that one spouse pays the other spouse for maintenance and support while they are either separated, pending suit for divorce, or after they are divorced.

ALLEGATION - The assertion of a party to an action, setting out what he expects to prove.

ALLEGE - To state, recite, assert, claim, maintain, charge or set forth. To make an allegation.

ALLEGED - Asserted to be true as depicted or a person who is accused but has not yet been tried in court.

ALLOCUTION - A defendant's statement in mitigation of punishment.

ALTERNATIVE DISPUTE RESOLUTION (ADR) - Settling a dispute without a full, formal trial. Methods include *mediation, conciliation, arbitration, and settlement,* among others.

AMEND - To change, correct, revise, improve, modify, or alter.

AMENDMENT - The correction of an error admitted in any process.

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

ANNUAL REVIEW - Yearly judicial review, usually in juvenile dependency cases, to determine whether the child requires continued court supervision or placement.

ANSWER - The defendant's response to the plaintiff's allegations as stated in a complaint. An item-by-item, paragraph-by-paragraph response to points made in a complaint; part of the pleadings.

APPEAL - A request made after a trial, asking another court (usually the court of appeals) to decide whether the trial was conducted properly. To make such a request is "to appeal" or "to take an appeal."

APPEARANCE - A coming into court as party or interested person or as a lawyer on behalf of party or interested person.

APPELLANT - The party appealing a final decision or judgment.

APPELLATE COURT - A court having jurisdiction to hear appeals and review a trial court's procedure.

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

APPELLEE - The party against whom an appeal is taken. Sometimes called a *respondent.*

ARBITRATION - The referral of a dispute to an impartial third person chosen by the parties to the dispute who agree in advance to abide by the arbitrator's award issued after a hearing at which both parties have an opportunity to be heard.

ARGUMENT - Remarks addressed by attorney to judge or jury on the merits of case or on points of law.

ARRAIGN - The procedure where the accused is brought before the court to hear the criminal charge(s) against him or her and to enter a plea of either guilty, not guilty or no contest.

# ENGLISH
# LEGAL GLOSSARY

ARREST - To deprive a person of his liberty by legal authority.

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

ARSON - The malicious burning of someone else's or one's own dwelling or of anyone's commercial or industrial property.

ASSAULT - Any willful attempt or threat to inflict injury upon the person of another, when coupled with the present ability to do so, and any intentional display of force such as would give victim reason to fear or expect immediate bodily harm.

ASSAULT WITH A DEADLY WEAPON - An aggravated unlawful assault in which there is threat to do bodily harm without justification or excuse by use of any instrument calculated to do serious bodily harm or cause death.

ASSAULT, AGGRAVATED - An assault committed with the intention of committing some additional crime.

ASSIGNEE - The person to whom property rights or power are transferred by another, a grantee.

ASSUMPTION OF RISK - In tort law, a defense to a personal injury suit. The essence of an affirmative 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.

ATTACHMENT - Taking a person's property to satisfy a court-ordered debt.

ATTEMPT - An endeavor or effort to do an act or accomplish a crime, carries beyond preparation, but lacking execution.

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

ATTORNEY - Attorney at law, lawyer, counselor at law.

ATTORNEY OF RECORD - The lawyer who represents a client and is entitled to receive all formal documents from the court or from other parties. Also known as counsel of record.

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 another to act in his or her place, either for some particular purpose, as to do a specific act, or for the transaction of business in general, not of legal character. This authority is conferred by an instrument in writing, called a letter of attorney, or more commonly, a power of attorney.

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

# ENGLISH
# LEGAL GLOSSARY

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

BAIL - Money or other security (such as a bail bond) provided to the court to temporarily allow a person's release from jail and assure his or her appearance in court. *Bail* and *Bond* are often used interchangeably.

BAIL BOND - An obligation signed by the accused to secure his or her presence at the trial. This obligation means that the accused may lose money by not properly appearing for the trial. Often referred to simply as *bond.*

BAIL BONDSMAN - A person who is the liable party in paying the bond for the defendant's release from jail.

BAIL FORFEITURE - Bail that is kept by the court as a result of not following a court order.

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

BAILIFF - A court officer who has charge of a court session in the matter of keeping order and has custody of the jury.

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

BANKRUPTCY - Refers to statutes and judicial proceedings involving persons or businesses that cannot pay their debts and seek the assistance of the court in getting a fresh start. Under the protection of the bankruptcy court, debtors may be released from or "discharged" from their debts, perhaps by paying a portion of each debt. Bankruptcy judges preside over these proceedings. The person with the debts is called the debtor and the people or companies to whom the debtor owes money to are called creditors.

BAR - 1. Historically, the partition separating the general public from the space occupied by the judges, lawyers, and other participants in a trial. 2. More commonly, the term means the whole body of lawyers.

BAR EXAMINATION - A state examination taken by prospective lawyers in order to be admitted and licensed to practice law.

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

BATTERY - An offensive touching or use of force on a person without the person's consent.

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

BENCH - The seat occupied by judges in courts.

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 in which a judge decides the facts.

BENCH WARRANT - An order issued by a judge for the arrest of a person.

BENEFICIARY - Someone named to receive property or benefits in a will. In a trust, a person who is to receive benefits from the trust.

# ENGLISH
# LEGAL GLOSSARY

BEQUEATH - To give a gift to someone through a will.

BEQUESTS - Gifts made in a will.

BEST EVIDENCE - Primary evidence; the best evidence available. Evidence short of this is "secondary." That is, an original letter is "best evidence," and a photocopy is "secondary evidence."

BEYOND A REASONABLE DOUBT - The standard in a criminal case requiring that the jury be satisfied to a moral certainty that every element of a crime has been proven by the prosecution. This standard of proof does not require that the state establish absolute certainty by eliminating all doubt, but it does require that the evidence be so conclusive that all reasonable doubts are removed from the mind of the ordinary person.

BIAS - Inclination, bent, 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.

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

BIND OVER - To hold a person for trial on bond (bail) or in jail. If the judicial official conducting a hearing finds probable cause to believe the accused committed a crime, the official will bind over the accused, normally by setting bail for the accused's appearance at trial.

BODY ATTACHMENT - A written order issued by a court directing a sheriff or peace officer to take custody of and bring 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.

BOND - A certificate or evidence of a debt. Often used interchangeably with *bail*.

BOOKING - The process of photographing, fingerprinting, and recording identifying data of a suspect. This process follows the arrest.

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

BOOKMAKING - The act of collecting the bets of others or making odds on future gambling events.

BRANDISHING A WEAPON - The act of 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.

BREAKING AND ENTERING - Breaking and entering a dwelling of another in nighttime with intent to commit a felony therein.

BREATHALYZER TEST - Test to determine content of alcohol in one arrested for operating a motor vehicle while under the influence of liquor by analyzing a breath sample.

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

# ENGLISH
# LEGAL GLOSSARY

BRIEF - A written statement prepared by the counsel arguing a case in court. It contains a summary of the facts of a case, the pertinent laws, and an argument of how the law applies to the facts supporting counsel's position.

