Handbook of Legal Terms

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INTRODUCTION

The Michigan Judicial Institute (MJI) was created in 1977 by the Michigan Supreme Court. MJI is responsible for providing educational programs and written materials for Michigan judges and court personnel. In addition to formal seminar offerings, MJI is engaged in a broad range of publication activities, services, and projects that are designed to enhance the professional skills of all those serving in the Michigan court system.

The *Handbook of Legal Terms* is produced by the Michigan Judicial Institute to meet the needs of those employees of the court system who are not legally trained, yet work with the law and court procedures. Since this Handbook is designed for nonlegal personnel, the definitions are written in plain English rather than in complicated legal terms.

The Handbook is the product of hundreds of interviews and the analysis of survey questionnaires completed by many court employees in 1976, and it has been periodically updated with the assistance of judges, SCAO staff and other court officials. It has been prepared at the request of judges, court administrators and other court supervisory personnel.

The Michigan Judicial Institute wishes to thank the countless court employees who participated in the preparation of this booklet, and hopes that the Handbook will be a useful reference.

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MJI welcomes comments and suggestions. Please send them to: Michigan Judicial Institute, Hall of Justice, P.O. Box 30205, Lansing, MI 48909, (517) 373-7171.

A

Abate — To reduce, diminish, or defer a cause of action.

Abrogate — To annul, repeal, or destroy a former law, rule, or order.

Abstract of Conviction — Summary of the court's finding on a moving violation. This term commonly refers to the form that the courts prepare and send to the Michigan Department of State.

Abstract of Record — An abbreviated or partial record.

Abstract of Title — A condensed history of the chain of title to land, used to determine or establish present ownership.

Accessory — One who knowingly and intentionally contributes to or aids in the commission of a crime, before or after, but not necessarily during, the crime's commission.

Accomplice — A person who participates in the commission of a crime but is not the person actually committing the act constituting the crime.

Acknowledgment of Parentage — A document that establishes a child's paternity (fatherhood). An acknowledgment of parentage is executed by the parents for a child conceived and born to a woman who was not married at the time of conception or on the date the child was born.

Acquit — To find not guilty.

Acquittal — A judgment of not guilty in a criminal case.

Action — A legal dispute brought before a court. An "action" is also referred to as a "case," "lawsuit," "cause of action," or "cause."

Active Case — Pending case; not disposed of.

Active Efforts — Under the Indian Child Welfare Act (ICWA) states are required to provide active efforts to reunify families, and the court will be asked to determine whether active efforts have been made. See **Indian Child Welfare Act**.

Ad Valorem — Latin, "according to the value". For example, an ad valorem tax on an automobile is one where the amount of tax depends on the automobile's value.

Additur — As an alternative to granting a new trial, the power of the trial court to increase the amount of an inadequate award made by jury verdict.

Adjourn — To suspend indefinitely, or until a later stated time.

Adjournment — The postponing or putting off of a case or session of court until another time or place.

Adjudicate — To determine judicially.

Adjudication — The process by which a case is judicially decided. In a criminal case, the adjudication may result in a finding of guilty or not guilty. In a civil case, the adjudication may result in a judgment against the plaintiff or the defendant.

Administrative Agency Regulations — Rules adopted by an administrative agency (such as the Department of State or the Department of Natural Resources and Environment) to govern matters under the jurisdiction of the agency.

Administrative Orders — Orders issued by the Michigan Supreme Court to regulate court procedures.

Administrator —
(1) The chief administrative officer of a court (usually "court administrator").
(2) A person appointed by a court to administer the estate of a deceased person.
Under the Estates and Protected Individuals Code (EPIC) this person is referred to as a "personal representative" (if acting with court supervision), or an "independent personal representative" (if acting without court supervision). A female administrator is called an "administratrix." See also **Estates and Protected Individuals Code (EPIC)**, **Fiduciary**, **Independent Personal Representative**, **Personal Representative**.

Administrator De Bonis Non — In cases where the administration of a decedent's estate is left unfinished due to the death, removal, or resignation of the personal representative, a court may appoint a new personal representative to complete the administration of the estate. In some jurisdictions, the new personal representative is called the "administrator de bonis non." Under the Estates and Protected Individuals Code (EPIC), this person is referred to as a "successor personal representative." See also **Estates and Protected Individuals Code (EPIC)**.

Adoption — The act by which a person takes the child of another into his or her family and makes the child, for all legal purposes, his or her own child.

Adult — Someone who is no longer a minor. In criminal cases, an adult is someone age 17 or older. In most other proceedings, an adult is someone age 18 or older. See **Minor**.

ADR — See **Alternative Dispute Resolution**.

Adversary Proceedings — An action contested by opposing parties.

Adverse Possession — A method of acquiring title to land by possession of the land under certain circumstances for a prescribed period of time without receiving a valid deed or conveyance from the legal owner.

Affiant — One who, being sworn, makes and signs an affidavit; a deponent.

Affidavit — A written statement of fact that is verified by oath or affirmation.

Affinity — The relationship that exists, as a result of marriage, between a wife and her husband's relatives, and a husband and his wife's relatives, as distinguished from relationship by blood.

Affirmation — A solemn and formal declaration that a statement is true. In certain cases, an affirmation may be substituted for an oath. See also **Oath, Verification**.

Agent — Someone authorized to act for another person. The other person is known as the "principal." See also **Principal**.

Alias Summons — A second or subsequent summons issued after the originally issued summons expires without having been served.

Alimony — See **Spousal Support**.

Allegation — A declaration, assertion, or statement of a party to a lawsuit, made in a pleading, and setting out what the party intends to prove.

Alternative Dispute Resolution (ADR) — The process for resolving a dispute without litigating it in court. For descriptions of specific means of alternative dispute resolution, see **Arbitration, Conciliation, Mediation**.

Amicus Curiae — One who is not a party to a case but who is interested in or affected by its outcome and is allowed by the court to submit a brief to assist the court in deciding the case.

Ancestor, Ascendant — An ancestor is a person who precedes in lineage, as does a parent or grandparent. An aunt or uncle or other relative who is not actually an ancestor is called a collateral ascendant.

Ancillary — That which is part of but subordinate to some other proceeding.

Ancillary Administration — The administration of an estate in a jurisdiction other than where the decedent lived in order to collect assets or pay debts.

Ancillary proceeding — A proceeding that is subordinate to the primary action.

Ancillary suit — A lawsuit growing out of, and supplementary to, another suit, i.e., a suit seeking enforcement of a judgment.

Annotations — Brief summaries of cases interpreting statutes. See **Michigan Compiled Laws Annotated**.

Annul — To make void or of no effect. To annul a judgment or judicial proceeding is to deprive it of all force and authority.

Annulment — A court order declaring that a marriage or other agreement or contract was invalid or not legal.

Answer — The legal paper in which the defendant answers the claims of the plaintiff in a lawsuit.

Antenuptial — Made or done before marriage; prenuptial. Usually an agreement regarding how property is to be distributed in the event of a divorce or the death of one of the marriage partners.

Appeal — A request to a higher court to change the judgment of a lower court.

Appeal by Application or Leave — An appeal where permission must be obtained from the higher court before the appeal may be filed.

Appeal by Right — An appeal to a higher court where permission does not first have to be obtained.

Appeal Record — The record sent by the trial court to the appellate court of what happened at the trial court. Must be either a copy of the court record and transcripts or a settled record.

Appearance —
(1) Coming into court: the formal act by which a defendant submits to the jurisdiction of a court.
(2) Document identifying one who is representing himself or herself or another. An attorney files an "appearance," making it known to the court and the other parties that he or she is representing a specific individual.

Appellant — In a case on appeal, the party appealing a decision or judgment to a higher court.

Appellate Court — A court that reviews lower court decisions, generally on the record of the lower court. Cases from the district courts are appealed to the circuit court. Cases from the circuit court are appealed to the Court of Appeals. Cases from the probate court are appealed to either the circuit court or the Court of Appeals depending upon the type of case. Subject to the applicable court rules, cases may also be appealed to the Michigan Supreme Court.

Appellee — In a case on appeal, the party who did not appeal the lower court's decision.

Application — Placing a request or petition before the court. The act of making the request.

Application for Leave to Appeal — A document requesting the appellate court to hear a party's appeal from a judgment when the party has no appeal of right or the time limit for an appeal of right has expired. An "application for leave to appeal" must be made if one wishes to have the court consider one's appeal where there is no appeal of right. The Court has final discretion to accept or reject an application for leave to appeal.

Arbitration — A form of alternative dispute resolution under which the parties agree to have a neutral third party or a neutral panel resolve their dispute. The parties are generally bound by the arbitrator's decision.

Arraign — To bring a person charged with a crime before the court for the purpose of informing him or her of the charges, appointing counsel if necessary, setting bail, and taking a plea to the charges.

Arraignment — In a criminal case, a pretrial court hearing at which the defendant is informed of the charges against him or her, is appointed counsel if necessary, is required to plead to the charges, and is granted bail if appropriate.

Arrearage — Money that is overdue and unpaid; usually child support.

Arrest warrant — An order issued to a peace officer by a judge or district court magistrate requiring the arrest of a named person.

Assets —
(1) Generally, all property belonging to a person, a corporation, or an estate that may be used to pay debts.
(2) In probate matters, all of the property available to the personal representative for payment of debts, charges, and expenses, and for distribution to the parties who are entitled to it.

Assignment —
(1) Assignment of Cases: the system or method that a court uses to assign cases to the judges of the court.
(2) Assignment of Counsel: refers to the appointment of attorneys for indigent criminal defendants.
(3) Assignment of Judges: a function performed by the State Court Administrative Office to assign judges to the various courts to handle vacancies caused by vacations, illness, etc., or to help reduce the number of cases pending in a court.

Attachment — The act of seizing a person or property under the authority of a judicial order so that the person or property is before the court and subject to its judgment.

Attest, Attestation — Signing as a witness to authenticate the execution of a written document.

Attorney — A lawyer; a person admitted to practice law in a state and who is qualified to represent the legal interests of another person or entity.

Attorney in Fact — The attorney acting in a fiduciary capacity under a "power of attorney." See **Power of Attorney**.

Attorney of Record — The attorney named in the records or file of a case who bears the responsibility for handling the case on behalf of the party he or she represents.

Authenticate — To certify that the original or copy of a recorded document is true or genuine.

Automatic Waiver — See **Waiver of Jurisdiction**.

Averment — Something alleged or asserted in a pleading. See also **Allegation**.

B

Backlog — Total inventory of cases at issue (in civil cases) or defendants arraigned (in criminal cases) and awaiting trial.

Bail — A method of releasing an accused person before trial by having the accused or someone on his or her behalf deposit money with the court or agree to pay a certain amount (post security) to ensure the accused person's appearance at later proceedings, such as trial.

Bail Bond — A financial obligation signed by the accused and those who serve as sureties to guarantee the accused's future appearance in court.

Bailiff — A court employee who maintains order in the courtroom and who is responsible for the custody of the jury, among other functions.

Bench Trial — Trial of a case held before a judge sitting without a jury.

Bench Warrant — An order issued by the court, "from the bench", for the arrest of a person for violating a court order. See **Capias**.

Beneficiary —
(1) One who receives benefits under a trust or a will.
(2) The person who is entitled to receive payments under an insurance policy.

Bequeath — To give personal property by a will. This term has been replaced by the term "devise" under the Estates and Protected Individuals Code (EPIC). See **Devise, Estates and Protected Individuals Code (EPIC)**.

Bequest — Former term used for a gift of personal property by a will. Under the Estates and Protected Individuals Code, now called a "devise." See **Devise, Estates and Protected Individuals Code (EPIC)**.

Bind — To create a legal obligation upon one's self or upon another.

Bind Over — To hold for trial; a finding at a preliminary examination that sufficient evidence exists to require a trial on the charges brought against the defendant.

Bond — A promise or contract to do or perform a specified act or acts or to pay a penalty for failure to perform; usually guaranteed by a "surety" who promises to pay if the "principal" defaults, or by a deposit of money as a "cash bond." If the principal defaults, the surety has to pay, and the surety can then collect from the principal.

In criminal cases, bond means basically the same as "bail." **See Bail**.

"Bond" also refers to a public official's deposit of a certain amount of money in order to guarantee the honest and faithful performance of his or her official duties while in office.

Brief — A written argument submitted to the court by counsel setting forth facts and/or law supporting his or her client's case.

Burden of Proof — The duty to prove a fact or facts in dispute. In criminal cases, the prosecution must prove its case "beyond a reasonable doubt." In most civil cases, the plaintiff must prove its case by a "preponderance of the evidence."

C

Calendar — A list of all pending cases, or all pending issues, ready for trial in court. A court's complete schedule of trials, hearings, motions, etc. Often used interchangeably, but improperly, with "docket."

Calendar Audit — Review of the status of all cases on active lists. The audit might result in the removal of cases from the calendar and the identification of cases that have been delayed excessively.

