



Courts - Glossary of Terms

Abstract of conviction — An official copy of the contents of a criminal or traffic verdict and sentence.

Accused — The person against whom an accusation is made; one who is charged with a crime or traffic infraction.

Action — Proceeding in a court by which one party prosecutes another for the enforcement or protection of a right, or the redress or prevention of a civil wrong. **Adjudicate** — To pass on judicially, to decide, settle, or decree.

Admissible — Pertinent and proper to be considered in reaching a decision. Refers to the evidence considered in determining the issues to be decided in any judicial proceeding.

Adversary proceeding — One having opposing parties; contested, as distinguished from a hearing in which only one party appears.

Affiant — The person who makes and signs an affidavit.

Affidavit — A written, printed, or videotaped declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath.

Affirm — To ratify, make firm, confirm, establish, reassert. Alternate procedure to swearing under an oath.

Aggrieved party — One whose legal right is invaded by an act complained of.

Alleged — Claimed; asserted; charged.

Alias — "Otherwise called," indicating one was called by one or the other of two names. **Amend** — To change.

Appeal — Taking a case which has been decided in a court of inferior jurisdiction to one of superior jurisdiction, for the purpose of obtaining a review.

Appeal bond — A type of bond set by the court and filed by the appellant who had a civil judgment entered against him to forestall issuance of execution until the cause can be passed upon and disposed of by the superior court.

Appellant — The party who takes an appeal from one court to another.

Arraign — Arraignment of an accused consists of calling upon him by name, reading to him the charges in the arrest documents, demanding of him whether he pleads guilty or not guilty or, in misdemeanors, nolo contendere, and entering his plea. This hearing may be combined with right to counsel hearing.

Arrest — To deprive a person of his liberty by legal authority.

Attachment — The act or process of taking, apprehending, or seizing persons or property, by virtue of a writ, summons, or other judicial order, and bringing the same into the custody of the law; used either for the purpose of bringing a person before the court, of acquiring jurisdiction over the property seized, to compel an appearance, to furnish security for debt or costs, or to arrest a fund in the hands of a third person who may become liable to pay it over.

Bail — The release of a person from legal custody by a written agreement that he shall appear at the time and place designated and submit himself to the jurisdiction of the court and observe the requirements set forth in the recognizance.

Bail forfeiture — Order by the court that the surety pay to the court the amount of security pledged for failure of an accused to comply with the requirements of the bond. The court in turn pays the funds to the jurisdiction whose laws were violated.

Bill of Particulars — The Bill of Particulars must set forth in brief paragraphs why the plaintiff(s) thinks the defendant(s) owes the money or property, giving a detailed breakdown of the basis for each sum or article of property claimed. The plaintiff will be generally limited to evidence outlined in the Bill of Particulars. If the Bill of Particulars is not filed on time, the court can dismiss the case on motion of the defendant(s) at the beginning of trial.

Bond — A certificate or evidence of a debt with a sum fixed as a penalty, which contains a written agreement binding the parties to pay the debt, conditioned, however, that the payment of the penalty may be avoided by the performance of certain acts by one or more of the parties. Bondsman — A professional surety who has entered into a bond as surety.

Breach — The breaking or violating of a law, right, or duty, either by commission or omission.

Capias— A type of arrest document issued by the court charging the offender with a violation of a court order or court process of contempt of court.

CCRE — Central Criminal Records Exchange; an abbreviation of the name of the report prepared by court clerk's offices and sent to the State Police.

Complaint - criminal — A charge brought before a judicial officer having jurisdiction, that a person named has committed a specified offense.

Commonwealth's Attorney — The name of the public officer who is elected in each city or county to conduct criminal prosecutions on behalf of the state.

Contempt of court — Any act which is calculated to embarrass, hinder, or obstruct the court in administration of justice, or which is calculated to lessen its authority or its dignity.

Convict — To find a person guilty of a criminal charge.

Court order — A command or mandatory direction of a judge which is made during a case. Also includes a command of the judge which establishes courtroom or administrative procedures.

Crime — A positive or negative act in violation of penal law; an offense against the state classified either as a felony or misdemeanor.

Cross-examination — The examination of a witness upon a trial or hearing, or upon taking a deposition, by the party opposed to the one who put him on the witness stand to testify.

Custody — The detainment of a person by virtue of lawful process or authority; actual imprisonment.

Custody case — In juvenile and domestic relations district court, the type of proceedings in which the court determines which parent, other adult or agency shall have physical control over a child.

Defendant — The party against whom relief or recovery is sought in a court action or suit. Sometimes used to designate the accused in criminal or traffic cases.

Default — An omission of that which ought to be done. Failure to act. Also, failure of the defendant in a civil case to appear and contest the claim.

Deposition — The testimony of a witness taken upon oral examination, after notice to the adverse party, not in open court, but in pursuance of a notice to take testimony issued by the party wanting the deposition. The adverse party has the right to attend and cross-examine. Testimony is reduced to writing and duly authenticated, and intended to be used in connection with the trial of an action in court.