BURDEN OF PROOF - The obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court.

BURGLARY - The act of entering or remaining illegally in a movable or immovable structure, vehicle or dwelling with intent to commit a felony.

CALENDAR - List of cases scheduled for hearing in court.

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

CAPITAL CASE - A criminal case in which the allowable punishment includes death.

CAPITAL CRIME - A crime punishable by death.

CAPITAL PUNISHMENT - Punishment by death for capital crimes. *Death penalty*.

CAPTION - The heading on a legal document listing the parties, the court, the case number, and related information.

CASE - A general term for an action, cause, suit, or controversy brought before the court for resolution.

CASE LAW - Law established by previous decisions of appellate courts, particularly the Supreme Court.

CASE NUMBER - See DOCKET NUMBER.

CAUSATION - The act which produces an effect.

CAUSE - A lawsuit, litigation, or action. Any question, civil or criminal, litigated or contested before a court of justice.

CAUSE OF ACTION - The facts that give rise to a lawsuit or a legal claim.

CEASE AND DESIST ORDER - An order of an administrative agency or court prohibiting a person or business from continuing a particular course of conduct.

CERTIFICATION - 1. Written attestation. 2. Authorized declaration verifying that an instrument is a true and correct copy of the original.

CERTIFIED - Attested as being true or an exact reproduction.

CHAIN OF CUSTODY - An accounting for the whereabouts of the tangible evidence from the moment it is received in custody until it is offered in evidence in court.

CHALLENGE - An objection, such as when an attorney objects at a hearing to the seating of a particular person on a civil or criminal jury.

# ENGLISH
# LEGAL GLOSSARY

CHALLENGE FOR CAUSE - Objection to the seating of a particular juror for a stated reason (usually bias or prejudice for or against one of the parties in the lawsuit). The judge has the discretion to deny the challenge. This differs from 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. A hearing in chambers takes place in the judge's office outside of the presence of the jury and the public.

CHANGE OF VENUE - Moving a lawsuit or criminal trial to another place for trial.

CHARACTER EVIDENCE - The testimony of witnesses who know the general character and reputation of a person in the community in which he or she lives. It may be considered by the jury in a dual respect: 1) as substantive evidence upon the theory that a person of good character and reputation is less likely to commit a crime than one who does not have a good character and reputation, and 2) as corroborative evidence in support of a witness's testimony as bearing upon credibility.

CHARGE - A formal allegation, as a preliminary step in prosecution, that a person has committed a specific offense, which is recorded in a complaint, information or indictment. To charge; To accuse. See INSTRUCTIONS.

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 alleging a defendant has committed an offense. Includes a citation, an indictment, information, and statement of charges.

CHIEF JUDGE - Presiding or Administrative Judge in a court.

CHILD ABUSE - Any form of cruelty to a child's physical, moral, or mental well-being.

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

CHILD SUPPORT - The legal obligation of parents to contribute to the economic maintenance, including education, of their children. Money paid by one parent to another toward the expenses of the children of the marriage.

CIRCUMSTANTIAL EVIDENCE - All evidence except eyewitness testimony. One example is physical evidence, such as fingerprints, from which an inference can be drawn.

CITATION - A reference to a source of legal authority. A direction to appear in court, as when a defendant is cited into court, rather than arrested.

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

CIVIL CASE - A lawsuit brought to enforce, redress, or protect private rights or to gain payment for a wrong done to a person or party by another person or party. In general, all types of actions other than criminal proceedings.

# ENGLISH
# LEGAL GLOSSARY

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.

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

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.*

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

CLOSING ARGUMENT - The closing statement, by counsel, to the trier of facts after all parties have concluded their presentation of evidence.

CODE - A collection, compendium, or revision of laws, rules, and regulations enacted by legislative authority.

CODE OF CRIMINAL PROCEDURE - Body of federal or state law dealing with procedural aspects of trial for criminal cases.

CODE OF FEDERAL REGULATIONS - The CFR is the annual listing of executive agency regulations published in the daily Federal Register, and the regulations issued previously which are still in effect. The CFR contains regulatory laws governing practice and procedure before federal administrative agencies.

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.

CODICIL (kod'i-sil) - An amendment to a will.

COLLATERAL - 1. Property that is pledged as security against a debt. 2. A person belonging to the same ancestral stock (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.

COMMISSIONER - A person who directs a commission; a member of a commission. The officer in charge of a department or bureau of a public service.

COMMIT - 1. To execute, perpetrate, or carry out an act. To commit a crime. 2. To send a person to prison, asylum, or reformatory by a court order.

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

COMMITMENT ORDER - A court order directing that an individual be kept in custody, usually in a penal or mental facility.

# ENGLISH
# LEGAL GLOSSARY

COMMON LAW - The legal system that originated in England and is now in use in the United States. It is based on judicial decisions rather than legislative action.

COMMUNITY PROPERTY - Property owned in common by husband and wife each having an undivided one-half interest by reason of their marital status. For example, the earnings of one spouse during the marriage do not belong solely to that spouse; the earnings are community property.

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

COMPARATIVE NEGLIGENCE - A legal doctrine by which acts of the opposing parties are compared to determine the liability of each party to the other, making each liable only for his or her percentage of fault. See also CONTRIBUTORY NEGLIGENCE.

COMPETENCY - Mental capacity of a person, especially with regard to his or her ability to stand trial and to assist counsel in his or her defense.

COMPLAINANT - The party who complains or sues; one who applies to the court for legal redress. Also called the *plaintiff.*

COMPLAINT - The legal document that usually begins a civil lawsuit. It states the facts and identifies the action the court is asked to take. 2. Formal written charge that a person has committed a criminal offense.

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.

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. Conciliation is similar to mediation, but it may be less formal.

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

CONCURRENT SENTENCES - Sentences for more than one crime that are to be served at the same time, rather than one after the other. See also CUMULATIVE SENTENCES.

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

CONDITIONAL RELEASE - A release from custody which imposes regulations on the activities and associations of the defendant. If a defendant fails to meet the conditions, the release is revoked.

CONFESSION - Voluntary statement made by one who is a defendant in a criminal trial, which, if true, discloses his or her guilt.

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

# ENGLISH
# LEGAL GLOSSARY

CONFLICT OF INTEREST - 1. A real or seeming incompatibility between one's private interests and one's public or fiduciary duties. 2. A real or seeming incompatibility between the interests of two of a lawyer's clients, such that the lawyer is disqualified from representing both clients if the dual representation adversely affects either client or if the clients do not consent.

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

CONSERVATORSHIP - Legal right given to a person to manage the property and financial affairs of a person deemed incapable of doing that for himself or herself. (Conservators have somewhat less responsibility than guardians. See also *guardianship.*)

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

CONSPIRACY - An agreement by two or more persons to commit an unlawful act; in criminal law, conspiracy is a separate offense from the crime that is the object of the conspiracy.