Canons of Ethics — Documents outlining the professional responsibilities and goals of lawyers, judges, etc. In Michigan, the canons for judges are found in the Code of Judicial Conduct. Canons for lawyers are found in the Michigan Rules of Professional Conduct. The Michigan Supreme Court has promulgated a model code of conduct for court employees.

Capias — In general, a writ that requires an officer to take a named individual into custody; includes bench warrant, issued when a defendant does not appear in court when required to do so; court-issued warrant for arrest.

Case — A legal dispute brought before a court. A "case" is also referred to as an "action," "lawsuit," "cause of action," or "cause."

Caseflow — The management of cases through the court; the passage of cases through the court system. (Ideally cases are to "flow" through the judicial process in a smooth, orderly manner, hence the name "caseflow".)

Case Law — Published decisions issued by appellate courts in particular cases. Generally, the legal principles announced in these decisions are binding authority for lower courts.

Caseload — The number of cases a judge handles in a specific time period.

Cause of Action, Cause —
(1) A legal dispute brought before a court; also referred to as an "action," "lawsuit," or "case."
(2) The right to judicial relief; also referred to as a "claim."

Certification — As pertains to mental health: the written conclusion and statements of a physician that an individual is a person requiring treatment; the certification should also include the information and opinions in reasonable detail that underlie the physician's conclusion.

Certified Copy — A copy of a document, order, or record of the court or other public office, signed and certified as an exact duplicate of the original document by the officer of the court having custody of the original.

Certify — To vouch for something in writing; to put in writing a statement. To attest in writing to the authenticity and accuracy of a written instrument or document, or a copy of it. See also **Attest**, **Attestation**.

Certiorari — An order by an appellate court directing a lower court to certify and forward the record of a case for judicial review for legal error. This term is obsolete in Michigan.

Challenge —
(1) To ask that a member of the jury panel be excused.
(2) To question or dispute an action.

Challenge for Cause — To ask that a member of the jury panel be excused because there appears to be a specific reason, set out in the court rule, that the person is not legally qualified to act as a juror in this case.

Challenge to the Array — To question the qualifications of an entire panel summoned for jury duty, usually because of alleged partiality or some deficiency in the manner by which the panel was selected and summoned.

Change of Venue — A transfer or removal of a case to a court in another geographic location and jurisdiction because:
(1) the case should have been commenced there in the first place, or
(2) for the convenience of the parties or witnesses, or
(3) because a fair trial cannot be had in the original court location.

Charge to the Jury — A judge's instructions to the jury that contain information about the laws that relate to the issues to be decided in a case. See also **Jury Instructions**.

Chattels — Personal property as opposed to real property.

Chief Judge — In all trial courts one judge is selected by the Michigan Supreme Court as chief judge. The chief judge represents the court in its relations with other agencies and the public. In addition, the chief judge is the director of the administration of the court.

Child Abuse — Mistreatment of a minor by an adult legally responsible for the minor.

Child Born Out Of Wedlock —
(1) A child born to a woman who was not married from the date of conception to the date of birth; or,
(2) A child who the court has determined to be born or conceived during a marriage but who is not a child of the marriage.

Child Care Fund — State funds used to reimburse counties for part of the expenses incurred in providing foster care and other services to children under the jurisdiction of the family division of the circuit court.

Child Care Rules — The administrative rules for the care of children in foster care.

Child Custody — The responsibility to care for and exercise control over a child. Child custody may be awarded incident to a domestic relations proceeding. See **Domestic Relations Action**.

Child Neglect — The failure of a parent, guardian, or custodian of a minor to provide the minor with proper or necessary support, education, medical care, or physical care; also, the failure to provide a fit home environment for the minor.

Child Protective Proceedings — Proceedings in the family division of the circuit court involving children under age 18 who are abused or neglected.

Child Support — In domestic relations cases, ongoing payments made by a parent to meet the financial needs of that parent's child, including medical, dental, educational, and child care expenses. See also **Support Order**.

Child Support Formula — Factors used by the Friend of the Court and the Prosecuting Attorney when recommending an appropriate amount of child support. Both the noncustodial and custodial parents' incomes are factors considered in the determination of child support under the formula.

Children's Protective Services (CPS) — A division in the Office of Children's Services in the Department of Human Services. CPS workers investigate suspected child abuse or neglect. They can also provide services to families in an effort to prevent abuse or neglect.

Circuit Court — Trial court of general jurisdiction over felonies; civil lawsuits seeking injunctions, equitable relief, or damages in excess of $25,000; domestic relations; adoptions; child protective proceedings; juvenile delinquency; emancipation of minors; waiver of parental consent for abortion; personal protection orders; name changes; and, guardianships or conservatorships arising out of protective proceedings, delinquency proceedings, or domestic relations custody cases. Each circuit court has superintending control over the district courts and some probate court matters in its circuit.

Circuit Court Misdemeanor — Includes any offense that a statute designates as a misdemeanor that is punishable by more than one year of imprisonment. It is processed in circuit court exactly like a felony.

Citation —
(1) The court copy (original) of the "traffic ticket" is the citation, and it also serves as the original complaint in the case.
(2) Also can be a reference to an authority (such as a case or statute), that supports a statement of law or from which a quotation is taken.

Civil Actions or Lawsuits — Noncriminal cases concerning the claim of one or more parties against another party or parties.

Civil Contempt — See **Contempt of Court**.

Civil Infraction — An act or omission prohibited by law that is not a crime and for which civil sanctions may be ordered. Many traffic violations are classified as civil infractions.

Civil Infraction Determination — A decision whether a person is responsible for a civil infraction by one of the following:
(1) An admission of responsibility for the civil infraction.
(2) An admission of responsibility for the civil infraction with an explanation.
(3) An informal hearing or formal hearing.
(4) A default judgment for failing to appear at a scheduled informal or formal hearing.

Civil Infraction Formal Hearing — A hearing conducted only by a district court judge involving the police officer, the defendant and all witnesses. Defendant may be represented by an attorney and a prosecutor must be present.

Civil Infraction Informal Hearing — A hearing conducted by a district court magistrate or judge involving the police officer, the defendant and any witnesses. An informal hearing is held without a prosecutor or defense attorney. The determination may be appealed to a formal hearing.

Civil Infraction Sanction — The penalty imposed upon a person found responsible for a civil infraction such as the assessment of a fine and costs, mandatory attendance at a corrective program such as a driver's training program or a drug or alcohol abuse program.

Civil Law — Laws regarding the establishment, recovery, or redress of private and civil rights.

Claim —
(1) The right to judicial relief, also referred to as a "cause of action." See **Cause of Action**.
(2) A creditor's right to payment from a decedent's estate that arises at or before the decedent's death, including the decedent's funeral and burial expenses.
(3) A creditor's right to payment from the estate of a minor, legally incapacitated person, disappeared person, or ward.
(a) *Contingent Claim* — A claim for expenses not yet incurred that is dependent on some future event that may or may not happen.
(b) *Tardy Claim* — A claim filed after the date for the final presentation of claims.

Claim and Delivery — A civil action to recover:
(1) property unlawfully taken or held by another; and
(2) damages sustained by the unlawful taking or retention.
An action for claim and delivery is also known as an action for **Replevin**.

Claim of Appeal — The form or paper that is filed indicating an appeal is being taken. The original is filed with the court where the appeal is going to take place and a copy is filed with the trial court.

Claimant — One who has or makes a claim to something.

Code — A grouping of statutes relating to a particular subject matter and arranged in classified order. For example, see **Estates and Protected Individuals Code (EPIC)**, **Juvenile Code**, **Mental Health Code**.

Codicil — A legal document made after a will that modifies the will.

Collateral — Money or goods given to secure payment of a debt (civil law), or to ensure appearance in court (criminal law).

Collateral Matters — Matters related to, but not legally relevant to, the question before the court.

Commit — The act of sending a person to a prison, reformatory, mental hospital or other facility, pursuant to a court order.

Commitment — The order by which the court directs:
(1) The sending of a person to a prison or jail in execution of a sentence.
(2) The sending of a person to a hospital because of a mental disorder.

Common Law — A system of laws which has evolved from early days to the present consisting of old and accepted customs, precedents and court decisions, old English statutes and other unwritten but accepted standards. Common law is the foundation for the legal system in every state of the United States except Louisiana. In Michigan, the common law is still in effect except where it has been modified or repealed by statute.

Common Pleas Court — This court was abolished in 1981 and merged into the 36th District Court.

Competency — The presence of those characteristics, that make a witness legally fit and qualified to give testimony in court — applied, in the same sense, to documents or other written evidence.

Competent — Legally sufficient, relating primarily to evidence, witnesses, and parties in a court action, i.e., competent to stand trial.

Complainant — In a civil case, one who makes a complaint, often referred to as the "plaintiff." In a criminal case, the one who initiates the prosecution, also referred to as the "complaining witness."

Complaint — In a civil lawsuit, the first paper filed with the court in which the plaintiff gives the reasons for the suit. A complaint in a criminal action is a written accusation (under oath or upon affirmation) that a felony, misdemeanor, or ordinance violation has been committed and probable cause exists that the named person is guilty of the offense.

Conciliation — A form of alternative dispute resolution in which a "conciliator" uses mediation principles to assist disputing parties reach an agreement. A conciliator may prepare a recommendation for the court if the parties are not able to agree; this recommendation may become the court's order unless one of the parties objects. See A**lternative Dispute Resolution**, **Mediation**.

Concurrent Jurisdiction — The authority of multiple courts to hear the same type of case.

Concurrent Sentences – Sentences of imprisonment served simultaneously in cases where a criminal defendant is convicted of more than one offense and sentenced to separate terms of imprisonment for each offense. The defendant is entitled to release from prison at the expiration of the longest term specified. In Michigan, sentences must always be imposed to run concurrently absent specific statutory authorization to the contrary. See also **Consecutive Sentence**.

Concurring Opinion — An opinion written by an appellate judge who agrees with the decision reached in a case on appeal, but who would base the decision on reasons different from those expressed by the majority of judges considering the case. See also **Dissenting Opinion**, **Majority Opinion**.

Condemnation —
(1) The process by which private real estate is taken for public use without the owner's consent, but with just compensation, pursuant to a court order — a forced sale for public use.
(2) Destruction ordered for public health or safety. In such cases, there is no taking for a public use and thus there is no compensation.

Confession — A statement by a person, either oral or written, admitting that he or she committed a certain offense. The statement must include all of the elements of the offense, or it is not a confession but an admission.

Consanguinity — A relationship created by blood; persons who descend from a common ancestor.

Consecutive Sentence — In cases where a criminal defendant is sentenced to separate terms of imprisonment for multiple offenses, a consecutive sentence is one that will be served after another sentence has expired. In Michigan, a consecutive sentence may only be imposed if there is specific statutory authorization to do so. See also **Concurrent Sentences**.

Consent Calendar — If the court receives a petition, citation, or appearance ticket, and it appears that informal treatment (i.e., protective and supportive action) by the court will serve the best interests of the juvenile and the public, the court may proceed on the consent calendar without authorizing a petition to be filed. No case may be placed on the consent calendar unless the juvenile and the parent, guardian, or legal custodian agree to have the case placed on the consent calendar. If a case is placed on the consent calendar, the juvenile waives certain rights.

Conservator — Under the Estates and Protected Individuals Code (EPIC), a person with the legal duty and power to manage and protect the estate of another individual who:
(1) Is under age 18; or
(2) Is a legally incapacitated person.
See also **Estate**, **Estates and Protected Individuals Code (EPIC)**, **Guardian**, **Legally Incapacitated Person**, **Protected Person**, **Ward**.

Conspiracy — An unlawful agreement to commit a crime or do a lawful act in an illegal manner. Conspiracy is a crime in Michigan.

Contemnor — One who commits an act in contempt of court.

Contempt of Court — An act or failure to act that violates a court order, impedes the functioning of the court, or impairs the authority of the court. Contempt may be "direct" (i.e., in the immediate view and presence of the court), or "indirect" (i.e., outside the immediate view and presence of the court). Contempt of court is subject to civil or criminal contempt sanctions, both of which can involve fines and/or jail terms. Civil contempt sanctions are generally imposed to compel a contemnor to comply with the court's directives. Criminal contempt sanctions are generally imposed to punish past misconduct.

Continuance — Postponement of an action pending in court. See **Adjournment**.

Contract — An agreement between two or more parties to do or not do a particular thing. The agreement may be stated in an oral or written exchange of promises or implied by the parties' actions.

Conversion — The wrongful exercise of the right of ownership or control over goods which belong to another.

Convey — To transfer title to property; to transport, carry; to make known, communicate.

Conveyance —
(1) The transfer of a title to property from one person to another.
(2) The instruments in writing (documents) which effect the transfer of title.

Convict —
(1) To find or adjudge guilty of a criminal offense.
(2) One who has been convicted of a criminal offense.

Corpus Delicti — Latin, "body of the crime." That which the prosecutor must prove (that a crime was committed) before introducing a confession or admission into evidence.

Counsel — An attorney; one who gives advice, especially legal advice.

