

LEGAL TERMINOLOGY

A

Access: This is a terminology found in the *Divorce Act* and refers to the parenting time allotted to the parent with whom the children do not reside.

Accused: A person who is charged with a crime, or is on trial for a crime

Acquittal: When a person accused of a crime is legally freed by a court, generally because there is not enough evidence to convince a judge or jury that the accused person committed the crime beyond a reasonable doubt

Act: A bill which has passed through various required legislative steps and become law

Action: A legal claim or proceeding brought by one party against another

Actus Reus: Latin term for the "guilty act or omission", which when proved beyond a reasonable doubt in combination with "guilty mind" (the mens rea, or the intent to commit the crime), produces criminal liability

Adjournment: A putting off or postponing of court proceedings

Adoption: A legal process where adoptive parents assume the legal obligations and rights of parents for a child who is not their biological child

Affidavit: A written, sworn statement of facts voluntarily made by a person under an oath or affirmation administered by another person authorized to do so by law

Affidavit of Service: Also known as a Proof of Service, an important document provided by a person who has delivered legal papers in action to prove the person had notice of the claim.

Affirmation: A solemn declaration to tell the truth. This is not sworn on a bible or other holy book.

Alternative Dispute Resolution: (ADR) Refers to any means of settling disputes outside of the courtroom. ADR includes negotiation, conciliation, mediation, and arbitration.

Arbitration: A proceeding in which a dispute is resolved by an impartial third person whose decision the parties to the dispute have agreed to be final and binding.

Collaborative Family Law: A process in which the parties and their lawyers agree to try to resolve disputed family law matters without going to the court

Mediation: A method of alternative dispute resolution (ADR) in which the parties to a legal action meet with a neutral third-party in an effort to settle the case. The third-party is called a mediator.

Amicus Curiae: A Latin term meaning "friend of the court". This is a person or group independent of the court case, who offers expert information relevant to the case or to the public interest, usually at the request of the court.

Annulment: A judgment by a court that a marriage is not a legal marriage. Such declaration means that the marriage never occurred.

Answer: A party's response to the other party's allegation or action in a court proceeding.

Appeal: A request to a higher court to review the decision of a lower court. There must be a legal reason to appeal (for example, the judge of the lower court made a mistake when applying the law to the case).

Appellant: A person who files or brings an appeal

Applicant: A person who files or makes an application

Apprehend: (1) To take into custody; to arrest by warrant or legal authority. (2) To remove children from the custody of their parents or other persons for their safety by child protection workers or police.

Arraignment: A court process where the accused is identified, charges against them are formally read, and he or she is asked to enter a plea of guilty or not guilty

Arrears: A sum of money that has not been paid or has only been paid in part at the time it was due

Arrest: The act of taking a person into custody by legal authority

Assessment: (1) General: The monetary amount at which an item is valued. (2) Criminal Law: To determine whether a person was suffering from a mental disorder at the time s/he committed an offence. (3) Civil Law: To determine whether a person has the mental capacity to manage her/his property, to make decisions regarding personal care, or to hire the services of a lawyer and to instruct the lawyer. (4) Family Law: To determine the ability and capacity of the parents to meet the needs of their children

Attorney: A person authorized to practice law and represent clients in a legal action.

B

Bail: Release of an arrested person on a promise that the person will appear before the court when directed to do so. The term also refers to money paid to secure such a promise.

Balance of Probabilities: A standard of proof required in a civil action to prove facts alleged by the parties. It refers to the rule that a fact will be considered as proven if evidence shows that it is more likely that the fact occurred than it did not.

Bankrupt: A person or organization declared in law to be unable to pay their outstanding debts

Bankruptcy: A legal proceeding involving a person or business that is unable to repay outstanding debts

Bar: (1) The legal profession; (2) The physical division of a courtroom between its working and public areas

Barrister: A barrister specializes in courtroom litigation. A solicitor specializes in advising the client and preparing legal documents at the office. In Canada, a lawyer has both functions, and is usually referred to as a "Barrister and Solicitor."

Bench: (1) The judge or judges of a court; (2) The seats occupied by the judges in the court

Beneficiary: A person who receives money or other benefits from an arrangement or a legal document such as a trust, will, or insurance policy

Best Interest of the Child: A legal evaluation by a judge of all the circumstances of a child in a family law matter to decide what would best protect and promote the child's physical, psychological, and emotional safety, well-being and growth

Beyond a Reasonable Doubt: The standard of proof required to convict a person who is accused of a crime. The Crown must show that the evidence is so complete and convincing that the judge/jury has no reasonable doubts regarding the guilt of the accused.

