

Acknowledgment

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Accused: A person or persons formally charged but not yet put on trial for committing a crime.

Acquittal: A legal judgment, based upon the decision of either a jury or judge, that a person accused of a crime is not guilty of the charges for which he/she has been tried.

Adjudication: The act of making the judicial decision that ends a criminal proceeding by a judgment of acquittal, conviction, or dismissal of a case. This term is also used in juvenile proceedings.

Admissible evidence: Evidence that is relevant and proper for consideration in reaching a decision in court. Pre-trial hearings are often held to allow the judge to make this determination.

Affidavit: A written, sworn statement in which the writer swears that the information stated therein is true.

Appeal: A request by either the defense counsel or prosecutor in a case to have a higher court resolve a dispute with a judge's decision.

****Appellate proceeding** means any contested matter before the state court of appeals, the state supreme court, a federal court of appeals or the United States supreme court.

Arraignment hearing: A hearing in which a person charged with a crime is brought before the court to be advised of his/her constitutional rights and to plead either guilty or not guilty to the criminal charges alleged in the indictment or information. Arraignment hearings are considered pre-trial hearings.

****Arrest** means the actual custodial restraint of a person or the person's submission to custody.

Arrest warrant: An order made on behalf of the state, based on a complaint and signed by a judge, authorizing law enforcement to arrest a person who is thought to have committed a crime. A person who is arrested on a warrant stays in custody until bail or bond is posted, or until released by an order of the court.

Bail hearing: A hearing to determine (1) whether an incarcerated defendant or convicted offender will be released from custody and (2) what amount (if any) he/she must pay as a bond to assure his/her presence at future proceedings (e.g., trial). At bail hearings, the judge may also impose specific conditions of bail, for example, no contact with the victim or witness or participation in a mental health or drug treatment program. In some jurisdictions, these proceedings are referred to as bond hearings.

Bench: Where the judge sits during court proceedings. The term is often also used to refer to the judge himself or herself.

Bench trial: A trial in which the judge hears the case without a jury, and decides whether the accused is guilty.

Beyond a reasonable doubt: The degree or standard of proof needed for a judge or jury to convict a person accused of a crime.

Bond hearing: (See bail hearing.)

Burden of proof: The requirement that the prosecutor or party bringing the case has the burden of showing that all the facts necessary to win the case are presented and are probably true. In a criminal trial, the burden of proof required of the prosecutor is to prove the guilt of the accused "beyond a reasonable doubt."

Case law: The law as formed by past court decisions, opinions, interpretations, or traditions.

Change of venue: The transfer of a case pending in one county or district to another county or district. A "change of venue" is often sought because of claimed prejudicial publicity in the original county or district.

Charge: A formal accusation filed by the prosecution that a specific person has committed a specific crime. Also referred to as "pressing charges."

Clemency: The power of the President in federal criminal cases, and the governor in state cases, to show mercy or leniency by reducing the punishment for conviction of a crime.

Community supervision: A period of oversight of a convicted offender in the community by a probation or parole officer.

Commutation: The act of reducing a criminal sentence by substituting a less severe punishment than that imposed by the court at sentencing. The authority to commute a sentence is granted to the chief executive of a government, generally the governor of a state or, in a case involving a federal crime, the President of the United States.

Compensation: The state-administered program that provides eligible crime victims with recompense for their out-of-pocket financial losses directly resulting from the crime. The term "compensation" is not intended to encompass restitution, or the pursuit of civil claims or judgments.

Compensation award: The sum of money ordered by the State Victim Compensation Board/Authority to be paid to an eligible victim of crime as recompense for his/her out-of-pocket financial losses directly resulting from the crime.

Complaint: A preliminary charge made by the state that a person has committed a specified offense.

***Conditions of Release:** set by the judge during the Initial Appearance, this establishes the guidelines, by which the defendant must abide; frequently includes the order not to have contact with the victim(s) in the case.

Confidentiality: A requirement that to serve the interests of justice, certain facts about a proceeding or nature of a proceeding be withheld from public discussion or scrutiny.