Counterclaim — In a civil lawsuit, a claim that the defendant asserts against the plaintiff. See **Claim**.

County Agent — An officer of the juvenile court who serves under the supervision of a family division judge to organize, direct and develop the child welfare work of the court. Also known as a "juvenile officer."

Court of Appeals — The Michigan court in which appeals from the probate courts, court of claims, and circuit courts are heard and decided.

Court of Claims — Part of the 30th Circuit Court in Ingham County (Lansing). Has the authority to hear only claims against the State of Michigan. As a general rule, a state cannot be sued without its consent. Michigan granted that consent by establishing the

Court of Claims, which has jurisdiction over claims less than $1,000, except where the circuit court has jurisdiction.

Court Congestion — An accumulation of cases impeding the timely movement of those cases through the judicial process.

Court of Record — A court whose proceedings are by law permanently recorded by a public officer other than the judge; they have the power to fine or imprison for contempt. Courts not of record have less authority and their proceedings are not permanently recorded. The only courts not of record in Michigan are municipal courts.

Court Recorder — A court official who records the activities of a court using an electronic recording device, usually for the purpose of preparing a verbatim transcript.

Court Reporter — A person who records the activities of a court using manual shorthand, a stenotype machine or a stenomask.

Court Reporting and Recording Board of Review — A Board appointed by the Supreme Court to administer the certification of court reporters and recorders.

Court Rules — Rules adopted by the Michigan Supreme Court to govern procedure in all the state's courts.

Court System — In Michigan, the court system is called "One Court of Justice," and consists of the Michigan Supreme Court, Court of Appeals, Circuit Courts, District Courts, Probate Courts, Municipal Courts, and Courts of Claims. See the name of each court for descriptions of each court.

CPS — See **Children's Protective Services**.

Crime — An act in violation of criminal law or an offense against the State of Michigan, which is punishable by imprisonment and/or a fine other than a civil fine, and/or costs as authorized by statute.

Criminal — One who has committed a criminal offense; one who has been legally convicted of a crime; one adjudged guilty of a crime.

Criminal Case — A lawsuit is called a criminal case when the plaintiff is the "*People of the State of Michigan*" and the defendant is a person or corporation alleged to have violated a criminal law.

Criminal Contempt — See **Contempt of Court**.

Criminal Law — The statutes that forbid certain actions or conduct as detrimental to the welfare of the state and that provide punishment for such actions or conduct. Criminal acts are prosecuted by the Prosecuting Attorney.

Cross-Appeal — In a case on appeal, the appellee's (the party who did not appeal) request that the court review aspects of the lower court's decision that were not raised in the appellant's (the party who did appeal) papers.

Cross-Claim — In a civil lawsuit involving multiple plaintiffs or multiple defendants, a claim brought by one plaintiff against another plaintiff, or by one defendant against another defendant. See **Claim**.

Cross-Examination — The questioning of a witness by the opposing party.

Custodial Parent — The parent with custody of a child. See **Child Custody**.

Custody —
(1) Care and control of a thing or person. See also **Child Custody**.
(2) A person who is "in custody" is imprisoned or otherwise physically detained.

Custody Statement — In some circumstances a child in custody is not released to his/her parent(s), guardian, etc., but is detained by the court. When this occurs, the officer taking the child into custody must prepare a statement setting forth the grounds for detention and submit this report to the court.

D

Damages — Money paid to compensate a person who has been injured by the actions of another person.

DDP — See **Developmentally Disabled Person**.

De Novo — Latin, "anew." For example, a trial de novo is a trial anew or a new trial, as opposed to a mere review of the record of the first trial. De novo is one of the standards of review used, for example, by a trial court when reviewing the decision of a referee, or by an appellate court when considering a case on appeal.

Decedent — A person who has died.

Decedent's Estate — Property that was owned by a person who has died.

Declaratory Judgment — A judgment of a court determining the rights of the parties or giving the court's opinion on a legal point, without ordering that anything be done. A declaratory judgment is usually requested before the happening of (and to prevent) any specific act that could result in a claim for damages.

Decree — A court judgment. A final decree is one fully and finally disposing of a case; an interlocutory decree is preliminary in nature, determining some issue in the case but not the ultimate question involved.

Default — A failure to do what ought to be done, i.e., when a defendant does not plead within the time allowed or fails to appear for trial.

Default Judgment — Action taken by the court when a person fails to appear in court in answer to a summons in a civil case.

Defendant — The person against whom a lawsuit is started or a crime charged.

Defense Attorney — The attorney representing the accused (defendant).

Delay — Time periods between phases in the processing of cases through the judicial system.

Delayed Appeal — An appeal after the time for taking an appeal has run out and the higher court has granted permission to appeal because of some special circumstances.

Deliberate —
(1) Criminal Cases. As applied to a jury, the weighing of evidence in light of the applicable law, for the purpose of determining the guilt or innocence of a defendant.
(2) Civil Cases. As applied to a jury, the weighing of evidence in light of the applicable law, for the purpose of determining relevant facts.

Delinquency Proceedings — See **Juvenile Delinquency Proceedings**.

Demur — To respond to a civil complaint by filing a demurrer. See **Demurrer**.

Demurrer — In some states, a response to a civil complaint alleging that even if the facts alleged in the complaint are true, they do not create any legal liability and therefore, do not warrant any further proceedings in the matter. In Michigan, such a response is made by way of a motion for summary disposition. See **Summary Disposition**.

Denial —
(1) A refusal by a court to grant a request presented by petition or motion.
(2) In pleadings, an assertion that the allegations of the opposing party are untrue.

Department of Human Services (DHS) — The state agency responsible for administering a broad range of social services programs in Michigan, including financial aid to families and elderly persons, foster care services, and adoption services. Formerly known as the Family Independence Agency (FIA) and the Department of Social Services (DSS). See also **Children's Protective Services**.

Department of Social Services — See **Department of Human Services**.

Deponent — One who gives a deposition.

Deposition — A method of pretrial discovery in civil cases. During a deposition, a party or witness (the "deponent") is placed under oath and required to give oral answers to

questions. Most depositions are taken without court supervision; the deponent is usually questioned by an attorney for one of the parties. At the deposition, a transcript or videotape is made of the deponent's testimony. The transcript or videotape may be used to support various pretrial motions, or admitted into evidence at trial in cases where the deponent is unable to be present in court. See also **Discovery**.

DEQ — An abbreviation for the former Michigan Department of Environmental Quality. Now part of the **Department of Natural Resources and Environment.** See **DNRE**.

Descendant — A descendant is a person who follows in lineage, as from father to son or grandfather to grandson. A collateral relative (an aunt or uncle, for example) is not a descendant. See also **Ancestor**.

Designated Proceedings — Criminal proceedings against a juvenile under age 17 that occur within the family division of the circuit court. The juvenile is afforded all the legal and procedural protections that an adult would be given if charged with the same offense in a court of general criminal jurisdiction.

Detention — The temporary care of a child who requires custody for his or her own welfare or the community's protection pending disposition by the court or execution of an order of the court for placement or commitment. Also, a holding cell or area in a trial court for defendants in custody pending appearances in court.

Developmentally Disabled Person (DDP) — Under the Mental Health Code, a person with either of the following characteristics:

(1) The person is older than five years of age and has a severe, chronic condition attributable to a mental and/or physical impairment. This condition manifested before the individual's 22nd birthday, is likely to continue indefinitely, and results in substantial functional limitations in three or more areas of major life activity, including self-care, language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency. Because of his or her condition, the person needs individually planned services that are of lifelong or extended duration.

(2) The person is age five or younger and has a substantial developmental delay or a specific congenital or acquired condition and there is a high probability that his or her condition will result in a developmental disability as defined in (1) above if services are not provided.

See **Mental Health Code**.

Devise —

(1) (Noun) Under the Estates and Protected Individuals Code (EPIC), a gift of personal or real property or both, made in a will.

(2) (Verb) Under the Estates and Protected Individuals Code (EPIC), to give real or personal property or both in a will. See **Estates and Protected Individuals Code (EPIC)**.

Devisee — Under the Estates and Protected Individuals Code (EPIC), a person given real or personal property under a will; formerly referred to as a legatee.

Dictum — See **Obiter Dictum**.

Dilatory Defenses — Defenses made solely for purposes of delay.

Dilatory Fiduciary — A fiduciary (trustee) who causes undue delays in administering an estate.

Dilatory Motion — A motion made only for purposes of delay.

Dilatory Plea — A response to a lawsuit that has the object of delaying the action, without responding to the merits of the lawsuit.

Directed Verdict — A verdict issued by a judge at the conclusion of a civil jury trial when a party has not presented sufficient evidence to establish a necessary part of his or her case. A directed verdict is issued in response to a motion brought by the party's opponent. In granting such a motion, the judge "directs a verdict" in favor of the opponent who brought the motion, without sending the case to the jury for consideration.

Directed Verdict of Acquittal — A verdict issued by a judge at the conclusion of a criminal jury trial when the prosecutor has not presented sufficient evidence to convict the defendant. A directed verdict may not be granted to the prosecutor in criminal cases.

Disappeared Person — A person who is absent from their place of residence for at least seven continuous years and whose whereabouts are unknown by the person most likely to know their whereabouts (for seven years); no communication has been received from the disappeared person for seven years.

Discontinuance — The termination of a civil case by the plaintiff's withdrawal or failure to continue it. A voluntary dismissal by the plaintiff.

Discovery — The process of gathering and preserving evidence before trial in a civil or criminal case. See also **Deposition**, **Interrogatories**.

Dismiss — To order a cause or prosecution to be terminated; to refuse to hear the matter further.

Dismissal — An order or judgment deciding a particular lawsuit in favor of the defendant by sending it out of court without trial. Dismissal "with prejudice" forever bars the future initiation of a lawsuit on the same claim or cause; dismissal "without prejudice" disposes of the particular lawsuit before the court but a new lawsuit may be brought in the future based on the same claim or cause.

Disposed Case — Not pending; decided; closed.

Disposition — Determination of a case, whether by dismissal, plea and sentence, settlement and dismissal, or verdict and judgment.

Disqualification — Refers to the disqualification of a judge from hearing a case. Disqualification is proper when any interest may impair the ability of a judge to decide the case in a fair and impartial manner. Disqualification may be voluntary or it may be done on the motion of a party to the case.

Dissenting Opinion — An opinion written by an appellate judge explaining why he or she disagrees with the decision reached by the majority of judges considering the case. See also **Concurring Opinion**, **Majority Opinion**.

Distributee — One who receives property from a personal representative (but not a creditor or purchaser); a testamentary trustee to the extent of assets remaining in his or her hands; a beneficiary taking through a trustee.

Distribution — The division of the residue of an estate among the entitled parties by the order of the court, after payment of the debts and charges. It also includes the division of the residue of an estate by the Independent Personal Representative.

District Court — A Michigan trial court with jurisdiction over the following types of cases: civil suits involving up to $25,000; adult criminal misdemeanor offenses punishable by a fine, or up to one year of imprisonment, or both; civil infractions; landlord/tenant disputes; small claims (civil suits involving $3,000 or less); ordinance and charter violations punishable by a fine, or imprisonment, or both; and land contract forfeitures. Additionally, the district court is the court in which all adult criminal proceedings begin, regardless of the nature of the offense. In carrying out this function, the district court issues arrest and search warrants, sets bail, accepts bonds, conducts arraignments, and presides over preliminary examinations.

Diversion — A decision or program designed to divert offenders from official processing to a less formal, less adversarial and more community-based setting.

Divorce — The termination of the legal relationship between a husband and wife.

DNRE — An abbreviation for the Michigan Department of Natural Resources and Environment.

Docket — A written list of all important acts done in court in an individual case from beginning to end. This is properly called a "case docket." The term is often improperly used interchangeably with "calendar."

Domestic Abuse — See **Domestic Violence**.

Domestic Relations Action — A case involving divorce, separate maintenance, annulment of marriage, affirmation of marriage, paternity, child or spousal support, custody of a minor, parenting time, or grandparenting time.

Domestic Violence — A pattern of sexual, physical, emotional and/or financial abuse, perpetrated with the intent and result of establishing and maintaining control over an

intimate partner. Domestic violence may include both criminal and noncriminal acts, such as hitting, choking, kicking, shoving, scratching, biting, raping, kidnapping, threatening violence, stalking, destroying property, attacking pets, controlling access to money, or making degrading or insulting comments. The violence may be directed at persons other than the intimate partner (e.g., children) for the purpose of controlling the partner.

Domicile — The permanent home to which a person, when absent, always intends to return. See **Residence**.

Double Jeopardy — Being placed more than once in danger of being convicted and sentenced for the same offense, or being exposed to multiple punishments for the same offense.

Dower — One-third of a man's real property that his widow is entitled to use for her lifetime after her husband's death, solely as a result of her status as his wife, as opposed to property devised or inherited.

Driver Responsibility Fees — A fee imposed by the Department of State and collected by the Department of Treasury after a driver has been found guilty of specific traffic offenses or has accumulated seven or more points on his or her driving record within two years.