Bill: This is a proposed law put before a provincial legislature or the federal parliament for approval. A federal bill must be passed at all stages - first reading, second reading, committee stage and third reading - in both the House of Commons and the Senate before it can receive Royal Assent and become an act of parliament.

Binding: Imposing a legal or contractual obligation

Bond: A promise or obligation to the court

Breach: A violation of law, court order, obligation, or promise owed to a person or to the public

Burden of Proof: An obligation placed on the party bringing the action to bring facts and evidence to support their claim. This almost always lies with the plaintiff in a civil case, and the Crown (or public prosecutor) in a criminal case.

C

Case: A dispute between opposing parties to be resolved by a court, or by a legal process. It may be either civil or criminal.

Case Conference: A meeting between both sides, the lawyers (if any), and the judge to talk about how to handle the case or the settlement of a court proceeding

Case Law: Law developed by judges and tribunals through decisions in individual cases

Case Management: A court process that allows a judge to monitor and manage the progress of a court

case as it moves through the system

Cause of Action: A set of facts sufficient to justify a right to sue to obtain money, property, or enforcement of a right against another party.

Caveat: A Latin word that means “let him beware”. It is a formal warning by a legal document.

Certificate: A written document that is an official verification that a condition or requirement has or has not been met

Certify (a copy): A photocopy of a document that is signed and attested to as an accurate and complete reproduction of the original document by a public official

Charter: (1) *The Canadian Charter of Rights and Freedoms* is often simply referred to as the Charter. It guarantees some fundamental rights and freedoms to people living in Canada such as freedom of speech, freedom of religion and the right to life and personal liberty. (2) A formal document by which a sovereign or a government grants rights, powers, and privileges to a person, business, or the people.

Child: A minor or child in Canada is a person who is not an adult and is under the age of majority. Alberta, Manitoba, Ontario, Quebec, Saskatchewan, and Prince Edward Island have the age of majority set at 18, while in British Columbia, Yukon, Northwest Territories, Nunavut, Newfoundland, Nova Scotia, and New Brunswick, the age of majority is 19.

Child Abduction: The unauthorized removal of a child from the custody of the child's parents or legally appointed guardians. It is a criminal offence.

Child Abuse: A crime that encompasses a variety of behaviours involving physical, emotional, or sexual mistreatment or neglect of a child

Child in Need of Protection: Measures taken to protect children from harm, and ensure that their safety, security and best interests are met.

Child Support: A payment that a parent makes to contribute to the costs of raising her or his child. This is often ordered by the court.

Child Support Guidelines: Clear rules that courts use to set child support as well as tables that list the amount of child support the payor has to pay. These amounts are based on the payor's income and the number of children s/he must support. Each province has its own table. There are federal Child Support Guidelines that apply all over Canada.

Civil Law: (1) A body of law that describes private rights and remedies, and applies to disputes between individuals in such areas as contracts, property, and family law. (2) Law that deals with disputes between two individuals regarding matters such as property, family, employment etc. It is distinct from the criminal or public law.

Claims: Facts that give rise to a legally enforceable right or judicial action; a demand for relief.

Statement of Claim: An application to a court of law saying why a person is bringing a legal action against

someone and what s/he wants from that person

Cohabitation: Usually refers to an unmarried couple who live together as spouses on a long-term or permanent basis.

Cohabitation Agreement: A form of legal agreement between a couple who has chosen to live together (whether they are heterosexual or homosexual). Such a couple may be treated like a married couple in certain situations, for example, when applying for a mortgage or working out child support.

Collaborative Family Law: A legal process enabling couples who have decided to separate or end their marriage, to work with their lawyers and other professionals to achieve a settlement that best meets the specific needs of both parties and their children without going to the court

Commission: (1) A fee paid based on a percentage of sales made by an employee or agent; (2) The authority under which one person transacts business for another person; (3) A warrant or authority from the government or a court, which empowers the person named to execute official acts; (4) The act of doing or perpetrating a crime.

Common Law: Law developed by judges through decisions of courts and tribunals that decide individual cases. This is different from statute law, the laws passed by legislatures and Parliament.