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).

CONTEMPT OF COURT - The finding of the court that an act was committed with the intent of embarrassing the court, disobeying its lawful orders, or obstructing the administration of justice in some way.

CONTINUANCE - The adjournment or postponement of a session, hearing, trial, or other proceeding until a future date.

CONTRACT - A legally enforceable agreement between two or more competent parties made either orally or in writing.

CONTRIBUTORY NEGLIGENCE - A legal doctrine that says if the plaintiff in a civil action for negligence also was negligent, he or she cannot recover damages from the defendant for the defendant's negligence. Most jurisdictions have abandoned the doctrine of contributory negligence in favor of *comparative negligence*.

CONTROLLED SUBSTANCE - Any of the drugs whose production and use are regulated by law, including narcotics, stimulants, and hallucinogens.

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 - A judgment of guilty following a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.

CORONER - Public official charged with duty to make inquiry into the causes and circumstances of any death which occurs through violence or suddenly, with marks of suspicion.

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

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

# ENGLISH
# LEGAL GLOSSARY

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

COSTS - An allowance for expenses in prosecuting or defending a suit. Ordinarily this does not include attorney fees.

COUNSEL - A legal representative, attorney, lawyer.

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

COUNT - Each of the allegations of an offense listed in a charging document.

COUNTERCLAIM - A claim presented by a defendant in a civil lawsuit against the plaintiff. In essence, a counter lawsuit within a lawsuit.

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

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

COURT - 1. A unit of the judiciary authorized to decide disputed matters of fact, cases or controversies. 2. Figuratively, the judge or judicial officer. Judges sometimes use "court" to refer to themselves in the third person, as in "the court has read the briefs."

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 designated by the court to represent a defendant who does not have the funds to retain 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 written direction or command delivered by a court or judge.

COURT REPORTER - A person who makes a word-for-word record of what is said in court and produces a transcript of the proceedings upon request.

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

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

# ENGLISH
# LEGAL GLOSSARY

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, MUNICIPAL - A court having jurisdiction (usually civil and criminal) over cases arising within the city or community in which it sits.

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

COURT, SUPERIOR - Meaning varies from state to state.

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

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

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

CRIME - 1. An act of omission or commission in violation of law which carries criminal consequences. 2. Criminal activity in general relating to a specific time or place.

CRIMINAL - 1. One who has been convicted of a criminal offense. 2. That which is connected with the law of crimes; That which has the character of a crime (criminal justice; criminal intent).

CRIMINAL CASE - A case brought by the government against a person accused of committing a crime.

CRIMINAL INSANITY - Lack of mental capacity to do or abstain from doing a particular act; inability to distinguish right from wrong.

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

CROSS-CLAIM - A claim by codefendant or co-plaintiffs against each other and not against persons on the opposite side of the lawsuit.

CROSS-EXAMINATION - The questioning of a witness produced by the other side.

CUMULATIVE SENTENCES - Sentences for two or more crimes to run consecutively, rather than concurrently.

CUSTODY - 1. The care and control of a thing or person for inspection, preservation, or security. 2. The care, control, and maintenance of a child awarded by a court to one of the parents in a divorce or separation proceeding. 3. The detention of a person by virtue of lawful process or authority.

DAMAGES - Money awarded by a court to a person injured by the unlawful act or negligence of another person.

DEATH PENALTY - State-imposed death as punishment for a serious crime. *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.

# ENGLISH
# LEGAL GLOSSARY

DECISION - The judgment reached or given by a court of law.

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 - An order of the court. A final decree is one that fully and finally disposes of the litigation. An *interlocutory* decree is a preliminary order that often disposes of only part of a lawsuit.

DEFAMATION - That which tends to injure a person's reputation. *Libel* is published defamation, whereas *slander* is spoken.

DEFAULT - A failure to respond to a lawsuit within the specified time.

DEFAULT-JUDGMENT - A judgment entered against a party who fails to appear in court, respond to the charges, or does not comply with an order, especially an order to provide or permit discovery.

DEFENDANT - 1. In a criminal case, the person accused of the crime. 2. In a civil case, the person being sued.

DEFENSE - 1. Defendant's statement of a reason why the plaintiff or prosecutor has no valid case against defendant, especially a defendant's answer, denial, or plea. 2. Defendant's method and strategy in opposing the plaintiff or the prosecution. 3. One or more defendants in a trial.

DEFENSE ATTORNEY - An attorney who represents the defendant.

DELIBERATE - 1. To discuss, ponder or reflect upon before reaching a decision. A judge will usually deliberate before announcing a judgment. 2. Intentional, characterized by consideration and awareness.

DELIBERATION - The jury's decision-making process after hearing the evidence and closing arguments and being given the court's instructions.

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

DEMURRER - A motion to dismiss a civil case because of the legal insufficiency of a complaint.

DEPENDENT CHILD - A child who is homeless or without proper care through no fault of the parent, guardian, or custodian.

DEPORTATION - The act of removing a person to another country. Order issued by an immigration judge, expelling an alien 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 - A pretrial discovery device by which one party questions the other party or a witness for the other party. It usually takes place in the office of one of the lawyers, in the presence of a court reporter, who transcribes what is said. Questions are asked and answered orally as if in court, with opportunity given to the adversary to cross-examine. Occasionally, the questions are submitted in writing and answered orally.

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.

# ENGLISH
# LEGAL GLOSSARY

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.*

DETENTION - The act or fact of holding a person in custody; confinement or compulsory delay.

DETENTION HEARING - In juvenile court, a judicial hearing, usually held after the filing of a petition, to determine interim custody of a minor pending a judgment.

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

DIRECT EXAMINATION - The first questioning of witnesses by the party on whose behalf they are called.

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

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.

DISCOVERY - The procedure by which one or both parties disclose evidence which will be used at trial. The specific tools of discovery include depositions, interrogatories and motions for the production of documents.

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

DISMISSAL WITH PREJUDICE - The dismissal of a case, by which the same cause of action cannot be brought against the defendant again at a later date.

DISMISSAL WITHOUT PREJUDICE - The dismissal of a case without preventing the plaintiff from bringing the same cause of action against the defendant in the future.

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

DISPOSITION - A final settlement or determination. The court decision terminating proceedings in a case before judgment is reached, or the final judgment.

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 - The act of bringing to an end; termination. The dissolution of a marriage or other relationship.

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

# ENGLISH
# LEGAL GLOSSARY

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

DIVERSION - 1. The process of removing some minor criminal traffic, or juvenile cases from the full judicial process, on the condition that the accused undergo some sort of rehabilitation or make restitution for damages. 2. Unauthorized use of funds.

DIVORCE - Legal dissolution of a marriage by a court. Also termed *dissolution* of marriage.

DOCKET - A list of cases to be heard by a court, or a log containing brief entries of court proceedings.

DOCKET NUMBER - The designation assigned to each case filed in a particular court. Also called a *case number.*

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.