DSS — An abbreviation for the former Michigan Department of Social Services. Thereafter, the DSS was renamed the "Family Independence Agency" (FIA), and it is now known as the "Department of Human Services" (DHS).

Duces Tecum — Latin, "bring with you." On a subpoena it means that the person subpoenaed must bring records or other specified material into court.

Due Process (of Law) — The fundamental procedural rules that guarantee "fair play" in the conduct of legal proceedings. Due process includes the right to notice and a hearing, the right to an impartial judge and jury, the right to present evidence on one's own behalf, the right to confront one's accuser, the right to be represented by counsel, etc.

E

Easement — The right to use another's land for a specific limited purpose. One common type of easement arises when one parcel of land is separated from any access to a road by a second parcel. In this case, the owner of the first parcel might obtain access to the road by way of an easement across the second parcel.

Emancipation — The process by which a minor between the ages of 16 and 18 can be freed from his or her parents' control.

Enjoin — To forbid; restrain.

Equal Protection — The Constitution requires that the government and courts of a state be open and available to all persons under the same conditions with like rules of procedure and evidence.

Equity —
(1) The amount or value of property above the total liens, charges or encumbrances.
(2) A system of legal principles and remedies in civil cases that originated in England and survives in modern United States jurisprudence. Historically, there were two distinct courts in England - courts of law and courts of equity. Courts of law could award monetary damages in civil cases, but could give no other relief. If a party sought relief other than monetary damages, he or she had to turn to a court of equity, which could grant injunctions, grant divorces, afford relief from creditors in bankruptcy, etc. There are no longer separate courts of law and equity in the United States. Most trial courts can now issue both monetary and non-monetary relief. Different legal principles still apply to law and equity actions, however, and a few procedural distinctions survive, most notably the absence of the right to a jury trial in cases seeking equitable relief.

Escheat — The reversion of property to the state when a person dies leaving no heirs.

Estate —
(1) The interest a person has in real or personal property. Examples: Property that was owned by a person who has died is referred to as a *decedent's estate*. Property held in trust for the benefit of another is a *trust estate.* The property of a person or corporation that has declared bankruptcy is an *estate in bankruptcy* or *bankrupt estate.*
(2) The assets of a decedent or other person subject to administration under the authority of a court.

Estates and Protected Individuals Code (EPIC) — Michigan statutes governing wills, decedent's estates, trusts, and guardianships or conservatorships over minors or legally incapacitated persons. Effective April 1, 2000, the Estates and Protected Individuals Code (EPIC) replaced the Michigan Revised Probate Code.

Estoppel — A prohibition against a claim or position which is inconsistent with the claimant's prior conduct, e.g., one who sells land representing that he or she is authorized to do so may not claim in a later lawsuit against him or her that he or she had no authority to sell the land.

Evidence — Testimony, documents, physical objects, or other things presented at a trial or court hearing for the purpose of proving or disproving facts relevant to a case.

Evidentiary Motion Hearing — Hearings at which evidence is presented as opposed to a hearing at which lawyers argue matters of law.

Ex Parte — Involving only one party to a lawsuit without prior notice to any other party.

Ex Parte Communication — A communication between the court and one party to a lawsuit made without prior notice to any other party.

Ex Parte Injunction — An injunction issued upon the request of one party to a lawsuit without prior notice to any other party.

Ex Parte Motion — A motion made to the court by one party to a lawsuit without prior notice to any other party.

Ex Parte Order — An order made by the court upon the application of one of the parties to a lawsuit without prior notice to any other party.

Ex Post Facto — Latin, "after the fact." Legislation made applicable to an act after the act was committed. Statutes making a prior legal act illegal. Ex post facto laws are unconstitutional.

Examination — An inspection or investigation. As pertains to court action, the term is used to describe a preliminary hearing before the district court to determine whether there is sufficient cause to hold a person to answer a felony charge before the circuit court.

Execute — To carry out, complete or dispose of according to law.

Execution —
(1) A postjudgment remedy to collect a money judgment. A writ issued by the court to authorize the process server to seize or take possession of real or personal property to be sold to satisfy the judgment.
(2) The carrying out of some act or course of conduct to its completion; i.e., execution of a civil judgment puts into effect the final judgment of the court by obtaining possession of that which the judgment has awarded.

Execution of an Instrument — The signing, sealing and delivery of a written instrument or document.

Executor, Executrix — Executor (male). Executrix (female). A person named in a will to carry out its terms, that is, to execute the will. Under the Estates and Protected Individuals Code (EPIC), this person is called a personal representative (if acting with court supervision) or an independent personal representative (if acting without court supervision). See also **Estates and Protected Individuals Code (EPIC)**.

Exempt Property —
(1) Personal property that the surviving spouse of a decedent is automatically entitled to receive from the decedent's estate.
(2) Property of a judgment debtor that is exempt from executions under either state law or federal bankruptcy law.

Exonerate — To free from suspicion; to show someone to be free of guilt.

Expunge — To legally void records - including criminal records - in files, computers or other depositories.

Extradition — The formal process of delivering a person found in one state to the authorities of another state where that person has been accused or convicted of a crime.

F

FAC Case — Stands for "Failure to Answer Citation." When a person fails to answer a traffic citation (ticket) the court concerned notifies the Department of State, which enters this information into its computer system. When this occurs it is called an "FAC Case," and the defendant's license is suspended until the FAC is set aside after the case is disposed of, and a fee is paid.

Family Division of the Circuit Court — A division of the circuit court devoted to the following proceedings: divorce; paternity; child or spousal support; parenting time; child custody; adoptions; juvenile delinquency; child protective proceedings; name changes; personal protection orders; emancipation of minors; waiver of parental consent to an abortion; and guardianships or conservatorships for persons under 18 where the matter arises out of a child protective proceeding, delinquency proceeding, or a domestic relations custody case.

Family Independence Agency (FIA) — This agency was formerly the Department of Social Services (DSS) and is now the Department of Human Services (DHS).

Family Independence Program (FIP) — Temporary cash assistance for low-income families with minor children and pregnant women. The Family Independence Program helps them pay for living expenses such as rent, heat, utilities, clothing, food and personal care items.

FCJ Case — Means "Failure to Comply with Judgment" imposed for civil infractions that are issued on traffic violations; FCJ cases follow the same procedure as FAC cases.

FCPV Case — Means "Failure to Comply with Parking Violation" entries. The Department of State will prohibit individuals from obtaining or renewing licenses when they have six or more unpaid parking tickets within a court.

Fees — A charge fixed by law for services of public officers or for use of a privilege under government control; charge or wages for services given to the person for whom the services were performed, such as fiduciary or attorney fees.

Felony — A crime punishable by more than one year in state prison, unless it is specifically stated to be a misdemeanor. Felonies are tried in circuit court.

FIA — **Family Independence Agency**. Now Department of Human Services (DHS).

Fiduciary — A person or institution who manages money or property for the benefit of another, and who is held to a high standard of care in carrying out this responsibility.
(1) *Successor Fiduciary*: One who is appointed to take the place of a prior fiduciary.
(2) *Temporary Fiduciary*: One who is appointed by the court to act as a fiduciary until a permanent fiduciary is appointed.
For examples of fiduciaries, see **Attorney in Fact**, **Conservator**, **Guardian**, **Independent Personal Representative**, **Personal Representative**, **Trustee**.

File — To put in the records, or deposit in the custody or among the records of a court.

Filing — The act of recording the various legal documents pertaining to a suit with the clerk of the court. "Filing" also specifically refers to the original warrant, complaint, or other document that initiates the action.

Filing Fees — Sums of money which must be paid to the court clerk before a civil action or an estate proceeding may be initiated.

Foreclosure — A proceeding in which a mortgagee, or other lien holder, usually a lender, obtains a court order to repossess property. See **Mortgage**, **Mortgagee**, **Mortgagor**.

Foreign Judgment — A judgment issued by a court having jurisdiction in Indian territory, a foreign state, or a state other than Michigan. See also **Judgment**.

Foreign Personal Representative — A personal representative from a jurisdiction other than Michigan. See also **Personal Representative**.

Foreign Support Order — A support order issued by a court having jurisdiction in Indian territory, a foreign state, or a state other than Michigan. See also **Support Order**.

Forensic Center — Another name for the Center for Forensic Psychiatry operated by the Department of Mental Health. Criminal defendants are often sent there by trial courts to determine if they are competent to stand trial.

Formal Calendar — In juvenile matters, if it appears that formal jurisdiction is required, a petition must be filed. Further hearings shall be scheduled on the "formal calendar."

Formal Hearing — See **Civil Infraction Formal Hearing**.

Forum — A court or the jurisdiction where a court sits.

Forum Non Conveniens — Latin, "an inconvenient court." A court's power to decline to exercise its jurisdiction in a case because the convenience of the parties and/or the interests of justice would be better served if the case were tried in another court with

jurisdiction over the case, i.e., another court in which the case could have originally been filed.

Foster Care Review Board — A Board created by statute in many counties throughout Michigan to review selected court cases and permanency plans of neglected and abused children placed in foster care. These boards are composed of private citizens.

Foster Home — A licensed home for the temporary board and care of abused, neglected, or delinquent children who have been removed from their homes.

Fraud — The intentional communication of an untruth or the concealment of a material fact to deceive another person in order to deprive the person of property, to induce the person to surrender a legal right, or to injure him or her in some other way.

Friend of the Court —
(1) The office connected with the family division of the circuit court that investigates and advises the court in domestic relations cases involving minor children. The Friend of the Court Office is also responsible for enforcement of court orders in those cases.
(2) The person responsible for directing the Friend of the Court Office.
(3) Latin, "amicus curiae." Someone, not a party to a case, who volunteers to offer information to assist a court in deciding a matter before it.

Fugitive — One who flees; always used in law with the implication of flight, evasion, or escape from some duty or penalty or from the consequences of a misdeed.

Fugitive Warrant — A warrant authorizing the taking into custody of a person who has fled from one state to another to avoid prosecution or punishment for crime.

Full Faith and Credit — A court's constitutional obligation to recognize and enforce orders, decrees, and judgments issued by the courts of other U.S. states or Indian tribes.

G

Garnishment — A court order to take part of a debtor's wages or other money owed to him or her before he or she receives the money, because of an unpaid debt owed to a creditor who has obtained a judgment against the debtor.

Grand jury — A jury of inquiry that receives complaints and accusations in criminal cases. It hears the prosecutor's evidence and issues indictments when satisfied that there is probable cause to believe that a crime was committed, and that the accused committed that crime. Grand juries are rarely used in Michigan but are very common in the federal judicial system.

Grandparenting Time — The time a child spends with a grandparent. Under certain circumstances, a grandparent may seek a court order for grandparenting time.

Grant — To transfer property to another, especially real property.

Grantee — The person to whom a grant is made, e.g., the person who receives title to real property by deed.

Grantor — The person who makes a grant.

Group Home — A licensed home for the temporary board and care of abused, neglected, or delinquent children.

Guarantor — A person who is liable to fulfill another person's financial obligation in the event the other person fails to fulfill it. The other person is known as the "principal." See also **Principal**, **Surety**.

Guardian —
(1) Under the Estates and Protected Individuals Code (EPIC), a person with the legal duty and power to care for another individual who is: (a) under age 18; or (b) a legally incapacitated person. A guardian may be appointed by a court or designated in a will. See **Conservator**, **Estates and Protected Individuals Code (EPIC)**, **Legally Incapacitated Person**, **Protected Person**, **Ward**.
(2) Under the Mental Health Code, a person with the legal duty and power to care for a developmentally disabled person or the developmentally disabled person's estate. See **Developmentally Disabled Person**, **Estate**, **Mental Health Code**.

Guardian Ad Litem — An individual appointed by the court during the course of litigation to promote and protect the interests of a person affected by the litigation.. Examples:
(1) A guardian ad litem may be appointed to protect the interests of a minor or incompetent person who is a defendant in a civil action. See also **Next Friend**.
(2) If necessary, a guardian ad litem may be appointed to appear for and represent the interests of any person in any proceeding in probate court. Sometimes a court appoints a guardian ad litem to protect the interests of an unascertained, unknown, unborn, or disappeared person.
(3) A court sometimes appoints a guardian ad litem to protect the interests of a minor in a domestic relations or juvenile proceeding.

Guilty — Responsible for a crime.

H

Habeas Corpus — Latin, "you have the body." The name of a writ used to bring a person before a court or judge. Generally, the writ is addressed to an official or person who supervises the detention of others. It commands him or her to produce the

detained person in court so that the court may determine whether that person is being denied his or her freedom lawfully.

Harmless Error — An error committed in the course of a trial that does not justify reversal of the verdict on appeal.

Hearing — A court proceeding on the record. Hearings are often used to determine issues arising before or after the full trial of a case and may be less formal than the trial.

Hearsay — Second-hand evidence not arising from personal knowledge of the witness but generally from repetition of what the witness has heard others say.

Heir —
(1) Someone who is entitled by statute to inherit the property of another person in the event that that person dies without a valid will.
(2) A person who inherits the property of another, whether by will or by intestate succession. See also **Intestate Succession**.