Competence: Mental capacity of an individual to participate in legal proceedings or transactions, and the mental condition a person must have to be responsible for his or her decisions or acts

Complainant: A person who has a legal issue or complaint against another. A victim of a crime may be a complainant against the offender.

Conference: A meeting of the parties or their lawyers in a case for the purpose of trying to settle a matter

Case conference: A case conference is a meeting between a judge, the parties and the parties' lawyers to try to identify the issues that the parties can agree upon and the issues where there is disagreement. They also discuss methods to resolve the disputed issues.

Pre-trial conference: An informal meeting before trial among opposing lawyers and the judge. They discuss important procedural matters related to the case. They may try to simplify the issues, find if the dispute can be settled without going to trial, and if the case goes to trial, how many days of hearing will be required.

Confession: A statement by which an individual acknowledges his or her guilt in the commission of a crime

Consecutive Sentences: When a person is convicted of more than one offence and is sentenced to more than one term of imprisonment, s/he may be required to serve one sentence after another. This results in longer time in jail.

Concurrent Sentences: When a person is convicted of more than one offence and is sentenced to more than one term of imprisonment, s/he may serve all the sentences at one time. This results in lesser time in the jail.

Consent: Agreement or permission to do or allow something

Consent order: A court order that reflects an agreement between the parties to the dispute. It has the same effect as a court order and can be enforced by the court if anyone does not comply with it.

Contempt of Court: If a person displays disrespectful conduct towards a court of law and its officers, prevent the administration of justice or disobey a sentence of the court, they may be found to have committed an offence, and may be subject to fines and imprisonment.

Contest: To oppose or defend against an adverse claim or charge made in a court

Contract: A written or spoken agreement creating formal and legally binding obligations.. The basic elements of a contract are mutual consent, consideration, capacity of the parties, and legality of the contract.

Controlled Drugs and Substances Act: This is Canada's federal legislation to control harmful drugs and substances such as cocaine and marijuana.

Conviction: (1) A decision by a judge or jury that a person is guilty of a crime; (2) The court process by which a judge or jury finds someone guilty of an offence

Corollary Relief: A claim for spousal support, child support, custody and access in divorce proceedings in a court

Costs: Money that the court orders one party to pay to another for bringing or defending a court action, or to pay to the court for failure to follow the court's directions

Counsel: A lawyer who provides legal advice to or represents a particular client

Count: In a criminal case, each count is a statement of a different alleged crime

Court: A court is an institution with the authority to decide legal disputes between parties and carry out the administration of justice in civil, criminal, administrative and other matters in accordance with the law of the land

Supreme Court of Canada: The highest court of Canada and the final court of appeal in the Canadian justice system

Court of Appeal: The highest level of court in each province. It hears appeals from decisions made by a superior court of justice in that province.

Superior Court of Justice: Each province and territory has superior courts known by various names, including Superior Court of Justice, Supreme Court, and Court of Queen's Bench. In Alberta, the superior court is known as the Court of Queen's Bench. The superior courts have "inherent jurisdiction," which means that they can hear cases in any area except those that are specifically limited to another level of court. The superior courts try the most serious criminal and civil cases, including divorce cases and cases that involve large amounts of money. In Alberta, any matter in which the claim or value of the property involved exceeds \$ 50,000.00, may only be

decided by the Court of Queen's Bench. This court is a trial court for criminal, family and civil matters. It also deals with bankruptcy, estates and dependent adults matters. In Alberta, appeals from the Provincial Court are heard in the Court of Queen's Bench.

Family Court: Some provinces have unified family courts, which permit all aspects of family law to be dealt with in a single court. In Alberta, both the Court of Queen's Bench and the Provincial Court - Family Division, deal with family law matters.

Small Claims Court: The Small Claims Court is the civil division of the Provincial Court in Alberta. It decides disputes involving payment of money or the recovery of personal property under \$50,000. The rules and procedures for this court are simple and people can handle these proceedings themselves without help from a lawyer.

Creditor: A person to whom money, goods or services are owed by another person

Criminal Code of Canada: This is an Act of Parliament that defines most criminal offences and punishment for those offences throughout Canada. It also defines criminal procedures in Canada.

Criminal Law: The body of law developed under the Criminal Code of Canada. It deals with conduct considered so harmful to society as a whole that it must be prohibited by law, and prosecuted and punished by the government.