Contempt of court: An action determined by the court to have attacked or undermined the court's integrity. Examples include refusing to obey a court order or failing to pay a fine.

Continuance: A delay or postponement of a court hearing. A case can be continued for good cause, such as illness or witness availability, or by mutual agreement between the prosecution and defense.

Conviction: A judgment of the court based either on the decision of a jury or judge, that the defendant is guilty of the crime for which he or she was tried.

Corroborating witness: A person who can give information that supports the statements made by either the victim/witness or the accused.

Count: Each separate offense listed in a complaint, information, or indictment accusing a person of committing a crime.

****Court** means all state, county and municipal courts in this state.

Crime: A violation of the law of a state or other jurisdiction.

****Crime victim advocate** means a person who is employed or authorized by a public or private entity to provide counseling, treatment or other supportive assistance to crime victims.

Criminal: 1) A person who has been convicted by a court of committing a crime. 2) An adjective describing certain acts or people involved in or relating to a crime, for example, a criminal proceeding or criminal court.

Criminal justice system: The entire network of government agencies charged with law enforcement, prosecution, defense, trial, and the punishment and supervision of those arrested and/or convicted of having violated the criminal law in a state or jurisdiction.

**** Criminal offense** means conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense or a violation of a local criminal ordinance has occurred:

****Criminal proceeding** means any hearing, argument or other matter that is scheduled by and held before a trial court but does not include any deposition, lineup, grand jury proceeding or other matter that is not held in the presence of the court.

Criminal trial: A judicial proceeding before a court to determine the guilt of a party charged with a crime.

Cross examination: The questioning of a witness by an opposing party, i.e., the prosecution or defense counsel.

****Custodial agency** means any law enforcement officer or agency, a sheriff or municipal jailer, the state department of corrections or a secure mental health facility that has custody of a person who is arrested or in custody for a criminal offense.

Defendant: A person who has been formally charged by a court with committing a specific crime.

Defense counsel: The lawyer who represents the defendant in a legal proceeding. Under the Sixth Amendment of the U.S. Constitution, all persons accused of a crime have a right to counsel (i.e., a lawyer). Also sometimes referred to as the defense attorney.

****Delinquency proceeding** means any hearing, argument or other matter that is scheduled or held by a juvenile court judge, commissioner or hearing officer and that relates to an alleged or adjudicated delinquent offense.

****Delinquent** means a child who is adjudicated to have committed a delinquent act.

****Delinquent act** means an act to which this article applies pursuant to section 8-381.

Deposition: The sworn testimony of a witness taken outside of court in the presence of the attorneys for the prosecution and defense. A deposition can be used at trial to impeach or discredit a witness's testimony or can be read to a jury if the witness is unavailable. In a civil case, depositions are used to establish the facts of the case prior to trial or settlement.

****Detention hearing** means the accused's initial appearance before the court to determine release before adjudication.

Dismissal: A decision by a judge to end a case for legal or other reasons. A dismissal may be with prejudice, meaning it can never be filed again, or without prejudice, leaving open the possibility of bringing the suit again if the defendant does not follow through on the terms of the settlement.

***Diversion Program:** offered in misdemeanor cases, this allows the defendant the opportunity to attend a court-approved program rather than jail. If the defendant completes the Diversion Program, the charges are dropped.

Docket: Brief notes, usually by the court clerk, stating what action was taken that day in court. The formal record maintained in brief of the court proceedings. The "trial docket" sometimes refers to the list of cases to be tried on any given day, or in a specified period of time.

Due process: A fundamental principle of fairness in all legal matters, both civil and criminal, especially in the courts. Due process requires that all legal procedures set by statute and court practice, including notice of rights, must be followed for each individual so that no prejudicial or unequal treatment will result.

Enforce: To put into execution; to cause to take effect or to make effective; to compel obedience to a law, rule, or order. To enforce a victim's right is to make a right of a victim a reality in practice.

Evidence: Every type of proof, including oral testimony of witnesses, documents, public records, objects, photographs, and depositions used to corroborate the statements made by the victim, the accused, or other witnesses, or to otherwise establish one's case.