Holographic Will — An unwitnessed will where the dispositionary portions are in the handwriting of the decedent, signed and dated at the end.

Homestead — Property designated as a home by its owner; designed to protect the possession and enjoyment of the owner against the claims of creditors.

Hostile Witness — A witness who exhibits such antagonism toward the party who called the witness to testify that cross-examination of that witness by that party is permitted by the court.

I

Illegitimate Child — A child born to parties who are not married to each other.

Impanel — (As pertains to juries.) To select a jury and enroll their names.

Impeachment of Witness — Questioning of a witness by an adverse party that attempts to cast doubt on the credibility (believability) of the witness.

In Pro Per — See **Pro Per Litigant, Pro Se Litigant**.

In Propria Persona — Latin, "in one's own person." See **Pro Per Litigant, Pro Se Litigant**.

Inactive Case — A pending case over which the court has no effective control; a case that is filed in the court, but for some reason cannot be processed by the court. Examples: non-service or no progress (civil); or defendant absconded or never arraigned (criminal).

Incarceration — Commitment to jail or prison.

Incompetent Evidence — Inadmissible evidence.

Income Withholding Order — An order entered by the circuit court providing for the withholding of a person's income to enforce a child support order.

Inconvenient Forum — See **Forum Non Conveniens**.

Independent Personal Representative — Person administering a decedent's estate under the Estates and Protected Individuals Code (EPIC). An independent personal representative administers the estate without the court's supervision. See **Decedent's Estate**, **Estates and Protected Individuals Code (EPIC)**.

Independent Probate — Probate designed to operate without unnecessary intervention by the probate court as provided for by the Estates and Protected Individuals Code. See **Estates and Protected Individuals Code (EPIC)**.

Indian Child Welfare Act (ICWA) — A federal law passed in 1978 to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families.

Indictment — Formal accusation, "true bill," presented by a grand jury and charges a person with a crime.

Indigent — Impoverished; needy; poor; without funds.

Inferior Court — Lower court. Any court subordinate to a higher appellate court in a particular judicial system.

Informal Hearing — See **Civil Infraction Informal Hearing**.

Information — A formal accusation (criminal information) of a crime, differing from an indictment in that it is prepared and signed by the prosecuting attorney instead of the grand jury. This is the most common means employed in Michigan to bring an accused before the circuit court after a bindover from the district court.

Inheritance — Property received from someone who dies, whether by will or by intestate succession. See also **Intestate Succession**.

Injunction — A court order requiring or forbidding an action. See also **Enjoin**, **Temporary Restraining Order**.

(1) *Permanent Injunction* — An injunction granted after the court has held a final hearing on the merits of a case. A permanent injunction is intended to remain in force unless and until modified by a later decree of a court.

(2) *Preliminary Injunction* — A temporary injunction granted during the pendency of a suit, to restrain a party from doing or continuing some act that could cause irreparable

injury to the other party. A preliminary injunction may either be discharged or made permanent, according to the result of the controversy, as soon as the rights of the parties are determined.

Innocent — The term often used instead of "not guilty." The terms do not mean the same thing legally because a "not guilty" verdict means only that the fact-finder did not believe beyond a reasonable doubt that the defendant was guilty of the crime charged and therefore, the defendant was acquitted of the crime.

Inquest — A legal inquiry into a certain matter generally before a court and most often with the aid of a jury. A medical examiner or coroner may conduct an inquiry (inquest), sometimes with the aid of a jury, when investigating a murder, a death under suspicious circumstances, or a death occurring in a prison.

Inter Vivos — Latin, "between the living." Relates to a gift of property conveyed during the conveyor's lifetime, not by will or because the conveyor believed in his or her imminent death.

Interested Party — Under the Estates and Protected Individuals Code (EPIC), one of the following: heir; devisee; beneficiary; a fiduciary of a legally incapacitated person who is an heir, devisee, or beneficiary; fiduciary or trustee named in an instrument involved; or a special party. See **Beneficiary**, **Devisee**, **Estates and Protected Individuals Code (EPIC)**, **Fiduciary**, **Heir**, **Legally Incapacitated Person**, **Trustee**.

Interested Person — Under the Estates and Protected Individuals Code (EPIC), one of the following: interested party; creditor; surety; any person having a property right in a trust estate or the estate of a decedent or ward who may be affected by the proceedings, including a person nominated as personal representative; or a fiduciary representing an interested person. See **Estate**, **Estates and Protected Individuals Code (EPIC)**, **Fiduciary**, **Interested Party**, **Personal Representative**, **Surety**, **Trust**.

Interim Bond — A bond that is set by a police officer when a person is arrested without a warrant for a misdemeanor offense. Any misdemeanor warrant may also have an interim bond endorsed on it by the issuing judge or district court magistrate. It allows one to be released from custody pending an arraignment.

Interim Order — A temporary court decree, which is put into effect until something else is done.

Interlocutory — Temporary; not final. Generally decides some point or matter between the beginning and end of a case but is not a final decision of the case.

Interlocutory Appeal — An appeal of a decision made by the court during the course of an action, but before the final order or outcome of the action.

Interrogatories — Written questions posed before trial by one party to a civil case and served on another party to the case, who must answer them in writing under oath. See **Discovery**.

Interstate — Involving two or more states.

Interstate Compact — Rules adopted by states governing the transfer of supervision of a probationer or parolee from one state to another. There are Compacts governing both adults and juveniles.

Interstate Income Withholding Order — An order entered to secure the enforcement of child support obligations by withholding income derived in this jurisdiction to enforce the child support order of another jurisdiction.

Intestate — Dying without having made a valid will.

Intestate Succession — In cases where a decedent has left no valid will, a statutory determination of the right to inherit the decedent's property, made according to the heirs' relationship to the decedent.

Inventory — A list of the assets of a decedent or ward required by law to be filed in probate court reflecting those assets that are subject to management by the fiduciary.

Inventory Fee — A statutory fee for services rendered to a decedent's estate by the probate court.

Issue —
(1) Of a person: An individual's descendant.
(2) In a pleading: A single, certain, and material point, raised in the pleadings by one or both of the parties to a lawsuit, which is generally affirmed on the one side and denied on the other.

J

JIS — See **Judicial Information Systems**.

JNOV — An abbreviation for *judgment non obstante veredicto*, i.e., a judgment notwithstanding the verdict. See **Judgment Notwithstanding the Verdict**.

Joint Custody — An order of the court in a domestic relations proceeding in which one or both of the following are provided:
(1) The children live with one parent part of the time and with the other parent part of the time;
(2) The parents both share in making decisions on important issues dealing with the children.

Judges' Associations — Associations formed by various groups of judges by bench to further understanding and cooperation between the judicial, legislative, and executive branches of government, to promote public awareness, to support activities designed for sound and efficient administration of justice, and to encourage high levels of judicial and legal competence.

Judgment — The decision of a court of law.

Judgment Notwithstanding the Verdict — A court's judgment setting aside a jury's verdict.

Judicial Activity Reports — Regular reports required to be submitted to the State Court Administrator on caseload and court activity.

Judicial Information Systems (JIS) — The State Court Administrative Office data center which provides systems analysis and data processing services to courts throughout the state.

Judicial Tenure Commission — The commission that reviews complaints against judges, investigates those complaints, and reports to the Supreme Court recommending appropriate discipline or removal of the judge by the Supreme Court.

Jurisdiction — The court's authority to decide cases. Two major aspects of a court's jurisdiction are:
(1) *Subject Matter Jurisdiction*: The authority to hear a particular type of case; for example, the circuit court has jurisdiction over divorce cases, and the district court has jurisdiction over small claims cases.
(2) *Personal Jurisdiction*: The legal power of a court to render a judgment against a party to a proceeding.
See also **Concurrent Jurisdiction**.

Jury — A body of persons sworn to consider the evidence presented, to determine issues of fact, and to deliver a verdict in a judicial proceeding. There are 6 jurors for district court in civil and criminal matters. In circuit court, there are 6 jurors for civil matters and 12 for criminal matters. There are 6 jurors in probate court. See also **Grand Jury**, **Petit Jury**.

Jury Commissioner — An officer responsible for choosing the panel of persons to serve as potential jurors for a particular county.

Jury Instructions — Directions given by the judge to the jury informing the jurors of the law applicable to the case.

Jury Panel — The group of prospective jurors from which the trial jury of 6 or 12 is chosen.

Juvenile — A minor under the age of 17. See also **Minor**.

Juvenile Code — The statutes governing juvenile delinquency proceedings, designated proceedings, and child protective proceedings. See **Child Protective Proceedings**, **Designated Proceedings**, **Juvenile Delinquency Proceedings**.

Juvenile Delinquency Proceedings — Proceedings in the family division of the circuit court regarding a minor under age 17 who has: committed an offense that would be a crime if committed by an adult, including a misdemeanor traffic offense; deserted his or her home; been absent from school; repeatedly violated school rules; or disobeyed the reasonable and lawful commands of his or her parents.

Juvenile Officer — See **County Agent**.

K

Kin — One who is related to another by blood.

L

Land Contract — A contract for the sale of land on a time payment plan.

Larceny — The taking of property with the intent to permanently deprive the owner of his or her ownership rights to the property.

Law Enforcement Information Network (LEIN) — A computerized communications system operated by the Michigan State Police for law enforcement agencies. LEIN contains information on such things as personal protection orders, pretrial release conditions in criminal cases, outstanding arrest warrants, driving records, and automobile registrations.

Lawsuit — A legal dispute brought before a court. A "lawsuit" is also referred to as an "action," "case," "cause of action," or "cause."

Lawyer — See **Attorney**.

Lease — A contract or agreement for the renting of real or personal property for a specified or determined period of time and giving rise to the relationship of landlord (lessor) and tenant (lessee).

Legacy — A gift of personal property left by will. Under the Estates and Protected Individuals Code (EPIC), this is now called a "devise." See **Estates and Protected Individuals Code (EPIC)**.

Legally Incapacitated Person (LIP) — Under the Estates and Protected Individuals Code (EPIC), an adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person. Former term: legally incompetent person. See **Estates and Protected Individuals Code (EPIC)**.

Legatee — A person who receives property under a will. Under the Estates and Protected Individuals Code (EPIC) this person is now called a "devisee." See **Devisee**, **Estates and Protected Individuals Code (EPIC)**.

LEIN Network — See **Law Enforcement Information Network**.

Lessee — The tenant under a lease for real property, or the person to whom personal property is being leased.

Lessor — The landlord under a lease for real property, or the person or entity whose personal property is the subject of a lease.

Libel — Injury to a person's character or reputation by print, writing, pictures, or signs.

Liber — Latin, "book." Sometimes used to refer to the large bound book(s) of records in a court clerk's office, office of a register of deeds, etc.

Lien — A claim against property to secure a debt or other obligation.

Limited Guardian — Under the Estates and Protected Individuals Code (EPIC), a guardian for a minor or legally incapacitated person whose powers over the person have been limited by a court's order. See **Estates and Protected Individuals Code (EPIC)**, **Guardian**, **Legally Incapacitated Person**, **Minor**.

Lineup — A police procedure that allows the victim of, or witness to, a crime to view the suspect, usually as one of a group of persons with similar appearances, to determine whether the victim or witness can identify the suspect as the person who committed the offense.

LIP — See **Legally Incapacitated Person**.

Lis Pendens — Latin, "a pending lawsuit." Control that a court acquires over property that is the subject of litigation. Where real estate is the subject of litigation, a "notice of lis pendens" may be filed with the register of deeds in the county where the property is located. This notice warns persons who deal with the property that it is subject to litigation and that they may be bound by the court's judgment regarding the property.

Litigant — A party to a lawsuit.

Litigation — The process of resolving in court a dispute over the parties' legal rights.

Local Administrative Orders (LAOs) — Written procedures adopted by a local trial court and approved by the Michigan Supreme Court that govern internal court management in that particular trial court.

Local Court Rules — Rules adopted by a particular local trial court to govern procedural matters in that court. Local court rules may not contradict the **Michigan Court Rules**.

M

Magistrate — Used generally, this title means a judge. In Michigan, a district court magistrate is a quasi-judicial official of the district court who has the power to set bail, to accept bond, to accept guilty pleas and to impose sentence for traffic and other related violations, and to conduct informal hearings on civil infractions.

Maintenance — Providing support for a ward or the minor children or the surviving spouse of a decedent.

Majority Opinion — A written decision announcing the court's ruling in a case on appeal. The majority opinion explains the reasoning following by a majority of the judges who heard the case and is binding on the lower courts in future cases. See also **Concurring Opinion**, **Dissenting Opinion**.

Malice — Intent to commit a wrongful act without justification or excuse.

Mandamus — Latin, "we command." A Writ of Mandamus is a written order requiring the person to whom it is addressed to do some specified act, generally connected with his or her duty as a public official.

MCL — See **Michigan Compiled Laws**.

MCLA — See **Michigan Compiled Laws Annotated**.