Criminal Record: Summary of an individual's criminal convictions

Cross-Examination: Questioning of a witness or accused person at a trial or hearing by the opposing party

Crown: (1) Monarch or the government; (2) A government lawyer who prosecutes criminal cases on behalf of the government

Crown Prosecutor: A lawyer who represents the Crown (the government), and commences and conducts criminal proceedings in a court against a person who is accused of a crime

Crown Prosecution: Court proceedings by a Crown Prosecutor against a person by charging that person with a crime and bringing her or him to a trial

Custody: (1) Criminal: Imprisonment of a person by a legal authority; (2) Family Law: Care of and decision-making rights and responsibilities about a child that a court may award to one or both parents when they separate or divorce

Joint Custody – When both parents have the right to make major decisions about the child's life, it is called joint custody. Joint custody does not mean that the child spends the same amount of time living with each parent. The child may have a primary residence with one parent and spend regular time with the other.

Shared Custody - A situation where a child spends at least 40% of time in the care of each parent, and both parents are involved in the decision-making about the child

Sole Custody – A situation where one parent has custody of the children. In this case the child resides with one parent who also has the responsibility and right to make decisions about important aspects of the child’s life, such as education, religion and welfare. The other parent may have the right to visit the child and spend time with her/him.

Split Custody – An arrangement where parents have more than one child together, and each parent has custody of one or more children. Courts try to not split up younger children from their siblings.

D

Damages: Money claimed by a party, or awarded by a court in a civil action to compensate for an injury or loss

Aggravated Damages: Damages awarded by a court to reflect the exceptional harm done to a plaintiff in a tort (civil wrong) action

General Damages: Damages for non-monetary losses suffered such as pain, suffering and inability to perform certain functions

Nominal Damages: Minimal money damages awarded to an individual in an action where the person has not suffered any substantial injury or loss for which s/he must be compensated

Non-Pecuniary Damages: Losses that cannot be exactly measured in monetary terms, such as compensation for pain and suffering

Pecuniary Damages: Losses that can be exactly measured in monetary terms such as medical bills for an injury

Punitive Damages: Damages exceeding simple compensation that are awarded to punish the wrong-doer for vindictive, malicious or harsh behaviour

Special damages: Economic losses such as loss of earnings, property damage and medical expenses

De Novo (Hearing): “New” in Latin, a hearing after a case has been heard and decided as if it was not previously heard and decided

Debtor: A person who owes money or other valuable things to another

Declaration: (1) Part of a judgment, decree, or order that declares rights or obligations of the parties to litigation; (2) the court’s opinion on a question of law

Defence: A response to deny a criminal charge or civil liability

Defendant: A party against whom relief is sought in a civil action or the accused in a criminal case

Defence Counsel: A lawyer defending someone who is charged with a crime or against whom a relief is sought in a civil action

Dependent: A person who relies on another for support, such as a child supported by her or his parents or infirm and old parents supported by their adult children or a disable person who requires a guardian

Deponent: A person who gives a statement under oath or affirmation. A person who makes an affidavit.

Deposition: A statement under oath or affirmation or an affidavit

Direct Evidence: Evidence (any matter of fact used to prove or disprove an issue in a case) in the form of testimony from a witness who actually saw, heard, or touched the subject of questioning

Direct Examination: The questioning of a witness in a trial by the party who called her or him.

Discharge: A release from a legal obligation. In criminal law, it means that the offender will not have a criminal record, and will be given an alternative sentence instead of imprisonment.

Absolute discharge: It means that though the accused is found guilty, no conviction is entered against her or him. Also, after a year, no information regarding her or his criminal record will be disclosed.

Conditional Discharge: It means that if the accused meets specific conditions imposed by the court, no conviction will be entered against her or him, and no information will be disclosed about the offence after 3 years from the day of the discharge order.

Disclosure: Release of documents and other information by one party to the other in a court proceeding

Discovery: Requiring a person in a civil proceeding to disclose information that is essential for the preparation of a case, and that is only within the knowledge or in the possession of the person being asked to provide information

Dismissal: A judge's decision to conclude or finish an action or lawsuit without the relief requested by the person who started the case

Disposition: Final determination of a lawsuit or criminal charge by the court

Diversion: Removal of a case from the formal justice system to a less formal process if certain conditions are met. The Crown Prosecutor may divert a case at a pre-charge or post-charge stage. Diversion programs are an alternative to prosecution, in which a person is required to do something outside of court (such as community service) in order to have a charge stayed or withdrawn by the Crown.