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 right of all persons to receive the guarantees and safeguards of the law and the judicial process. It includes such constitutional requirements as adequate notice, assistance of counsel, the right to remain silent, the right to a speedy and public trial, the right to an impartial jury, and the right to confront and secure witnesses.

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.

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.

EMINENT DOMAIN - The power of the government to take private property for public use through *condemnation.*

EN BANC - All the judges of a court sitting together. Appellate courts can consist of a dozen or more judges, but often they hear cases in panels of three judges. If a case is heard or reheard by the full court, it is heard en banc.

ENHANCE - To make greater in value, to increase.

ENJOINING - An order by the court telling a person to stop performing a specific act.

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

# ENGLISH
# LEGAL GLOSSARY

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.

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 - Generally, justice or fairness. Historically, equity refers to a separate body of law developed in England in reaction to the inability of the common-law courts, in their strict adherence to rigid writs and forms of action, to consider or provide a remedy for every injury. The king therefore established the court of chancery to do justice between parties in cases where the common law would give inadequate redress. The principle of this system of law is that equity will find a way to achieve a lawful result when legal procedure is inadequate. Equity and law courts are now merged in most jurisdictions.

ESCHEAT (ES-CHET) - The process by which a deceased person's property goes to the state if no heir can be found.

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 - An estate consists of personal property (car, household items, and other tangible items), real property, and intangible property, such as stock certificates and bank accounts, owned in the individual name of a person at the time of the person's death. It does not include life insurance proceeds (unless the estate was made the beneficiary) or other assets that pass outside the estate (like joint tenancy assets).

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 - A person's own act, or acceptance of facts, which preclude his or her later making claims to the contrary.

EVICTION - Recovery of land or rental property from another by legal process.

EVIDENCE - Information presented in testimony or in documents that is used to persuade the fact finder (judge or jury) to decide the case for one side or the other.

EVIDENCE, CIRCUMSTANTIAL - Inferences drawn from proven facts.

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

# ENGLISH
# LEGAL GLOSSARY

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.

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.

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

EXECUTE - To complete the legal requirements (such as signing before witnesses) that make a will valid. Also, to execute a judgment or decree means to put the final judgment of the court into effect.

EXECUTOR - A personal representative, named in a will, who administers an estate.

EXHIBIT - A document or other item introduced as evidence during a trial or hearing.

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

EXONERATE - Removal of a charge, responsibility or duty.

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.

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 - The process by which one state or country surrenders to another state, a person accused or convicted of a crime in the other state.

EXTRAORDINARY WRIT - A writ, 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.

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

# ENGLISH
# LEGAL GLOSSARY

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.

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, whereby a person obtains another's money or goods.

FAMILY ALLOWANCE - A small amount of money set aside from the estate of the deceased. Its purpose is to provide for the surviving family members during the administration of the estate.

FEE SIMPLE - The most complete, unlimited form of ownership of real property, which endures until the current holder dies without heir.
FELONY - A crime of a more serious nature than a misdemeanor, usually punishable by imprisonment in a penitentiary for more than a year and/or substantial fines.

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

FIDELITY BOND - See SURETY BOND.

FIDUCIARY - A person having a legal relationship of trust and confidence to another and having a duty to act primarily for the others benefit, e.g., a guardian, trustee, or executor.

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 compelled to present self-incriminating testimony in a criminal proceeding.

FILE - To place a paper in the official custody of the clerk of court to enter into the files or records of a case.

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

FINDING - Formal conclusion by a judge or jury on issues of fact.

FINE - To sentence a person convicted of an offense to pay a penalty in money.

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.

# ENGLISH
# LEGAL GLOSSARY

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 state. Also called *initial appearance.*

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.

FORFEITURE - The loss of money or property resulting from failure to meet a legal obligation or from the illegal nature or use of the money or property.

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

FOSTER CARE - A program of parental care for children who do not have an in-home parental relationship with either biological or adoptive parents.

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.

FOURTH 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 - Intentional, unlawful deception to deprive another person of property or to injure that person in some other way.

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 proceeding in which a debtor's money, in the possession of another (the garnishee*),* is applied to the debts of the debtor, such as when an employer garnishes a debtor's wages.

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 - Substantial reason, one that affords a legal excuse.

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

# ENGLISH
# LEGAL GLOSSARY

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

GRAND JURY - Jury of inquiry. The jury which determines which charges, if any, are to be brought against a defendant.

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.

GROUNDS - 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.

GUARDIANSHIP - Legal right given to a person to be responsible for the food, housing, health care, and other necessities of a person deemed incapable of providing these necessities for himself or herself, usually an incompetent adult or minor child.

GUILTY - Responsible for a delinquency, crime, or other offense; not innocent.

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.

HEARING - A proceeding similar to a trial, without a jury, and usually of shorter duration.

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

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 is usually not admissible as evidence in court.

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

HOLDING CELL - A temporary location that is meant to secure the accused while waiting for trial to begin or continue.

HOLOGRAPHIC WILL - A will entirely written, dated, and signed by the testator in his/her own handwriting.

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

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

HOSPITAL WARRANT - A warrant that a court issues under Health-General Article Section 12-120 after a probable cause determination that the named defendant has violated a conditional release under Title 12 of the Health-General Article.

HOSTILE WITNESS - A witness whose testimony is not favorable to the party who calls him or her as a witness. A hostile 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, incorporating facts previously admitted into evidence, upon which an expert witness is permitted to give an opinion as to a condition resulting from the situation.

ILLEGAL - Against, or not authorized by law; unlawful.

IMMUNITY - Grant by the court which assures someone will not face prosecution in return for providing evidence in a criminal proceeding.

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

INADMISSIBLE - That which, under the rules of evidence, cannot be admitted as evidence in a trial or hearing.

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

INCARCERATE - To confine in jail.

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 make it appear that one is guilty of a crime.

INDECENT EXPOSURE - Exposure to sight of the private parts of the body in a lewd or indecent manner in a public place.

INDEMNIFY - The term pertains to liability for loss shifted from one person held legally responsible to another.

# ENGLISH
# LEGAL GLOSSARY

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.

INDICTMENT - A formal written accusation, issued by a grand jury, charging a party with a crime.

INDIGENT - Needy and poor. A defendant who can demonstrate his or her indigence to the court may be assigned a court-appointed attorney at public expense.

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 formal written document filed by the prosecutor detailing the criminal charges against the defendant. An alternative to an indictment, it serves to bring a defendant to trial.

INFRACTION - A violation of law, not punishable by imprisonment. Minor traffic offenses are generally considered infractions.

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 - Writ or order by a court prohibiting a specific action from being carried out by a person or group.

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.

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 - Judge's explanation to the jury before it begins deliberations of the questions it must answer and the applicable law governing the case. Also called *charge.*

INTANGIBLE ASSETS - Nonphysical items such as stock certificates, bonds, bank accounts, and pension benefits that have value and must be taken into account in estate planning.