Exercise: To utilize or make use of. By exercising a right, the holder brings that right into play.

Felony: A serious crime potentially punishable by a state or federal prison term of more than 1 year.

Final disposition: A court's conclusive determination of a lawsuit or criminal charge that settles the issues and rights of all the parties in interest.

****Final disposition** (referring to Juvenile defendants) means the ultimate termination of the delinquency proceeding by a court, including dismissal, acquittal, transfer to adult court or imposition of a disposition after an adjudication for a delinquent offense.

Grand jury: A collection of citizens called to serve on a jury whose duty it is to examine the evidence supporting charges alleged by law enforcement and/or the prosecutor and to determine if the charges are sufficient to warrant a subsequent criminal trial.

Grand jury hearing: A hearing during which the grand jury examines the evidence supporting charges alleged by law enforcement and/or the prosecutor, to determine if the charges are sufficient to warrant a subsequent criminal trial.

Guilty: A verdict of a judge or jury that a person accused of committing a crime did, indeed, commit that crime.

Habeas corpus: A legal action by which detainees can challenge the lawfulness of their imprisonment. A "writ of habeas corpus" can be employed procedurally in federal district courts to challenge the constitutionality of a state court conviction, but does not function to determine the prisoner's guilt or innocence.

Hearing: A legal proceeding in which arguments, witnesses, and/or evidence are heard by a judge or administrative body.

Hearsay: Testimony of a witness that is not from his or her personal knowledge, but from what the witness has heard another person say.

****Immediate family** means a victim's spouse, parent, child, sibling, grandparent or lawful guardian.

Indictment: Formal charging document presented by the prosecution to a grand jury. The grand jury may then issue the indictment if it believes that the accusation, if proved, would lead to a conviction.

Information: Formal charging document issued by a prosecuting attorney with no grand jury involvement.

***Initial Appearance:** a court hearing held within 24 hours of a person's arrest at which time a judge determines if the person may be released on his/her own recognizance (OR) or by bond and setting a time for a preliminary hearing in felony cases or arraignment in misdemeanor cases.

Injunction: An order issued by a court mandating someone to do something or prohibiting some act. An injunction is generally issued only after a court hearing in which both parties are given an opportunity to convince the judge why the injunction should or should not be granted.

Jail: The local facility where persons in lawful custody are held. Defendants awaiting trial and defendants convicted of lesser crimes are held in jail, as opposed to prison.

Judicial officer or judge: An officer of the court who determines causes between parties or renders decisions in a judicial capacity. The judge generally decides questions of law as opposed to questions of fact which are determined by a jury. However, in cases where a jury trial is waived, the judge would also act as the fact-finder.

Jury: A panel of citizens selected by the prosecution, defense, and judge, and sworn to determine certain facts by listening to testimony in order to decide whether the accused is guilty or not.

Hung jury: A jury whose members cannot agree whether the accused is guilty or not guilty.

****Juvenile defendant** means a juvenile against whom a petition is filed seeking to have the juvenile adjudicated delinquent.

****Lawful representative** means a person who is designated by the victim or appointed by the court and who will act in the best interests of the victim.

Misdemeanor: A crime that is less serious than a felony and for which the punishment can be imprisonment for 1 year or less, usually in a jail or other local facility, and/or a fine.

Mistrial: The termination of a trial before its normal conclusion or a finding that a trial is invalid because of a procedural error. A mistrial may result when a jury is deadlocked and cannot reach a verdict after lengthy deliberation (a "hung jury"). In the case of a mistrial, a new trial may be held.

Motion: A verbal or written request made by the prosecutor or defense attorney before, during, or after a trial, which the court responds to by issuing a rule or an order.

No contact order: An order forbidding the alleged or convicted offender to have any contact with the victim, other people connected to the victim, or witnesses, or to act in a way contrary to those people's interests.

Nolo contendere: A defendant's formal answer in court to the charges in which the defendant states that he/she does not contest the charges. The nolo contendere plea is not an admission of guilt, but carries the same legal consequences as a guilty plea.