MCLS — See **Michigan Compiled Laws Service**.

MCR — See **Michigan Court Rules**.

Mediation —
(1) Generally, a form of alternative dispute resolution in which a neutral third party assists the parties to a dispute in reaching an agreement to settle their differences. The parties are not required to reach agreement, but if they do, the agreement is binding.
(2) In Michigan, mediation can also be a process in which a neutral third party or neutral panel reviews a case and makes a recommendation or evaluation as to its outcome. The parties may accept or reject mediator's recommendation or evaluation.

Mental Health Code — The Michigan statutes that govern, among other things, care and hospitalization of the mentally ill and guardianships for the developmentally disabled. See also **Developmentally Disabled Person**.

Mental Illness —
(1) A substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
(2) Mental disease to such an extent that a person so afflicted requires care and treatment for his or her own welfare, or for the welfare of others or of the community.

Mentally Retarded — Significantly below average intellectual abilities originating during physical development (especially during pregnancy and early infancy). See also **Developmentally Disabled Person**.

Michigan Compiled Laws (MCL) — A series of volumes containing the official version of Michigan statutes enacted by the state's Legislature.

Michigan Compiled Laws Annotated (MCLA) — A series of volumes containing the text of all Michigan statutes, plus brief references to and/or summaries of cases and legal commentaries discussing the statutes. (Published by West Publishing.)

Michigan Compiled Laws Service (MCLS) — A series of volumes containing the text of all Michigan statutes, plus brief references to and/or summaries of cases and legal commentaries discussing the statutes. (Published by LexisNexis.)

Michigan Court Rules (MCR) — Rules adopted by the Michigan Supreme Court to govern Michigan court procedures.

Michigan Statutes Annotated (MSA) — A series of no longer published volumes containing the text of all Michigan statutes, plus brief references to cases and legal commentaries discussing these statutes.

Michigan Supreme Court — See **Supreme Court**.

Minor — In delinquency cases, a minor is someone under age 17. In most other proceedings, a minor is someone under age 18. The Michigan Court Rules and Michigan law also provide that a "minor" may include a person age 18 or older if delinquency or child protective proceedings were commenced in juvenile court before the person's 18th birthday and the juvenile court continues to have jurisdiction over the person.

Minor Offense — A misdemeanor or ordinance violation for which the maximum permissible imprisonment does not exceed 93 days and the maximum permissible fine does not exceed $500.

Miranda — Refers to a United States Supreme Court decision, *Miranda v Arizona*, 348 US 436 (1966), from which the rules governing "the right to remain silent" were taken.

Miranda Warning — A warning given by police before custodial interrogation to advise or inform the individual of his or her rights. For example, the accused has the right to remain silent, the right to an attorney, etc.

Misdemeanor — A crime punishable by less than one year in jail and/or by a fine that is not a civil fine.

Misfeasance — The improper performance of some act or duty.

Mistrial — A trial declared defective and void and ending without an adjudication on the merits due to prejudicial error in the proceedings, or the failure of a jury to agree upon a verdict.

Mittimus — Latin, "we send." A written court order directed to the keeper of a jail or prison, directing that he or she receive and safely keep an offender awaiting trial or sentence.

Moot — Usually in reference to a court's refusal to consider a case because the issue involved has been resolved before the court's consideration, leaving nothing that would be affected by the court's decision. Moot court is a practice court for law students.

Mortgage — A lien on real property to secure the performance of some obligation, and to be discharged upon payment or performance as stipulated.

Mortgagee — One who holds a mortgage; the creditor.

Mortgagor — The maker of a mortgage; the debtor.

Motion — An application to the court for the purpose of obtaining a certain order or decision in favor of the applicant.

Motions, **Calendar** — Motions pertaining to the calendaring of court appearances in a case such as motions to continue, advance or reset.

Motion in Limine — A motion to exclude certain evidence from admission at trial.

Motion to Suppress — Application to the court before a trial, asking the court to prohibit illegally obtained evidence from being introduced at a criminal trial.

Motion to Quash — See **Quash**.

MSA — See **Michigan Statutes Annotated**. No longer published.

Municipal Court — A trial court whose authority is confined to the city or community in which it is established. Municipal court civil jurisdiction is limited to $1,500. This amount may increase to $3,000 if approved by the court's local funding unit. Four Michigan cities have chosen to retain their own municipal court rather than change to the district court

system (Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Pointe Shores/Grosse Pointe Woods).

N

Ne Exeat — Latin, "let him or her not go out." A court order forbidding the person to whom it is addressed to leave the country, the state or the jurisdiction of the court.

Neglect Hearing — Hearing held in the family division of the circuit court. Involves those situations where the children are not being properly cared for.

Next Friend — A person appointed by the court to appear on behalf of a minor or incompetent person who is a plaintiff in a civil action.

No Contact Order — A provision in a court order (e.g., an order for the defendant's pretrial release in a criminal case) that the person subject to the order refrain from having contact with another named person.

No Fault — A case that is decided without making a determination as to which party is at fault. Michigan has laws that provide for both no-fault automobile insurance and no-fault divorce.

No Progress — In a civil case, where a case is filed but not followed up; a case or cases that may be dismissed (disposed of) by the court because parties have done nothing to process the case from stage to stage.

Nolle Prosequi — Latin, "not to wish to prosecute." Unwilling to prosecute; a formal entry made on the court record by which the prosecutor declares he or she will not further prosecute the case.

Nolo Contendere — Latin, "I will not contest it." A nolo contendere plea is not an admission of guilt, but is treated as a guilty plea for purposes of conviction and sentencing.

Noncustodial Parent — The parent who does not have custody of a child. See **Child Custody**.

Non Obstante Veredicto — Latin, "notwithstanding the verdict." A court's entry of judgment for the defendant, notwithstanding the jury's verdict for the plaintiff.

Non-Service — In either a civil or criminal case, where a summons or warrant is issued but not served on a party.

Nonfeasance — The failure to perform some act or duty which ought to be performed. A neglected duty.

Notary — A person who is authorized by the state or federal government to administer oaths and to certify the authenticity of signatures or documents.

Notary Public — See **Notary**.

Notice of Hearing — Document notifying a person of the time, date, place, and subject matter of an upcoming court proceeding.

Notice to Quit —
(1) A written notice by a landlord to his or her tenant demanding that the tenant surrender and vacate the property, terminating the tenancy.
(2) A notice to pay back rent in seven days or vacate.

Notification Of Parents, Record Of Notice — Whenever a child is taken into custody by any peace officer, that officer is required to notify the parents of the child. A written record of the names of the persons notified, the manner and times of notification, or reasons for failure to notify must be made and preserved.

Nunc Pro Tunc — Latin, "now for then." Having retroactive legal effect.

O

Oath — A declaration of a statement's truth, which renders one willfully asserting an untrue statement punishable for perjury. See also **Affirmation**, **Perjury**, **Verification**.

Obiter Dictum — Latin, "something said in passing." An incidental comment made in an opinion which was not necessary to the formulation of the decision and therefore, is not binding as precedent.

Offense — A crime or ordinance violation. The word "offense" generally implies an act infringing on public, as distinguished from private, rights. Does not include civil infractions.

Offense Against Child — Any act or acts, by a person other than the child, asserted as grounds for bringing the child within the provisions of the Juvenile Code.

Offense By Child — Any act or acts by a child asserted as grounds for bringing the child within the provisions of the Juvenile Code.

One Court Of Justice — A concept embodied in the Michigan Constitution, that there is but a single court in the state that is made up of several divisions, including a Supreme Court, a Court of Appeals, circuit courts, district courts, probate courts and other courts created by the Legislature.

One Day, One Trial — A method of summoning and utilizing jurors whereby an individual serves as juror for either one day or for the length of one trial. The purpose of this method is to reduce the term of service and expand the number of individual jurors called.

Order — A direction of a court made orally or entered in writing. An order may terminate the action itself or decide some matter litigated by the parties.

Order Assigning Residue — A probate court order that names the persons entitled to receive parts of an estate and the share allotted to each.

Ordinance — A local law or regulation enacted by a municipal government. It has no effect outside that city or village.

P

Panel —
(1) The jurors serving a specific court. See also **Jury Panel**.
(2) The three judges who sit together to decide cases brought before the Court of Appeals.

Parens Patriae Doctrine — Latin, "parent of the country." Most commonly, the inherent power and authority of the state to protect the person and property of a person who is legally unable to manage his or her own affairs.

Parenting Time — The time a child spends with a noncustodial parent. Parenting time was formerly referred to as "visitation."

Parole — Conditional release from prison before the end of sentence; if the parolee observes the conditions, he or she need not serve the rest of his or her term in prison.

Parole Officer — See **Probation Officer**.

Partial Guardian — In proceedings under the Mental Health Code, a guardian with some – but not all – legal rights and powers over the person and/or estate of a developmentally disabled person. A partial guardian's rights, powers, and duties are specifically enumerated by court order. See **Developmentally Disabled Person**, **Guardian**, **Mental Health Code**.

Party —
(1) A person concerned with or taking part in a matter or transaction, such as a party to a contract.
(2) A person by or against whom a lawsuit is brought, i.e., the plaintiff or defendant.

Paternity — Fatherhood.

Paternity Suit — A suit to establish the identity of a child's father and to determine the father's obligation to support the child. See also **Acknowledgment of Parentage**.

Peace Officer — Any public officer or official having authority to arrest in order to enforce the law and preserve the peace, and generally includes any sheriff or deputy sheriff, any state or municipal police officer, and any state conservation officer.

Per Capita — Latin, "by the head." A method by which an estate is divided equally among a given number of persons.

Per Stirpes — Latin, "by roots or stocks." By right of representation; it is the method of dividing an estate where a group of distributees take the share to which their deceased ancestor would have been entitled, such as where children take the share to which their parents would have been entitled.

Peremptory Challenge — The right of the prosecution or defense to challenge (remove) a certain number of jurors without giving any cause or reason.

Perjury — A deliberate lie said under oath.

Permanent Injunction — One intended to remain in force unless modified by a later decree of a court.

Permanent Ward — A child who is permanently placed under the care of the court or other guardian because the parents' rights to the child have been permanently terminated by the family division of the circuit court.

Personal Property — Includes everything that can be the subject of ownership but that is not real estate.

Personal Protection Order — An order issued by a circuit court protecting an individual from stalking or domestic violence. See also **Domestic Violence**, **Stalking**.

Personal Recognizance — A criminal defendant's pretrial release without the necessity of having to post money or a bond with the court. The court takes the defendant's word that he or she will appear for a scheduled matter or when advised to appear.

Personal Representative — The person who administers a decedent's estate under the Estates and Protected Individuals Code (EPIC). See **Estates and Protected Individuals Code (EPIC)**, **Independent Personal Representative**.

Personal service — The statutory and court rule requirements that legal pleadings be served on an individual by leaving a summons and a copy of the complaint with the defendant personally. See **Pleadings, Service of Process**.

Petit Jury — The ordinary jury (of 6 or 12 persons) selected to hear the trial of a civil or criminal case and to determine issues of fact; called a petit jury to distinguish it from a grand jury.

Petition —
(1) An application made in writing to a court.
(2) In juvenile delinquency or child protective proceedings before the family division of the circuit court, a petition is the instrument used to set out the allegations (complaint) against the party before the court. Petitions in such proceedings must be verified. Jurisdiction of the court can only be invoked by petition. See **Child Protective Proceedings**, **Juvenile Delinquency Proceedings**, **Verification**.

Plaintiff — In civil cases, the person who initiates the lawsuit is the plaintiff. In criminal matters, the prosecuting attorney (representing the People of the State of Michigan) is the plaintiff.

Plea — The defendant's response to a criminal charge (e.g., guilty, not guilty, nolo contendere, etc).

Plea-Bargaining — In criminal cases, a process of negotiation between the prosecutor and defense counsel that typically involves the prosecutor's agreement to dismiss select pending criminal charges against the defendant in exchange for the defendant's plea of guilty to another (usually lesser) offense.

Plead — In a criminal case, to respond to the charge (e.g., by pleading guilty, not guilty, nolo contendere, etc.).

Pleadings — In a civil lawsuit, the papers that set forth the parties' claims and defenses. In criminal cases, pleadings include arrest warrants, criminal summonses and charging documents. In the juvenile division, the petition is the pleading.

Plenary Guardian — Under the Mental Health Code, a guardian with full power over the person and/or estate of a developmentally disabled person. See **Developmentally Disabled Person**, **Guardian**, **Mental Health Code**.

Power of Attorney — A written instrument appointing and authorizing a person to act in the place of another as agent or substitute. One holding a power of attorney is called an *attorney in fact*, and is not required to be a lawyer.

Praecipe — Latin, "command." A form used in some jurisdictions to ask a court clerk to do something (such as issue a summons after a complaint is filed, etc.).

Prejudicial Error — "Reversible error"; an error in the course of a trial serious enough to require an appellate court to reverse the judgment.