Division of Property: In family law, division of a couple's assets and financial liabilities on separation, divorce or death

Divorce: Legal termination or end of a marriage by a court

Docket: (1) An official court list of cases to be heard in a particular court room during that day; (2) A record of time that a lawyer spends on a client's matter

Domestic Violence: Any abusive, violent, coercive, forceful act or conduct or threat of such act or conduct by one member of a family against another. Intimate partner violence who live together or used to live together is often referred to as domestic violence.

Duress: Duress or coercion refers to a situation where a person performs or is prevented from performing an act under threat of violence or other pressure against the person

Duty Counsel: A lawyer who provides limited legal services, usually in criminal and family law matters to people who arrive at court without representation

E

Endorse: (1) Signing of a legal document; (2) To approve something; (3) An attachment to a document that amends or adds to it

Enforcement: The act of compelling observance of a law, rule, or court order

Equalization Payment: A process followed in division of property between married spouses. This is money paid by one spouse to the other so that they both get an equal share in the net assets they accumulated during their marriage.

Estate: All property that a person owns or has legal interest in. It is commonly used to refer to the property that belonged to a deceased person and is to be sold to pay their outstanding bills or given to their survivors

Evidence: Information, statements or other things presented in a legal proceeding to prove or disprove a fact

Direct Evidence: Direct proof of a fact; evidence in the form of testimony from a witness who actually saw, heard, or touched the subject of questioning

Expert Evidence: Admissible testimony by an expert relating to a professional, scientific, or technical subject

Hearsay evidence: The evidence of those who state not what they know themselves, but what they have heard from others. As a general rule, hearsay evidence of a fact is not admissible.

Ex Parte: A Latin term that means in the absence of the opposite party. It refers to those court proceedings where one of the parties has not been notified, or has been notified but does not appear.

Examination: The formal questioning of a witness in a trial

Exclusive Possession of the Matrimonial Home: A court order that allows one spouse to live in the home they shared while married, to the exclusion of the other spouse when there are safety concerns

Execute a Document: To sign a document

Exhibit: A document or thing produced as evidence in the Court

Expert: A person who has special knowledge and skills regarding a subject, and who is allowed by the court to express opinion on a matter or evidence to assist the judge

Extraordinary Expenses: The term is used with regard to the child support payment in family law. It refers to special expenses related to the care and support of a child.

F

Factum: Written summary of a litigant's position in a judicial proceeding stating relevant facts, law and brief arguments

Family Court: A branch of a court that deals only with family law matters. In Alberta, both the Provincial Court and Court of Queen's Bench have a Family Division.

Family Law: The body of Canadian Law dealing with family matters such as marriage, separation and divorce, child custody, access and contact, child and spousal support, division of matrimonial property and other such issues

Family Law Act: Alberta's *Family Law Act* is a provincial law that deals with family law matters such as guardianship and contact, paternity, child support, separation and other such issues. It does not deal with marriage, divorce, spousal support or division of matrimonial property. These matters are covered by the *Divorce Act*, which is a federal law.

Fees: Compensation paid for services. It includes court fees payable in a court proceeding and legal fees paid to a lawyer for services

Fiduciary: A person who has the obligation to act for the benefit of another under circumstances which require trust and good faith

Final Order: An order or judgment of the court that finally concludes a legal matter

Financial Statement: A formal record of the income, expenses, assets and debts and liabilities of a person, business or other entity

Fine: Monetary charges imposed upon individuals who have been convicted of a crime or a lesser offence. It may be imposed in civil courts as a remedy for contempt

G

Garnishee: (1) A process used to collect the debt; (2) the person or the entity other than the debtor who holds money or property that will be redirected from the debtor to the creditor to satisfy the debt

Garnishment: A legal process by which a person having a court order against a debtor may demand money from a third party who owes money to the debtor such as a bank or employer

Guardian/Guardian ad litem: A person lawfully invested with the power, and charged with the obligation of taking care of, and/or managing the property and rights of a person who, because of age, disability or other reasons is considered incapable of managing her or his own affairs

Guilty: The state of being responsible for the commission of an offence when a court convicts an accused of a crime, or when the accused admits the commission of a crime by pleading "guilty"

H

Hearing: A proceeding before a court or another decision-making body or office, such as a government agency

Hearsay Evidence: The evidence of those who state not what they know themselves, but what they have heard from others. As a general rule, hearsay evidence of a fact is not admissible.