Deputy clerk — A subordinate employee to the clerk who is empowered to act in the place of the clerk in the official business of the court.

Discovery — Procedures by which one party to a lawsuit may obtain information relevant to the case which is held or known by the other party.

Dismissal — An order disposing of an action, suit, etc., without trial.

Disposition — Determination of the final arrangement or settlement of a case following judgment.

Docket — A record of all cases and actions scheduled to be heard in court, whether or not the matter is actually heard in a court on a particular day.

Docket book — The chronological collection of all docket sheets of a court.

Docket sheet — A form containing the docket. More than one docket sheet may be needed to contain one day's docket.

Evidence — All the means by which a matter of fact, the truth of which is submitted for investigation, is established or disproved.

Execute — To enforce a civil judgment by seizure and either transfer or liquidation of the judgment debtor's assets through post-trial judicial process.

Ex parte — A judicial proceeding, order, injunction, etc., is said to be ex parte when it is taken or granted at the instance and for the benefit of one party only, and without notice to, any person adversely interested.

Extradition — The surrender by one state to another of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other, which, being competent to try and punish him, demands the surrender.

Felony — A crime punishable by death or confinement in the penitentiary. See ~ 18.2-10 for classification of felonies and the punishment for each classification.

Finding — The result of the deliberations of a court.

Forfeiture — A deprivation or destruction of a property right in consequence of the nonperformance of some obligation or condition.

Forthcoming bond — A bond conditioned that a certain article of personal property shall be forthcoming at a certain time or when called for.

Grounds of Defense — The Grounds of Defense must set forth in brief paragraphs why the defendant(s) thinks the money or property sued for is not owed. It should be a detailed answer to the Bill of Particulars. The defendants will be generally limited to defending on the grounds outlined in the Grounds of Defense. If the Grounds of Defense is not filed on time, the court may on motion of the plaintiff(s) at the beginning of the trial, refuse to allow the Defendant to present any evidence on why the money or property is not owed or enter judgment against the Defendant without hearing any evidence.

Guardian ad litem — A lawyer appointed to defend or prosecute a case on behalf of a party incapacitated by infancy or otherwise.

Guilty — Responsible for committing a criminal offense or a traffic infraction. The word used by an accused in pleading to the charges when he confesses to committing the crime of which he is charged. It is also used by the judge if he finds that the accused committed a criminal offense or a traffic infraction.

Habeas corpus — A writ commanding the person holding a prisoner in custody to bring the prisoner before the court for a determination of whether the prisoner is restrained of his liberty by due process. It is not used to determine the guilt or innocence of the prisoner.

Incarceration— Imprisonment; confinement in a jail or penitentiary.

Indigent — In a general sense, one who is needy and poor, or one who has insufficient property to furnish him a living nor anyone able to support him or to whom he is entitled to look for support.

Jurisdiction — The authority of a court or other governmental agency to adjudicate controversies brought before it.

Lack of jurisdiction — The phrase may mean lack of power to act in a particular manner or to give certain kinds of relief. It may consist of a court's total lack of power to act at all, or lack of power to act in particular cases because the parties have not complied with conditions essential to the exercise of jurisdiction.

Liquidated damages — The term is applicable when the amount of the damages has been ascertained by the judgment in the action, or when a specific sum of money has been expressly stipulated by the parties to a bond or other contract as the amount of damages to be recovered by either party for a breach of the agreement by the other. In truck weight and length violations, liquidated damages are determined by a statutory formula.

Litigant — A party to a lawsuit; one engaged in litigation.

Minor— An infant or person who is under the age of legal competence. One under 18.

Misdemeanor — Offenses punishable by fine not exceeding \$2,500 or being jailed for a term not exceeding 12 months or a combination of fine and jail within these limits.

Motion — A request made to the judge by a litigant or other person connected with the case for a ruling or order.

Nolle prosequi — A formal entry by the prosecuting officer in a criminal action, by which he declares that he "will no further prosecute" the case.

Nolo contendere — I will not contest it. The name of a plea in a misdemeanor case or traffic infraction proceeding, having the same legal effect as a plea of guilty, so far as regards all proceedings in the case, and on which the defendant may be sentenced.

Notary — A public officer whose function it is to administer oaths; to attest and certify, certain classes of documents; to take acknowledgments, and certify the same.

Nunc pro tunc ("Now for then") — An order which is retroactively effective.

Ordinance — The enactments of the legislative body of a local government.

Ore tenus — Oral. Used as a technical term to describe a hearing or pleading which is orally presented.

Original jurisdiction — Jurisdiction in the first instance; jurisdiction to take cognizance of a cause at its inception, try it, and pass upon the law and facts.

Parole— In criminal law. A conditional release; condition being that, if prisoner makes good, he will receive an absolute discharge from balance of sentence, but, if he does not, he will be returned to serve unexpired time.

Partial payment — Payment of a sum less than the whole amount originally due.

Party — An individual person or a legal organization such as a partnership or corporation.