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

# ENGLISH
# LEGAL GLOSSARY

INTERLOCUTORY - Provisional; not final. An interlocutory order or an interlocutory appeal concerns only a part of the issues raised in a lawsuit. Compare to *decree*.

INTERROGATORIES - Written questions asked by one party in a lawsuit for which the opposing party must provide written answers.

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 - Dying without a will.

INTESTATE SUCCESSION - The process by which the property of a person who has died without a will passes on to others according to the state's descent and distribution statutes. If someone dies without a will, and the court uses the state's interstate succession laws, an heir who receives some of the deceased's property is an intestate heir.

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

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

IRREVOCABLE TRUST - A trust that, once set up, the grantor may not revoke.

ISSUE - 1) The disputed point in a disagreement between parties in a lawsuit. 2) To send out officially, as in to issue 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 - The peril in which an accused is placed when he is properly charged with a crime before a court. Jeopardy normally attaches when the petit jury is impaneled. After such time, the accused may not be released and tried at a later date for the same offense. Subject to exception. See DOUBLE JEOPARDY.

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

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 - A form of legal co-ownership of property (also known as *survivorship*). At the death of one co-owner, the surviving co-owner becomes sole owner of the property. Tenancy by the entirety is a special form of joint tenancy between a husband and wife.

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 - The illegal taking of 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.

# ENGLISH
# LEGAL GLOSSARY

JUDGMENT (JUDGMENT) - The final decision of the court, resolving the dispute; an opinion; an award.

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

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.

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.

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 body of persons temporarily selected from the citizens of a particular district sworn to listen to the evidence in a trial and declare a verdict on matters of fact.

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

JURY COMMISSIONER - The court officer responsible for choosing the panel of persons to serve as potential jurors for a particular court term.

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

JURY TRIAL - Trial in which a jury decides issues of fact as opposed to trial only before a judge.

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

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

JUVENILE - A young person who has not yet attained the age at which he or she should be treated as an adult for purposes of criminal law and other legal matters.

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.

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

LARCENY - Stealing or theft.

LAW - The combination of those rules and principles of conduct promulgated by legislative authority, derived from court decisions, and established by local custom.

# ENGLISH
# LEGAL GLOSSARY

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.

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 - One which instructs the witness how to answer or puts words in his mouth to be echoed back. One which suggests to the witness the answer desired.

LEASE - A contract by which owner of property grants to another the right to possess, use, and enjoy it for a specified period of time in exchange for payment of an agreed price (rent).

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 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 - A seizure; the obtaining of money by legal process through seizure and sale of property.

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

LIABILITY - Legal debts and obligations.

LIABLE - Legally responsible.

LIBEL - Published words or pictures that falsely and maliciously harm the reputation of a person. 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 - A legal claim against another person's property as security for a debt. A lien does not convey ownership of the property, but gives the lien holder a right to have his or her debt satisfied out of the proceeds of the property if the debt is not otherwise paid.

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

# ENGLISH
# LEGAL GLOSSARY

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.

LITIGANT - A party to a lawsuit. Litigation refers to a case, controversy, or lawsuit.

LITIGATION - A lawsuit.

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

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 exercising some of the functions of a judge. It also refers in a general way to a judge.

MALFEASANCE - Evil doing, ill conduct; the commission of some act which is positively prohibited by law.

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.

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

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

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.

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

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.

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 trier of fact 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 form of *alternative dispute resolution* in which the parties bring their dispute to a neutral third party, who helps them agree on a settlement.

MEMORIALIZED - To mark by observation in writing.

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

MERITS - Strict legal rights of the parties; 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; for example, entry of *nolle prosequi* before a criminal trial begins is a disposition other than on the merits, allowing trial on those charges at a later time without double jeopardy attaching; similarly, dismissal of a civil action on a preliminary motion raising a technicality, such as improper service of process, does not result in *res judicata* of an issue.

MIRANDA RIGHTS - Requirement that police tell a suspect in their custody of his or her 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 lesser offense than a felony and generally punishable by fine or limited jail time, but not in a penitentiary.

MISTRIAL - An invalid trial caused by some legal error. When a judge declares a mistrial, the trial must start again from the beginning, including the selection of a new jury.

MITIGATING CIRCUMSTANCES - Those 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.

MODIFICATION - A change, alteration, or amendment which introduces new elements into the details, or cancels some of them, but leaves the general purpose and effect of the subject-matter intact.

MOOT - A moot case or a moot point is one not subject to a judicial determination because it involves an abstract question or a pretended controversy that has not yet actually arisen or has already passed. Mootness usually refers to a court's refusal to consider a case because the issue involved has been resolved prior to the court's decision, leaving nothing that would be affected by the court's decision.

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

# ENGLISH
# LEGAL GLOSSARY

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 denying the party's request.

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

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.

NEGLIGENCE - Failure to exercise the degree of care that a reasonable person would use under the same circumstances.

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 to it for its approval, means that the evidence was found insufficient to indict.

NO-CONTEST CLAUSE - Language in a will that provides that a person who makes a legal challenge to the will's validity will be disinherited.

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

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

NOT GUILTY - The form of verdict in criminal cases where the jury acquits the defendant, finds him or her not guilty.

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

NOTICE - Formal notification to the party that has been sued in a civil case of the fact that the lawsuit has been filed. Also, any form of notification of a legal proceeding.

NOTICE TO PRODUCE - In practice, 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.

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

NUNCUPATIVE WILL - An oral (unwritten) will.

# ENGLISH
# LEGAL GLOSSARY

OATH - Written or oral pledge by a witness to speak the truth.

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

OBJECTION - A protest to the court against an act or omission by the opposing party.

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.

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 - A crime, such as a felony, misdemeanor, or other punishable unlawful act.

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.

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.

ORAL ARGUMENT - An opportunity for lawyers to summarize their position before the court and also to answer the judges' questions.

ORDER TO SHOW CAUSE - Court order requiring to appear and show cause why the court should not take a particular course of action. If the party fails to appear or to give sufficient reasons why the court should take no action, the court will take the action. In criminal cases, the defendant must show why probation should not be revoked.

ORDER, COURT - A written or verbal command from a court directing or forbidding an action.

ORDINANCE - An act of legislation of a local governing body such as a city, town or county.

ORIGINAL JURISDICTION - The court in which a matter must first be filed.

# ENGLISH
# LEGAL GLOSSARY

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.

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 - A form of executive *clemency* preventing criminal prosecution or removing or extinguishing a criminal conviction.

PAROLE - Supervised release of a prisoner before the expiration of his or her sentence.

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 - A person, business, or government agency actively involved in the prosecution or defense of a legal proceeding.

PATENT - A government grant giving an inventor the exclusive right to make or sell his or her invention for a term of years.

PATERNITY - Fatherhood.

PENALTY - Punishment, civil or criminal, generally referring to payment of money.

PENDING - Begun, but not yet completed. Thus, an action is pending from its inception until the rendition of its final judgment.

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 New York.