Preliminary Examination — A hearing in a felony case before a district court judge at which the prosecution presents evidence (the defendant and defense counsel are present) from which the district court judge decides whether there is probable cause to

believe that a crime has been committed and that the defendant committed the crime. If the district court judge finds probable cause, he or she will "bind over" the defendant for trial in circuit court. Testimony of some witnesses and presentation of some exhibits may be offered at the preliminary examination.

Preliminary Hearing — The first stage of a juvenile delinquency or child protective proceeding when the juvenile is in custody, or custody or placement is requested.

Preliminary Inquiry — The first stage of a child protective or juvenile delinquency case when the juvenile is not in custody. An informal procedure in the family division of the circuit court.

Prenuptial — See **Antenuptial**.

Presentence Investigation — Investigation of the relevant background of a convicted offender. Usually conducted by a probation officer and designed to assist the judge when sentencing the offender. See **Presentence Report**.

Presentence Report — Written report prepared by the probation department containing the family and personal history of the accused, evaluation of the crime and its ramifications, and recommendations as to sentencing. Required in all felony cases. Assists the judge in determining sentence.

Presentment — A written finding by a grand jury of an offense from its own knowledge or observation.

Presiding Judge —
(1) The judge conducting a hearing or trial. The judge in charge of a case.
(2) Formerly, the chief judge of a court composed of two or more judges. The presiding judge in this sense is now called the Chief Judge.

Pretrial Conference — Hearing in a criminal or civil case between the judge and the attorneys to discuss any questions or matters that can be resolved before the trial to assist in expediting or simplifying the trial. The hearing is usually informal and without client participation. A schedule of deadlines for the submission of certain pretrial motions and witness lists, the completion of discovery, etc., may be made during a pretrial conference.

Prima Facie — Latin, "at first sight"; on its face.
(1) The term "prima facie case" refers to those facts that will establish a party's right to legal relief if no evidence to the contrary is offered by the party's opponent.
(2) The term "prima facie evidence" refers to evidence that is sufficient to prove a fact unless overcome by other evidence.

Principal —
(1) One who has permitted or directed another (an agent) to act for his or her benefit. See also **Agent**.
(2) The person having primary liability to pay a debt. See also **Guarantor**, **Surety**.

(3) Property, as opposed to the income from the property. The term is often used to designate the property put into a trust. See also **Trust**.

Pro Bono — Latin, "for the public good." A term used to describe legal services provided to a client free of charge.

Pro Con Divorce — An uncontested divorce. The proceeding consists of a short hearing at which only the plaintiff appears (the defendant does not contest anything), after which the divorce is granted.

Pro Per Litigant — A person who represents himself or herself in court without the aid of a lawyer. See also **Pro Se Litigant**.

Pro Se Litigant — Latin, "for oneself." Person representing himself or herself without a lawyer in a court proceeding, whether as a defendant or a plaintiff and whether the matter is civil or criminal. See also **Pro Per Litigant**.

Probable Cause — In criminal cases, reasonable grounds for believing that the facts justify issuance of an arrest or search warrant, or further legal action.

Probate — The process by which a decedent's estate is transferred to its rightful owners.

Probate Court — The court in Michigan that handles the process by which a decedent's estate is transferred to its rightful owners. This court also handles matters relating to the commitment of mentally ill persons, guardianship matters, conservatorship matters, and trusts; however, if one of these matters arises from a child protective proceeding, a juvenile delinquency proceeding, or a domestic relations custody case, it is properly heard in the family division of the circuit court. See also **Conservator**, **Child Protective Proceedings**, **Decedent's Estate**, **Domestic Relations Action**, **Estates and Protected Individuals Code (EPIC)**, **Family Division of the Circuit Court**, **Guardian**, **Juvenile Delinquency Proceedings**, **Trust**.

Probate Register — A person who serves both as clerk of probate court and in a quasi-judicial manner in estates.

Probation — Allowing a person convicted of an offense to remain in the community instead of going to detention, jail, or prison, as long as the offender fulfills the conditions of the probation. One's probation is usually supervised by a probation officer. If a person violates probation, probation can be revoked and the defendant resentenced.

Probation Officer — In juvenile and district court matters, an employee of the court who is responsible for supervising offenders sentenced to probation. In adult circuit court (felony cases), probation officers may also be parole officers and are employees of the Michigan Department of Corrections.

Proceeding — Any hearing or court appearance related to a case.

Process — A court order to appear in court or enforce a judgment. Subpoenas and summonses are examples of process.

Process Server — A person employed to deliver a summons or complaint to a person being sued or to deliver a subpoena to a witness.

Property — Anything that may be the subject of ownership. See **Personal Property**, **Real Property**.

Prosecuting Attorney — A public officer whose duty is the prosecution of criminal proceedings on behalf of the People of the State of Michigan.

Prosecutor — A prosecuting attorney. An elected official in each county; the chief law enforcement officer of each county.

Prosecutorial Waiver — See **Waiver of Jurisdiction**.

Protected Person — Under the Estates and Protected Individuals Code (EPIC), a minor or legally incapacitated person whose estate is under the care of a conservator. See **Conservator**, **Estates and Protected Individuals Code (EPIC)**, **Legally Incapacitated Person**, **Minor**.

Protective Proceedings — See **Child Protective Proceedings**.

PS — An abbreviation for the Protective Services unit of the Department of Human Services. See **Children's Protective Services**.

Public Assistance — See **Family Independence Program (FIP)**.

Public Defender — A lawyer paid by the county or municipality to defend one who is indigent (without funds). Michigan has a statewide "Public Defender" office for the handling of criminal appeals. See **SADO**, **State Appellate Defender's Office**. Michigan does not have a statewide system for handling criminal defense at trials.

Purchase-Money Mortgage — A mortgage given, concurrently with a conveyance of land, on the same land, by the vendee to the vendor, to secure the unpaid balance of the purchase price.

Q

Quantum Meruit — Latin, "as much as he or she has deserved"; absent a contract/agreement, the law implies a promise to pay a reasonable amount for services or materials received from another.

Quash — To nullify a proceeding or order. For example, a motion to quash may be initiated for the purpose of setting aside a bindover after a preliminary examination.

Quasi-Judicial—The ability to hold hearings on, and conduct investigations into, disputed claims and alleged infractions of rules and regulations and to make decisions in the general manner of courts. A referee or district court magistrate is a quasi-judicial officer of their respective court.

Quid Pro Quo — Latin, "this for that"; something for something; a fair return; the giving of one valuable thing for another.

Quo Warranto — Latin, "by what authority." The name of a writ which brings a person into court so that it may be determined by what right he or she exercises his or her authority; usually brought by the Attorney General to test a person's claim of right to hold public office.

R

Real Property — Land, and generally whatever is erected or growing upon or affixed to the land.

Realty — A brief term for real property.

Reasonable Efforts — In a child protective proceeding, the court must determine that reasonable efforts are being, or have been, made to place the child for adoption or in another permanent placement in a timely manner. See also **Child Protective Proceedings**.

Recess — A brief time set by the judge when those in court, including the jury, may be excused from the courtroom.

Recognizance —
(1) An obligation entered into before a court of record or duly authorized magistrate, containing a condition to do some particular act, usually to appear and answer a criminal accusation.
(2) Recognizance replaces an actual "bail bond" in many statutes and court opinions. See **Personal Recognizance**.

Reconciliation — When the parties in a divorce action are attempting to work out their differences and wish to have enforcement of their court orders suspended.

Record — The docket (for acts done), the case file (for documents filed), and any transcripts of proceedings (the "word for word" – verbatim – accounts by the official court reporter/recorder), together form the "record." See **Docket**.

Record on Appeal — The pleadings, exhibits, orders or decrees filed in a case in the trial court, a copy of the docket entries, and a transcript of the testimony taken in the case; the record is forwarded to the appellate court when a party appeals the trial court's outcome.

Recorder — In some jurisdictions, a public officer who has charge of the records of deeds, instruments relating to real property, and other legal instruments required by law to be recorded. See also **Court Recorder**.

Recorder's Court — Abolished October 1, 1997, and merged with the 3rd Circuit Court, Wayne County. Formerly had jurisdiction over all felony cases arising within the City of Detroit.

Records Retention and Disposal Schedules — A system or plan that states which records must be kept permanently and which records may be disposed of and when. Applies to all records kept by a court.

Referee — A person who takes testimony, prepares reports, and makes recommendations to the court in domestic relations, juvenile delinquency and child protective proceedings, and in designated proceedings involving juveniles.

Referral —

(1) In juvenile delinquency or child protective proceedings, referral to a protective service. If it appears that the best interests of the child and of society will be served, the court may refer the matter at hand to a public or private agency providing protective services.

(2) In other proceedings, referrals may be made to public or private agencies who provide a variety of services, e.g., counseling, substance abuse screening, assessment, and treatment, and psychological or psychiatric examinations.

Register Of Actions (ROA) — The permanent case history maintained in accord with the Michigan Supreme Court Case File Management Standards.

Release-On-Recognizance (ROR) — The pretrial release of an arrested person on his or her written promise to appear for trial at a later date, without deposit of cash or any surety. Used primarily with defendants as an alternative to monetary bail. See **Recognizance**.

Remand — To send a case back to the court from which it came for further proceedings. For example, when a defendant waives a preliminary examination, the case goes from district court to circuit court, usually because the defendant intends to plead guilty to a charge. The defendant then decides not to plead guilty and requests a preliminary examination; if the request is granted, the case is "remanded" to district court. Also for cases on appeal, to send a case back to the lower or trial court from which it was appealed, with instructions as to what further proceedings should be had there or what further action should be taken.

Remittitur — An order reducing the amount of money awarded to a plaintiff by a jury when the amount awarded by the jury is considered excessive by the judge.

Replevin — A civil action to recover: (1) property unlawfully taken or held by another; and, (2) damages sustained by the unlawful taking or retention. An action for replevin is also known as an action for **Claim and Delivery**.

Reports —
(1) Court reports: published judicial cases arranged according to some grouping, such as court jurisdiction, period of time, subject matter or case significance.
Example: 406 Mich 1 is a case citation for a court opinion beginning on page 1 of volume 406 of Michigan Reports (Michigan Supreme Court decisions).
(2) Administrative reports or decisions: published decisions of an administrative agency.

Reporter —
(1) A court official responsible for the verbatim record of most court proceedings, including the questions addressed to, and answers given by, witnesses, usually for the purpose of preparing a verbatim transcript.
(2) A court official responsible for compiling, indexing and publishing the opinions of an appellate court.

Res Gestae — Latin, "things done."
(1) A matter incidental to the main or principal fact which helps explain that fact.
(2) Acts and words that are so related to an occurrence as to appear to be evoked and prompted by it.

Res Gestae Witness — Person taking part in or witnessing a crime, or a person at the scene of a crime who may have personal knowledge concerning the crime or the defendant's possible involvement.

Res Judicata — Latin, "a thing adjudicated." A rule that an issue once judicially decided is finally and conclusively decided and cannot be relitigated. Also known as "claim preclusion."

Residence — The place where one presently lives. Does not require that it be a permanent home as is the case with "domicile."

Residue — That part of an estate remaining after payment of all debts, charges and legacies.

Respondent — A party against whom a motion is filed in the course of a lawsuit; analogous to a defendant or an appellee.

Restitution —
(1) In criminal cases, the amount of money that the convicted defendant is required to pay the crime victim to compensate for damages suffered as a result of the crime.
(2) In civil cases, the amount of money necessary to restore a party who was wronged to the position he or she was in before suffering the wrong.

Restraining Order — See **Injunction**, **Temporary Restraining Order**.

Restricted Delivery Mail — A postal classification that ensures mail is only delivered to the person specified.

Return — An endorsement or report by an officer, recording the manner in which he or she served the process or order of the court.

Reverse — To set aside a judgment on appeal; to annul; to vacate.

Revocation Of Will — Annulling or rendering inoperative an existing will by some subsequent act of the testator.

Right Of Representation — See **Per Stirpes**.

R-O-R, ROR — See **Release on Recognizance**.

S

SADO — See **State Appellate Defender's Office**.

Satisfaction — A written acknowledgment of receipt of payment or performance of a judgment which, when filed with the court, discharges the obligation.

SCAO — See **State Court Administrative Office**.

Search Warrant — A written order from a judge or magistrate directing an officer to search a specific place for a specific object, issued upon a showing of probable cause.

Sentence — The punishment imposed upon the defendant following a conviction in a criminal proceeding.

Sentencing Guidelines — Statutory sentencing guidelines are to be used for all felony offenses committed on or after January 1, 1999, and to which the guidelines apply. The guidelines *structure* judicial sentencing discretion but do not eliminate it.

Sequestration of Witnesses — A court order directing witnesses to stay outside the courtroom and to not discuss testimony with other witnesses until they are called to testify in court. This is to prevent witnesses from being influenced by the testimony of other witnesses.

Service of Process — The service of writs, summonses, etc.; signifies the delivering to or leaving of such documents with the party to whom or with whom they ought to be

delivered or left; when documents are so delivered, they are then said to have been served.