Personal recognizance — Release of a defendant from jail or arrest by a judicial officer, upon the promise to appear in court without the necessity of posting bond but with some conditions imposed.

Plea — Statement made by the defendant either as to his guilt or innocence to the charge made against him. **Pleadings** — The formal allegations by the parties of their respective claims and defenses, for the judgment of the court.

Preliminary hearing — The hearing given to an accused which is held by a judge, to ascertain whether there is evidence to warrant the binding over of the accused on the felony charge to the circuit court for further proceedings.

Preponderance — Greater weight of evidence, or evidence which is more credible and convincing to the mind.

Prima facie — Evidence good and sufficient on its face.

Probable cause — A reasonable ground for belief in the existence of facts warranting the proceedings complained of (e.g., probable cause to believe that a crime has been committed and that the person accused may have committed it).

Probation — In modern criminal administration, allowing a person convicted of some offense to remain free under a suspension of a jail sentence during good behavior and generally under the supervision or guardianship of probation officer together with other restrictions as the court may impose.

Putative father — The alleged or reputed father of an illegitimate child.

Recognizance — An obligation entered into by an accused before a court, with condition to do some particular acts, including to appear in criminal court as required, to keep the peace, to be of good behavior, and not to depart from the Commonwealth.

Remand — Sending a case back to the same court out of which it came for purpose of having some action taken on it there.

Restitution — The act of making good or giving equivalent for any loss, damage or injury.

Return — The act of a sheriff, constable, or other ministerial officer, in delivering back to the court a writ, notice, or other paper, which he was required to serve or execute (see EXECUTE in this Glossary), with a brief account of his doings under the mandate, the time and mode of service or execution, or his failure to accomplish it, as the case may be. Also the endorsement made by the officer upon the writ or other paper, stating what he has done under it, the time and mode of service, etc..

Revocation — The recall of some power, authority, or thing granted, or a destroying or making void of some deed that had existed until the act of revocation made it void.

Satisfaction — The discharge of an obligation by paying a party what is due to him or what is awarded to him, by the judgment of a court or otherwise.

Sealed — A file that is physically closed from review. Also, a document containing a seal or the word "seal" next to the signer's signature.

Search warrant — An order in writing, issued by a judicial officer, in the name of the state, directed to a sheriff, or other officer commanding him to conduct a search to aid an official investigation. Seizure — To take into possession forcibly.

Sentence — The judgment formally pronounced by the judge upon the defendant after his conviction in a criminal prosecution, setting the punishment for the offense.

- **Suspended Sentence** — Postponing the execution of the sentence after it has been pronounced upon certain conditions.
- **Deferred Sentence** — Postponing the imposition of the sentence or finding for a period of time upon certain conditions. Does not operate as a suspension of sentence.

Service of process-publication — Service of a summons or other process upon an absent or nonresident defendant, by posting a notice on the courthouse door and, unless dispensed with by the judge, by publishing the same as an advertisement in a designated newspaper, with such other effort to give him actual notice as the particular statute may prescribe.

Service of process-personal — Service of a summons or other process made by delivering it in person to the person named, in the process.

Service of process-substitute — Service of a summons or other process by any means authorized by statute other than by personal service. These include service by publication, posted service, service on alternative individual as authorized by statute.

Show cause rule — A court ruling directing the recipient to appear and present to the court such reasons and considerations as one has to offer why the recipient should not be punished for violating a court order or legal process or for contempt of court.

Subpoena — A process to cause a witness to appear and give testimony, commanding him to appear before a court therein named at a time therein mentioned to testify for the party named under a penalty therein mentioned.

Subpoena duces tecum — A process by which the court, at the instances of a party to an action, commands a witness who has in his possession or control some document or paper that is pertinent to the issues of a pending controversy, to produce it at or before the trial.

Substitute judge — A lawyer authorized to hold court in the absence of the regular judge. Suit in debt — A civil action brought upon claim of non-payment of debt.

Suit in detinue — A type of civil case in which the plaintiff seeks to recover personal property from a defendant who acquired possession of the personal property lawfully, but allegedly retains it without right, with or without damages.

Summons — A document notifying defendant that an action has been instituted against him and that he is required to answer to it at a time and place named.

Surety — One who undertakes to pay money or to do any other act in the event that another, called his principal, fails to perform as promised. In criminal cases, the accused is the principal.

Trial de novo — A new trial or retrial had in an appellate court in which the whole case is re-tried as if no trial whatever had been had in the court below.

Venue — "Venue" designates the particular county or city within which a court with jurisdiction may hear and determine the case.

Verdict — The formal decision or finding of guilt or innocence made by a judge in a criminal case.

Waive — To abandon, renounce, repudiate or surrender a claim, a privilege, a right, or the opportunity to take advantage of some defect, irregularity or wrong.

Warrant of arrest — A written order issued and signed by a judicial officer directed to a law enforcement officer or some other person specially named and commanding him to arrest the body of a person named in it who is accused of an offense.

Witness — One who testifies to what he has seen, heard or otherwise observed and who is not a party to the action.