Not guilty: A verdict by a judge or jury that a person accused of a crime did not commit it, or that not enough evidence exists to prove beyond a reasonable doubt that the accused committed the crime.

Notice: An official means of providing information, in oral or written form, to an identified party regarding his/her rights or interests (e.g., a letter stating the date, time, and location of a parole hearing; a telephone call informing a victim about the outcome of a sentencing hearing; or an automated telephone call informing the victim of the escape of their accused offender).

Objection: A protest or argument made concerning the activity of the other party (i.e., prosecution or defense counsel) in court. The judge can "overrule" or "sustain" an objection.

***Own Recognizance:** a judge may allow a person accused of a crime with sufficient ties to the community to ensure that he/she will return for future court dates to be released from custody without posting bond (also called **Personal Recognizance**).

Pardon: An official release from responsibility and consequences for a crime, usually granted by the chief executive of a government.

Parole: Release of a convicted offender from imprisonment, but not from legal custody and supervision by the corrections system. Persons under parole supervision, "parolees," are subject to conditions of supervision that are designed to reduce recidivism and promote victim and public safety. Parolees generally are supervised by a parole officer or agent.

Parole revocation: The termination of parole and the return to custody (jail or prison) of an offender under parole supervision when probable cause is found that the offender has violated the conditions of his or her parole, such as disobeying a protective order, possessing a weapon, using alcohol or other drugs, or committing a new offense.

***Plea agreement:** An agreement whereby the defense counsel and the prosecutor in a criminal case negotiate a mutually acceptable disposition of the case subject to court approval. A plea agreement may involve the defendant's plea of guilty to a lesser offense or a recommendation for a lighter sentence.

Plea agreement hearing: A hearing where the prosecutor and defense counsel submit a plea agreement to the court for its approval.

Plea Agreement (Plea Bargain): an agreement between the prosecutor and the defendant in which the defendant agrees to plead guilty or no contest to avoid a trial.

Guilty plea: An admission of guilt by the defendant in open court.

****Post adjudication release** means release on probation, intensive probation, work furlough, community supervision or home detention, release on conditional liberty pursuant to section 41-2818 by the department of juvenile corrections or any other permanent, conditional or temporary release from confinement, discharge or completion of commitment by the department of juvenile corrections, a sheriff, a municipal jail, a juvenile detention center, a residential treatment facility or a secure mental health facility.

****Post adjudication review hearing** means a hearing that is held in open court and that involves a request by the juvenile for review of a disposition.

****Post-arrest release** means the discharge of the accused from confinement on recognizance, bond or other condition.

Post-conviction hearing or proceedings: Legal proceedings relating to the post-conviction review of a case following conviction and direct appellate review. Typically, the grounds for relief under these proceedings are both limited and different from those on appeal of a conviction.

****Post-conviction release** means parole, work furlough, community supervision, probation if the court waived community supervision pursuant to section 13-603, home arrest or any other permanent, conditional or temporary discharge from confinement in the custody of the state department of corrections or a sheriff or from confinement in a municipal jail or a secure mental health facility.

****Post-conviction relief proceeding** means a contested argument or evidentiary hearing that is held in open court and that involves a request for relief from a conviction or sentence.

Preliminary hearing: A legal proceeding before a judge in which arguments, witnesses, and/or evidence are presented to determine if there is sufficient probable cause to hold the accused for trial. It is sometimes called a probable cause hearing.

Pre-sentence investigation (PSI): The collection of information about the defendant's criminal history and personal background, and how the victim(s) were affected physically, financially, emotionally, and spiritually. The PSI is usually conducted by a probation officer after a plea or verdict of guilty, but before sentencing to enable the judge to impose a proper sentence by learning more about the defendant, as well as about the impact of the crime on the victim. Upon completion of the PSI, a pre-sentence investigation report is provided to the court.

Pre-trial release hearing: Any hearing to determine whether the defendant will be released from custody prior to the trial (i.e., bail or bond hearing).