PEREMPTORY CHALLENGE - The right to challenge a juror without assigning a reason for the challenge.

PERJURY - A false statement given while under oath or in a sworn affidavit.

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 RESIDENT - One who lives in a location for a period of time and denotes it as 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 - Tangible physical property (such as cars, clothing, furniture, and jewelry) and intangible personal property. This does not include real property such as land or rights in land.

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 - The person who administers an estate. 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 - The ordinary jury of twelve (or fewer) persons for the trial of a civil or criminal case. So called to distinguish it from the grand jury.

PETITION - A formal, written application to the court requesting judicial action on some matter.

PETITIONER - The person filing an action in a court of original jurisdiction. Also, the person who appeals the judgment of a lower court. The opposing party is called the *respondent*.

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 or possessor of it permanently.

PIMP - To obtain customers for a whore or prostitute. One who obtains customers for a whore or prostitute.

PLAINTIFF - A person who initiates a lawsuit against another. Also called the *complainant*.

PLEA - In a criminal proceeding, it is the defendant's declaration in open court that he or she is guilty or not guilty. The defendant's answer to the charges made in the indictment or information.

PLEA BARGAIN - The process whereby the accused and the prosecutor in a criminal case work out a mutually satisfactory disposition of the case subject to court approval. Usually involves the defendant's pleading guilty to a lesser offense or to only one.

PLEADINGS - The written statements of fact and law filed by the parties to a lawsuit.

POLLING THE JURY - The act, after a jury verdict has been announced, of asking jurors individually whether they agree with the verdict.

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.

# ENGLISH
# LEGAL GLOSSARY

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 assets 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.

PRECEDENT -A previously decided case that guides the decision of future cases.

PRE-INJUNCTION - 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 - A forejudgment, bias, a preconceived opinion.

PREJUDICIAL ERROR - Synonymous with *reversible error*; an error which warrants the appellate court in reversing the judgment before it.

PREJUDICIAL EVIDENCE - Evidence which might unfairly sway the judge or jury to one side or the other.

PRELIMINARY EXAMINATION - 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 a preliminary injunction or temporary restraining order ordering a party to carry out a specified activity.

PREMEDITATION -The planning of a crime preceding the commission of the act, rather than committing the crime on the spur of the moment.

PREPONDERANCE OF THE EVIDENCE - Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

PRE-SENTENCE REPORT - A report to the sentencing judge containing background information about the crime and the defendant to assist the judge in making his or her sentencing decision.

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*.

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 is executed, 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.

PRE-TRIAL CONFERENCE - A meeting between the judge and the lawyers involved in a lawsuit to narrow the issues in the suit, agree on what will be presented at the trial, and make a final effort to settle the case without a trial.

PRIORS - A slang term meaning previous conviction(s) of the accused.

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.

PRIVILEGE - A legal right, exemption or immunity granted to a person, company or class, that is beyond the common advantages of other citizens.

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 reasonable belief that a crime has or is being committed; the basis for all lawful searches, seizures, and arrests.

PROBATE - The court-supervised process by which a will is determined to be the will-maker's final statement regarding how the will-maker wants his or her property distributed. It also confirms the appointment of the personal representative of the estate. Probate also means the process by which assets are gathered; applied to pay debts, taxes, and expenses of administration; and distributed to those designated as beneficiaries in the will.

PROBATE COURT - The court with authority to supervise estate administration.

PROBATE ESTATE - Estate property that may be disposed of by a will.

PROBATION - A sentence imposed for the commission of a crime whereby a convicted criminal offender is released into the community, usually under conditions and under the supervision of a probation officer, instead of incarceration. A violation of probation can lead to its revocation and to imprisonment.

PROBATION BEFORE JUDGMENT (PBJ) - A conditional avoidance of imposition of sentence after conviction; failure to satisfy the conditions may cause imposition of sentence after a finding of violation of probation.

PROBATION DEPARTMENT - The department that oversees the actions of probationers 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 the probationer if they violate the terms and conditions of the probation.

# ENGLISH
# LEGAL GLOSSARY

PROCEDURAL LAW - The method, established normally by rules to be followed in a case; the formal steps in a judicial proceeding.

PROFFER - An offer of proof as to what the evidence would be if a witness were called to testify or answer a question.

PROOF - Any fact or evidence that leads to a judgment of the court.

PROSECUTING ATTORNEY - See PROSECUTOR and DISTRICT ATTORNEY.

PROSECUTION - A proceeding instituted and carried on in order to determine the guilt or innocence of the accused.

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 prosecute.

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.

PROXIMATE CAUSE - The act that caused an event to occur. A person generally is liable only if an injury was proximately caused by his or her action or by his or her failure to act when he or she had a duty to act.

PUBLIC DEFENDER - An attorney appointed by a court or employed by a government agency whose work consists primarily of defending people who are unable to hire a lawyer due to economic reasons.

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 cure the noncompliance that caused the contempt finding.

QUASH - To overthrow, to vacate, to annul or make void.

QUASI JUDICIAL - Authority or discretion vested in an officer whose acts partake of a judicial character.

RAP SHEET - A listing of all the criminal convictions against an individual.

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.

REAL EVIDENCE - Evidence given to explain, repel, counteract, or disprove facts given in evidence by the adverse party.

REAL PROPERTY - Land, buildings, and other improvements affixed to the land.

# ENGLISH
# LEGAL GLOSSARY

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 denote 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 given to explain, counteract, or disprove facts given by the opposing counsel.

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.

RECIDIVISM - The continued, habitual, or compulsive commission of law violations after first 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.

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 - All the documents and evidence plus transcripts of oral proceedings in a case.

RECUSE - The process by which a judge is disqualified from hearing a case, on his or her own motion or upon the objection of either party.

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 to whom the court refers a pending case to take testimony, hear the parties, and report back to the court. A referee is an officer with judicial powers who serves as an arm of the court.

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.

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.

# ENGLISH
# LEGAL GLOSSARY

REMAND - The act of sending a case back to the trial court and ordering the trial court to conduct limited new hearings or an entirely new trial.

REMEDY - The means by which a right is enforced or the violation of a right is prevented, redressed or compensated.

REMITTITUR - The reduction by a judge of the damages awarded by a jury.

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.

RESPONDENT - The party who makes an answer to a bill or other proceedings in equity; also refers to the party against whom an appeal is brought. Sometimes called an *appellee.*

REST - A party is said to *rest* or *rest* its case when it has presented all the evidence it intends to offer.

RESTITUTION - Act of giving the equivalent for any loss, damage or injury.

RESTRAINING ORDER - A court order forbidding the defendant from doing any action or threatened action until a hearing on the application can be conducted.

RETAINER - Act of the client in employing the attorney or counsel. Also denotes the fee the client pays when he or she retains the attorney to act for him or her.

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.

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 annul or make void by recalling or taking back.

RIGHTS, CONSTITUTIONAL - The rights of a person guaranteed by the state or federal constitutions.