Show Cause Order — An order to appear in court and present reasons why certain circumstances/actions should be continued, permitted, or prohibited.

Show Up — See **Lineup**.

Slander — Injury to a person's character or reputation by the spoken word.

Small Claims Court — A division of the district court. The jurisdiction of the small claims division is limited to civil cases where the amount claimed does not exceed $3,000. Claims are handled without lawyers or juries, and the parties generally have no right to appeal.

Sole Custody — An order of the court stating that the children live with one parent and that parent is responsible for making decisions on important issues dealing with the children.

SOS — An abbreviation for the Michigan Department (of the Secretary) of State.

Specific Performance — A court order directing a party to a contract who has breached its terms to do what he or she contracted to do; generally involved when the thing or service contracted for is unique so that money damages for breach of contract would be inadequate, i.e., breach of contract to sell water rights to one who has no alternative access to water.

Spousal Support — A sum of money that a court orders a spouse to pay to his or her separated or divorced spouse for support, aid, or maintenance. An award of spousal support does not include child support. See also **Child Support**.

Stalking — An intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel this way. May occur in person or by electronic means, also known as cyberstalking.

Standard Jury Instructions — A collection of jury instructions approved by a Supreme Court committee for use by trial court judges.

Stare Decisis — Latin, "to stand by things decided." The doctrine that the decisions of the court should serve as precedents for future cases.

State Appellate Defender's Office (SADO) — A state office for handling criminal appeals and postconviction proceedings for indigent defendants on a statewide basis.

State Bar of Michigan — An association for attorneys licensed to practice law in the State of Michigan. An attorney must become a member of the State Bar in order to practice law in Michigan.

State Case — Refers to a violation of state law. The term is most often used in district courts and the remaining municipal courts to distinguish between violations of local ordinances and violations of state statutes. Violating a state law makes the case a "state case" in these jurisdictions.

State Court Administrative Office ("SCAO") — Under the general direction of the Supreme Court, the State Court Administrative Office is responsible for assisting in the administration of justice in Michigan's trial courts.

State Court Administrator — An official appointed by the Michigan Supreme Court to act as the director of the State Court Administrative Office. This official also advises the Supreme Court on matters relating to management of the state's court system.

Status Offense — A violation of the juvenile code by a minor that would not be considered a violation of the law if committed by an adult. Examples: runaway, school truancy, incorrigibility, etc.

Statute of Frauds — A legal doctrine or rule that certain types of agreements must be in writing or they will not be enforced by the courts. Real estate sales agreements are examples of agreements that must be in writing.

Statute of Limitation —
(1) *Civil Cases* — A statutory time limit on the right to seek relief in court for damages, providing that any claim for relief shall be barred unless begun within a specific period of time following the alleged wrong.
(2) *Criminal Cases* — The mandatory time limit set by statute to commence prosecution.

Statutes — Laws in the State of Michigan enacted by the State Legislature. The text of statutes can be found in the **Michigan Compiled Laws**, **Michigan Compiled Laws Annotated**, and the **Michigan Compiled Laws Service**.

Stay — The suspension of a judicial proceeding by court order.

Stipulation — An agreement between opposing attorneys or parties on any matter relating to the proceedings or trial, i.e., to extend the time to answer, to adjourn the trial date, to admit certain facts at the trial, etc. Often requires court approval to be effective.

Sua Sponte — Latin, "of one's own accord; voluntarily." A court acts "sua sponte" when it takes action voluntarily ("on its own motion"), without first being requested to act by a party to a case.

Subpoena — A writ or order to compel attendance in a court with a penalty for failure to do so.

Subpoena Duces Tecum — Used to compel a witness to provide all of his or her records or other specified material mentioned in the body of the subpoena.

Subrogation — The substitution of one party to exercise the rights of another party. Most commonly used in civil cases in which an insurance company (subrogee) has paid its policyholder and is then entitled to the policyholder's right to recover damages.

Successor — A person who succeeds to the office, rights, responsibilities, or place of another. One who replaces or follows another.

Successor Personal Representative — Under the Estates and Protected Individuals Code (EPIC), a successor personal representative is appointed by the court to complete the administration of a decedent's estate in cases where administration of the estate is left unfinished due to the death, removal, or resignation of the original personal representative. In some jurisdictions, a successor personal representative is called the "administrator de bonis non." See also **Administrator De Bonis Non**, **Estates and Protected Individuals Code (EPIC)**, **Personal Representative**.

Summary Disposition — In a civil lawsuit, a dismissal of, or judgment on, all or part of a claim, made by a judge before trial upon motion by one of the parties. A motion for summary disposition may be based on one or more of several grounds, such as: the trial court lacks jurisdiction over the case or the parties; process or service of process was insufficient; the party asserting the claim has no legal capacity to sue; another action has been initiated between the same parties involving the same claim; the claim is barred by the statute of limitations; a party has failed to state a valid defense to the claim against him or her; or the facts alleged in a party's complaint do not entitle the party to judicial relief.

Summary Judgment — See **Summary Disposition**.

Summary Proceedings — Proceedings where the court decides an issue in a prompt and simple manner, often without the aid of a jury.

Summons — A notice given to a party stating that proceedings have been instituted against him or her and directing that person to appear in court at a given date and time to answer the complaint; if he or she fails to appear and answer, a judgment will be entered against him or her.

Superintending Control — The constitutional doctrine that the Michigan Supreme Court has general administrative supervision over all courts of the state. The circuit courts of each county have similar administrative supervisory power over the various lower courts within their jurisdiction.

Support Order — In a domestic relations proceeding, an order for payment of money to meet the ongoing financial needs of a child, spouse, or former spouse. Support may

include health care and educational expenses. See also **Child Support**, **Spousal Support**.

Suppress — To suppress a court record is to prevent its release; to suppress evidence is to forbid it from being introduced at a trial or other court proceeding.

Supreme Court — The highest appeals court in the State of Michigan. The Michigan Supreme Court also has superintending control over all other courts in the state. See **Superintending Control**.

Surety — A person who agrees to fulfill another person's financial obligation in the event the other person fails to fulfill it. The other person is known as the "principal." See also **Guarantor**, **Principal**.

T

Take — As used in probate, to acquire title or to be entitled to an estate; a person may be entitled to "take" under the will.

Temporary Restraining Order — An order of the court intended to restrain a person's actions and preserve the status quo until a hearing can be held to determine if a preliminary injunction should be issued. See **Injunction**.

Temporary Ward — A minor who is under the supervision of the family division but whose parents' parental rights have not been terminated.

Ten Percent Bond — A procedure that allows persons to pay to the court ten percent (10%) of the bond otherwise required of them to obtain their release. This procedure reduces the actual monetary amount owed so that most persons can arrange bond without the services of a bondsman or other surety.

Tenant — A person who rents property from the owner of the property (a landlord). One who occupies the property of another for a temporary period, with the landlord's consent.

Termination Hearing — A hearing held in the family division of the circuit court to determine if the parental rights to a child are to be terminated, after which the child will become a ward of the court. The prosecutor is required to attend.

Testate — Having left a valid will at death.

Testate Succession — Inheritance of a decedent's property under the direction of the decedent's will.

Testator — One who has made a will. (A female testator is known as a "testatrix.")

Testimony — The statement of a witness under oath given as evidence.

Third-Party Complaint — In a civil lawsuit, a complaint that the defendant files against a "third party," i.e., someone who is not already named in the lawsuit. This "third-party complaint" alleges that the third party is or may be liable to the defendant for some or all of the plaintiff's claim.

Tort — An injury or wrong committed against the person or property of another, arising out of the violation of a duty established by law rather than by contract.

Traditional Waiver — See **Waiver of Jurisdiction**.

Transcript — The verbatim record of proceedings in a trial or hearing.

Trial Court — The court where trial takes place. Examples of Michigan trial courts are district, circuit, and probate courts.

Trust — A right of property, real or personal, held by one party for the benefit of another. The person who creates the trust is called the settlor, trustor, or grantor. Trusts are used for, among other things, avoiding probate court proceedings, saving on estate tax, providing quality management of assets, and keeping money out of the hands of improvident beneficiaries.

Trustee — A person in whom property is vested in trust for others.

Turner Hearing — A proceeding to determine if the defendant was entrapped by law enforcement officials into committing the offense.

U

UCCJEA — Uniform Child-Custody Jurisdiction and Enforcement Act — The UCCJEA governs state courts' jurisdiction to make and modify "child-custody determinations" in cases involving children from another state. "Child-custody determinations" is a term that expressly includes custody and parenting time orders.

UIFSA — **Uniform Interstate Family Support Act** — Statutes governing support actions that involve parents living in different states or on tribal lands.

V

Vendee — A buyer; a person to whom something is sold.

Vendor — A seller; a person who sells something.

Venire — Refers to the panel of jurors summoned for jury duty.

Venue — The jurisdiction in which court proceedings may be instituted. See also **Change of Venue**.

Verbatim — Word-for-word.

Verdict — A decision by a judge or jury on the issues submitted to the court for determination.

Verification — A person's statement under oath or penalty of perjury that certain statements of fact in a document or court paper are true. See **Affirmation**, **Oath**, **Perjury**.

Verified Statement —
(1) A statement (e.g., in a court paper) that contains verification by the party submitting it.
(2) A confidential statement that must be provided to the Friend of the Court and attached to the complaint in a domestic relations action involving a minor child or requesting child or spousal support.

Visitation Order — See **Parenting Time**.

Voir Dire Exam — The preliminary examination into the qualifications and potential biases of prospective jurors.

W

Wade Hearing — A pretrial hearing to test the fairness of a lineup. The issue at such a hearing is whether to admit or suppress the identification of the accused that resulted from the lineup.

Waive — To give up a legal right, claim, or privilege.

Waiver — The act of voluntarily waiving or giving up a legal right, privilege, or claim.

Waiver Hearing — Where a juvenile is charged with a felony, a two-phase hearing on a motion requesting that the family division of circuit court waive its jurisdiction and transfer the case to the criminal division of the circuit court. Waiver hearings are only held in cases involving "traditional waiver." See **Waiver of Jurisdiction**.

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 Jurisdiction — The process through which the family division of the circuit court relinquishes its jurisdiction over a juvenile who has committed a criminal offense, and transfers the case to the criminal division of the circuit court. There are two types of waivers:

(1) *Automatic Waiver* — If a juvenile between the ages 14 and 17 is charged with certain violations specified by statute (e.g., murder, armed robbery, first-degree criminal sexual conduct, etc.), the prosecutor may file a complaint charging the juvenile as an adult. Such cases automatically come under the jurisdiction of the criminal division of the circuit court. Automatic waivers are sometimes referred to as "prosecutorial waivers."

(2) *Traditional Waiver* — If a juvenile between the ages 14 and 17 is charged with any felony, the prosecutor may file a motion requesting the family division of the circuit court to waive jurisdiction. If the prosecutor's motion is granted, the case is transferred to the criminal division of the circuit court, and the juvenile is tried as an adult.

Walker Hearing — A court proceeding to determine whether a police officer advised a defendant of his or her *Miranda* rights before the defendant gave a statement and whether the defendant voluntarily gave the statement.

Ward — Under the Estates and Protected Individuals Code (EPIC), a minor or legally incapacitated person who has been placed under the care of a guardian. See **Estates and Protected Individuals Code (EPIC)**, **Guardian**, **Legally Incapacitated Person**, **Minor**.

Warrant — A writ or paper issued by a judge or magistrate that allows the police to arrest a person or search a place. See also **Arrest Warrant**, **Bench Warrant**, **Fugitive Warrant**, **Search Warrant**.

Warrant Recall — A procedure for removing from the Department of State and State Police computers information concerning canceled warrants in order to avoid repeated or mistaken arrests.

Widow — A woman whose husband has died and who has not remarried. A man whose wife has died is called a "widower."

Widow's Election — A widow's choice whether she will inherit under the will or under statute; that is, whether she will accept the provision made for her in the will and acquiesce to her husband's disposition of his property, or whether she will disregard the will's provisions and claim what the law allows her.

Will — A written instrument in which a person provides for the disposition of his or her property after his or her death. A will includes any **Codicil**.

With Prejudice — A dismissal "with prejudice" means that the plaintiff in a civil case or the prosecution in a criminal case is forever barred from bringing the case or claim again.

Without Prejudice — A dismissal "without prejudice" means that the plaintiff in a civil case or the prosecution in a criminal case may bring the case or claim again.

Witness — One who testifies to what he or she has seen, heard or otherwise observed.

Writ — A written court order requiring the recipient to perform a specific act or refrain from doing some specific act.

Numeric References

14 Day Rule — A rule that requires a person charged with a felony to be given a preliminary examination not more than 14 days after the person's arraignment on the original warrant.

180 Day Rule —
(1) A rule that allows those accused of a felony who have been in jail for 180 days and who have not yet been brought to trial, to be released on their own recognizance if the delay has not been caused by the accused or the accused's attorney.
(2) A rule that requires all pending charges against a prison inmate be brought to trial within 180 days or be dismissed with prejudice.

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