Prison: State or federal facilities where persons convicted of the commission of a felony (or multiple felonies) are held. The state Department of Corrections (or similar title) oversees the management of prisons.

****Prisoner** means a person who has been convicted of a criminal offense against a victim and who has been sentenced to the custody of the sheriff, the state department of corrections, a municipal jail or a secure mental health facility.

***Probable cause:** The degree of proof needed to arrest and begin prosecution against a person suspected of committing a crime. The evidence must be such that a reasonable person would believe that this specific crime was committed, and that it is probable that the person being accused committed that crime.

Proceeding: An occurrence in form and manner of conducting business before a court or judicial officer (e.g., hearings, trials, conferences).

Pro se: A Latin term meaning "for self," applicable to someone who represents himself or herself without a lawyer in a court proceeding. Although the Constitution guarantees criminal defendants the right to an attorney, defendants may waive that right. In some cases, the court may require that an attorney be present to advise the defendant if he or she decides to seek advice.

Probation: Conditional freedom granted to an offender by the court after conviction or a guilty plea. The court may impose requirements for the offender's behavior, generally referred to as "conditions of probation." An offender is usually required to report periodically to the probation officer supervising his or her case. An offender who violates the conditions of his or her probation may face revocation of probation with the potential for jail or prison time.

Prosecutor: A lawyer employed by the government or elected by the people to represent the general public's interests in court proceedings against people accused of committing crimes.

Protective order: The generic term for an order issued by a court of appropriate jurisdiction forbidding a party from engaging in some proscribed activity. A protective order may be referred to in some jurisdictions as a stay away order, a no contact order, or a restraining order.

Recusal: An action taken by any court official, including a judge, to disqualify or withdraw him/herself from a case in which his/her impartiality might be questioned.

****Release** means no longer in the custody of the custodial agency and includes transfer from one custodial agency to another custodial agency.

Release hearing: A hearing to determine whether to grant, and on what basis to grant, an incarcerated or accused defendant limited, temporary, or permanent release (e.g., work release, temporary release for a family emergency, medical treatment, vocational training, or to attend legal proceedings).

Restitution: A court ordered condition of a sentence requiring a convicted offender to repay the victim money or services for the monetary losses that resulted from the crime committed by that offender.

****Rights** means any right granted to the victim by the laws of this state.

Sentence: The punishment imposed upon a person convicted of a crime. A sentence can include jail or prison time, fines, community service, restitution, a term of probation, or other punishment.

Sentence, concurrent: Sentences that run, or are served, at the same time.

Sentence, consecutive: Sentences that run, or are served, one after the other.

Statute: Any law passed by a state, U.S. territory, or federal legislative body.

Stay away order: An order from a court of appropriate jurisdiction forbidding a party in a legal action (criminal or civil) from having direct or indirect contact with another party. Violations are usually classified and enforced as contempt of court.

Subpoena: A court order requiring a person to appear in court on a specified day and time to give testimony. A subpoena may also include an order to produce documents or records. Failure to appear constitutes contempt of court.

Summons: A court order used to bring a person accused of a crime who is not in custody to court.

Testimony: Evidence given by a competent witness under oath, as distinguished from evidence derived from writings and other sources.

Transcript: The official record of proceedings of a trial or hearing.

Trial: A judicial examination, in accordance with the law of the land, of a cause, either civil or criminal, of issues between the parties, whether of law or fact, before a court that has proper jurisdiction.

****Victim** means a person against whom the criminal offense has been committed, including a minor, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

Victim impact statement: A written or verbal statement of a victim's views about the physical, financial, emotional, and spiritual impact of a crime on his or her life, and the lives of families and loved ones, which is offered to the court or other decision-making body mostly during sentencing or release consideration hearings. Victim impact statements may include the victim's opinion about the risk the accused or convicted defendant may pose if released, and/or the victim's recommendation of an appropriate sentence.

Voir dire: A procedure in which the prosecutor and defense attorney question prospective jurors to pick a jury.

Waiver: The voluntary surrender of a right, claim, or privilege.

Warrant: A court order directing a law enforcement officer to make an arrest, a search, or a seizure.