ROBBERY - The act of taking money, personal property, or any other article of value that is in the possession of another done by means of force or fear.

RULE - An established standard, guide, or regulation.

# ENGLISH
# LEGAL GLOSSARY

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 evidence in a civil or criminal case is admissible.

SANCTION - A punitive act designed to secure enforcement by imposing a penalty for its violation. For example, a sanction may be imposed for failure to comply with discovery orders.

SEALING - The closure of court records to inspection, except to the parties.

SEARCH AND SEIZURE - A practice whereby a person or place is searched and evidence useful in the investigation and prosecution of a crime is seized or taken. The search is conducted after an order is issued by a judge.

SEARCH WARRANT - An order issued by a judge or magistrate commanding a sheriff, constable, or other officer to search a specified location.

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.

SELF-DEFENSE - Claim that an act otherwise criminal 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 whose validity does not have to be testified to in court by the witnesses to it, because the witnesses executed an *affidavit* reflecting proper execution of the will prior to the maker's death.

SENTENCE - The judgment formally pronounced by the court or judge upon the defendant after his or her conviction by imposing a punishment to be inflicted either in the form of a fine, incarceration or probation.

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 postconviction stage in which the defendant is brought before the court for imposition of sentence.

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 whereby a husband and wife live apart from each other while remaining married either by mutual consent or by a judicial order.

# ENGLISH
# LEGAL GLOSSARY

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 - The delivery of a legal document, such as a complaint, summons, or subpoena, notifying a person of a lawsuit or other legal action taken against him or her. Service, which constitutes formal legal notice, must be made by an officially authorized person in accordance with the formal requirements of the applicable laws.

SERVICE OF PROCESS - Notifying a person that he or she has been named as a party to a lawsuit or has been accused of some offense. Process consists of a summons, citation or warrant, to which a copy of the complaint is attached.

SETTLEMENT - An agreement between parties that dictates what is being received from one party to the other.

SETTLOR - The person who sets up a trust. Also called the *grantor*.

SEXUAL MOLESTATION - Illegal sex acts performed against a minor by a parent, guardian, relative or acquaintance.

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 establishment with the intention of using the goods for one's personal use without paying the purchase price.

SHOW CAUSE - An order requiring a person to appear in court and present reasons why a certain order, judgment, or decree should not be issued.

SIDEBAR - A conference between the judge and lawyers, usually in the courtroom, out of earshot of the jury and spectators.

SLANDER - False and defamatory spoken words tending to harm another's reputation, community standing, office, trade, business, or means of livelihood. See DEFAMATION.

SMALL CLAIMS COURT - A court that handles civil claims for small amounts of money. People often represent themselves rather than hire an attorney.

SODOMY - Oral or anal copulation between humans, or between humans or animals.

SOVEREIGN IMMUNITY - The doctrine that the government, state or federal, is immune to lawsuit unless it gives its consent.

SPECIFIC PERFORMANCE - A remedy requiring a person who has breached a contract to perform specifically what he or she has agreed to do. Specific performance is ordered when damages would be inadequate compensation.

SPEEDY TRIAL - The right of an accused to a speedy trial as guaranteed by the 6th Amendment of the United States Constitution.

SPENDTHRIFT TRUST - A trust set up for the benefit of someone who the grantor believes would be incapable of managing his or her own financial affairs.

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 standing to bring a lawsuit.

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*.

STATUS OFFENDERS - Youths charged with the status of being beyond the control of their legal guardian or 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 (in that they have not committed a crime), but are rather 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 formal, written statement by legislature declaring, commanding, or prohibiting something.

STATUTE OF LIMITATIONS - The time within a plaintiff must begin a lawsuit (in civil cases) or a prosecutor must bring charges (in criminal cases). There are different statutes of limitations at both the federal and state levels for different kinds of lawsuits or crimes.

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.

STIPULATE - An agreement by attorneys on both sides of a civil or criminal case about some aspect of the case; e.g., to extend the time to answer, to adjourn the trial date, or to admit certain facts at the trial.

STRICT LIABILITY - A concept applied by courts in product liability cases in which a seller is liable for any and all defective or hazardous products which unduly threaten a consumer's personal safety.

STRIKE - The act of quitting work by a group of workers for the purpose of coercing their employer to accept some demand(s) they have made upon their employer who has initially refused.

SUBMIT - To yield to the will of another.

# ENGLISH
# LEGAL GLOSSARY

SUBPOENA - An order of the court which requires a person to be present at a certain time and place to give testimony upon a certain matter. Failure to appear may be punishable as a contempt of court.

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.

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 - A decision made on the basis of statements and evidence presented for the record without a trial. It is used when there is no dispute as to the facts of the case, and one party is entitled to judgment as a matter of law.

SUMMONS - A notice to a defendant that he or she has been sued or charged with a crime and is required to appear in court. A jury *summons* requires the person receiving it to report for possible jury duty.

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 forbid the use of evidence at a trial because it is improper or was improperly obtained. 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 - A bond purchased at the expense of the estate to insure the executor's proper performance. Often called a *fidelity bond.*

SURVIVORSHIP - Another name for *joint tenancy.*

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 tangible personal property.

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 - A judge's order forbidding certain actions until a full hearing can be held. Usually of short duration. Often referred to as a *TRO.*

TENANCY - An interest in realty which passes to the tenant.

TESTAMENT - A will disposing of personal property. See WILL.

TESTAMENTARY CAPACITY - The legal ability to make a will.

TESTAMENTARY TRUST - A trust set up 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 make a declaration under oath in a judicial inquiry for the purpose of establishing or proving some fact.

TESTIMONY - The evidence given by a witness under oath. It does not include evidence from documents and other physical evidence.

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.

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.

TITLE - Legal ownership of property, usually real property or automobiles.

TORT - A civil injury or wrong committed on the person or property of another. A tort is an infringement on the rights of an individual, but not founded on a contract. The most common tort action is a suit for damages sustained in an automobile accident. See EX DELICTO.

TRANSCRIPT -A written, word-for-word record of what was said, either in a proceeding such as a trial or during some other conversation, as in a transcript of a hearing or oral deposition.

TRANSITORY - Actions are "transitory" when they might have taken place anywhere, and are "local" when they could occur only in some particular place.

TRESPASSING - Unlawful interference with one's person, property and rights.

TRIAL - A judicial examination and determination of issues between parties before a court that has jurisdiction.

TRIAL COURT - See TRIAL, COURT (BENCH).

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.

# ENGLISH
# LEGAL GLOSSARY

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.

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 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.

TRUST AGREEMENT OR DECLARATION - The legal document that sets up a living trust. Testamentary trusts are set up in a will.

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.

UNDUE INFLUENCE - Whatever destroys free will and causes a person to do something he would not do if left to himself.

UNEMPLOYMENT - State or condition of not being employed.

UNILATERAL - One-sided, ex parte, 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 DETAINER - The unjustifiable act of retaining possession without right; e.g. a tenant whose lease has expired.

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.

VACATE - To render an act void; to set aside.

# ENGLISH
# LEGAL GLOSSARY

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.

VENUE - The proper geographical area (county, city, or district) in which a court with jurisdiction over the subject matter may hear a case.

VERDICT - The opinion of a jury, or a judge where there is no jury, on the factual issues of a case.

VICTIM - A person who is the object of a crime or civil wrongdoing.

VICTIM IMPACT STATEMENT - A statement during sentencing which informs the sentencer of the impact of the crime on the victim or the victim's family.

VIOLATION - The act of breaking, infringing, or transgressing the law.

VISITATION - The right given to a non-custodial parent to see his or her child at court appointed times.

WAIVE (RIGHTS) - A knowing and knowledgeable act to abandon, renounce or surrender a person's rights.

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, thereby making it possible for his or her testimony to be used against him or her in future proceedings.

WAIVER OF RIGHTS - See WAIVE (RIGHTS).

WARRANT - Most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. An affidavit seeking a warrant must establish probable cause by detailing the facts upon which the request is based.

WARRANT OF ARREST - See WARRANT, ARREST.

WARRANT, ARREST - An order of a court directing the sheriff or other officer to seize a particular person to answer a complaint of otherwise appear before the court.

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.

# ENGLISH
# LEGAL GLOSSARY

WILL - A legal declaration that disposes of a person's property when that 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 - A claim or cause dismissed without prejudice may be the subject of a new lawsuit.

WITNESS - 1. One who testifies to what they have seen, heard or otherwise observed. 2. (v) To subscribe one's 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 - A witness who is 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 generally be such as is not normally possessed by the average person.

WITNESS, HOSTILE - A witness whose relationship to the opposing party is such that his or her testimony may be prejudiced against that party. A witness declared to be hostile may be asked leading questions and is subject to cross-examination by the party that called him or her.

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 commences a criminal prosecution and whose testimony is mainly relied on to secure a conviction at the trial.

WORK FURLOUGH - See WORK RELEASE.

WORK RELEASE - 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.

WRIT - A court's written order commanding the addressee to do or refrain from doing some specified act.

WRIT OF EXECUTION - A writ to put in force the judgment or decree of a court.

ZONING - The division of a city by legislative regulation into districts, and the design of regulations having to do with structural and architectural design and use of buildings.

***LATIN TERMS***

# ENGLISH
# LEGAL GLOSSARY

ACTION IN PERSONAM - An action against the person, founded on a personal liability. In contrast to action in rem, an action 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.

AD LITEM - A Latin term 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.

ADDITUR - An increase by a judge in the amount of damages awarded by a jury.

AMICUS CURIAE (A-MI'KUS KU'RIE) - A friend of the court. One not a party to a case who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it.

CAVEAT - A warning; a note of caution.

CAVEAT EMPTOR - "Let the buyer beware." Encourages a purchaser to examine, judge, and test for himself.

CERTIORI - A means of getting an appellate court to review a lower court's decision. The loser of a case will often ask the appellate court to issue a writ of certiorari, which orders the lower court to convey the record of the case to the appellate court and to certify it as accurate and complete. If an appellate court grants a writ of certiorari, it agrees to take the appeal. This is often referred to as granting cert.

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 shell 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 a corpus delicti, that is, the occurrence of a specific injury or loss and a criminal act as the source of that particular injury or loss.

DE NOVO - A new. A *trial de novo* is a new trial of a case.

ET AL - And others.

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

EX CONTRACTU - Arising from a contract.

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

EX PARTE - On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present at the hearing.

EX PARTE PROCEEDING - The legal procedure in which only one side is represented. It differs from *adversary system* or adversary proceeding.

EX POST FACTO - 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.

# ENGLISH
# LEGAL GLOSSARY

GUARDIAN AD LITEM - A person appointed by a court to look after the interests of an infant, child, or incompetent during court proceedings.

HABEAS CORPUS - A writ which commands that a party be brought before a court or judge and to protect him or her from unlawful imprisonment or custody.

HEARING DE NOVO - A full new hearing.

IN CAMERA - In chambers, or in private. A hearing in camera takes place in the judge's office outside of the presence of the jury and the public.

IN FORMA PAUPERIS - "In the manner of a pauper." Permission given to a person to sue without payment of court fees on claim of indigence or poverty.

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

IN PROPIA PERSONA - In courts, it refers to persons who present his or her own case without lawyers. See 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.

INTER ALIA - Among other things.

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

INTER VIVOS TRUST - Another name for a *living trust.*

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

LIS PENDENS - A pending suit.

LOCUS DELICTI - The place of the offense.

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

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

MITTIMUS - The name of an order in writing, issuing from a court and directing the sheriff or other officer to convey 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.

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.

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

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 - A plea of no contest. In many jurisdictions, it is an expression that the matter will not be contested, but without an admission of guilt. In other jurisdictions, it is an admission of the charges and is equivalent to a guilty plea.

NON COMPOS MENTIS - Not of sound mind; insane.

NON EST (INVENTUS) - Translated: "not to be found"; a sheriff's return of process when service is not made because the person to be served was not found.

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

NUNC PRO TUNC -A legal phrase applied to acts which are allowed after the time when they should be done, with a retroactive effect.

PARENS PATRIAE The doctrine under which the court protects the interests of a juvenile.

PER CURIUM OPINION - An unsigned *opinion* of the court.

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.

PRO BONO PUBLICO - For the public good. Lawyers representing clients without a fee are said to be working pro bono publico.

PRO PER - One who represents oneself in a court proceeding without the assistance of a lawyer. Also known as *pro se.* See also IN PROPIA PERSONA.

PRO SE - A Latin term meaning "on one's own behalf"; in courts, it refers to persons who present their own cases without lawyers. See IN PROPIA PERSONA and PRO PER.

QUANTUM MERUIT - Expression means "as much as he deserves," and describes the extent of liability on a contract implied by law.

QUID PRO QUO - What for what; something for something; giving one valuable thing for another.

QUO WARRANTO - A writ issuable by the state, through which it demands an individual to show by what right he or she exercises an authority which can only be exercised through grant or franchise from the state or why he or she should not be removed from office.

RATIO DECIDENDI - The ground or reason of the decision in a case.

RES IPSA LOQUITUR - Literally, "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.

# ENGLISH
# LEGAL GLOSSARY

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.

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.

STARE DECISIS - The doctrine that courts will follow principles of law laid down in previous cases. Similar to *precedent.*

SUA SPONTE - A Latin phrase which means on one's own behalf. Voluntary, without prompting or suggestion.

SUB CURIA - Translated: "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.

SUBPOENA DUCES TECUM - A court order commanding a witness to bring certain documents or records to court.

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.

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.

VENIRE - A writ summoning persons to court to act as jurors, Also refers to the people summoned for jury duty.

VOIR DIRE - "To speak the truth": the preliminary examination which the court and attorneys make of prospective jurors to determine their qualification and suitability to serve as jurors.