Holograph Will: A Will entirely handwritten, dated and signed by the person making the Will (testator). A holograph will is valid in Alberta but is not considered valid in many other Canadian provinces.

Homicide: A charge of killing a human being. It includes charges of first-degree murder, second-degree murder, infanticide and manslaughter (unintentional killing). It is a serious criminal offence.

Hybrid Offence: A criminal offence for which the prosecutor has the option to try by summary conviction procedure or indictment. Summary conviction procedure is followed for trying summary conviction offences and indictment is followed for indictable offences.

I

Illegal: Contrary to or forbidden by law

Imprisonment: Detention in custody; to hold in prison

Imputed income: In a family law matter when a court is of opinion that a party has failed to disclose its accurate income for determination of child support amounts, the court may attribute an income to that party that may be more than her/his actual income. This is done to deter parents from intentionally reducing their income or intentionally remaining unemployed/underemployed to avoid paying child support.

In Camera: Latin for "in a chamber", it is a legal term that means in private. Court proceedings are generally open to the public. A proceeding is "in camera" when a judge excludes the public or/and media from the court room to protect the privacy of the litigants.

Incarceration: Confinement in a jail or prison; imprisonment

Indictable Offence: More serious criminal offences, which carry more severe punishment such as longer time in jail or a higher fine. The court proceeding for trying an accused charged with an indictable offence is more complex.

Indictment: A written accusation stating that the accused committed an indictable offence. Indictment is the form of a charge typically handled in a superior court (Court of Queen's Bench in Alberta).

Information: A statement that the accused has committed an offence, sworn by a peace officer/police officer. It is used in Provincial Court to start prosecution against the accused.

Injunction: A court order requiring a person to do or cease doing a specific action

Inquest: An inquiry by a Coroner or medical examiner into the cause of a violent death or a death that occurred under suspicious circumstances

Insolvency: Incapacity to pay debts when they become due

Interest Rate: A percentage of debt which a borrower pays to the lender for the use of money

Interim or Interlocutory Order: A court order intended to be of limited duration, usually just until the court has had an opportunity of hearing the full case and make a final order

Intestate: A person who dies without making a valid will

J

Joint Custody: A situation where both parents have the right to make major decisions about the child's life. Joint custody does not mean that the child spends the same amount of time living with each parent; the child may have a primary residence with one parent.

Joint Liability: Two or more persons sharing responsibility for a debt, claim or other legal obligation

Judge: A public officer who has education and training in law and who presides over a court of justice to determine legal matters.

Judgment: A decision of a court regarding the rights and liabilities of parties in a legal action or proceeding

Default Judgment: A judgment entered against a defendant who has failed to plead or defend against the plaintiff's claim, often by failing to appear at trial

Summary Judgment: A judgment entered by a court for one party and against another party summarily (without a full trial) because of the amount of existing evidence

Judgment Creditor: A party that is awarded money under a judgment against the opposite party

Judgment Debtor: A party who loses the case, and who, under a judgment, must pay money to the opposite party

Judicial Interim Release: Pre-trial release from custody of an individual accused of a crime; bail. The release is unconditional unless the prosecutor shows cause to impose certain conditions. A judicial interim release is usually not granted for certain serious criminal offences, for example, murder or treason

Jurisdiction: The authority of a court to hear a legal matter

Jury: A group of citizens randomly selected from the general population and brought together to assist the judge by deciding which version, in their opinion, constitutes 'the truth' when given different evidence by opposing parties

Justice: (1) a Judge in a court of law; (2) Principle of law that provides that every person must receive a fair hearing and her or his due from the justice system

Justice of the Peace: A judicial officer who has the authority to do specific judicial acts, such as issuing warrants, determining a bail application, and hearing trials for minor criminal offences.

L

Law: A system of rules that are enforced through government institutions to govern behaviour. Law consists of statutes or acts made by legislatures and Parliament, rules and regulations made by executive bodies and principles established by court decisions.

Lawyer: A person who has received education and training in law, and who has been licensed through a Law Society to give legal advice or to represent others in litigation

Leave: Permission from the judge to take some action in a lawsuit that requires an absence or delay

Legal Aid: An organization that is funded to provide free or inexpensive legal assistance to individuals who are financially unable to afford the services of a lawyer at full market rate

Legislation: Written laws passed by a legislature. These are also known as statutes or acts

Liability: Any legal obligation for which a person is responsible

Absolute Liability: Liability for an offence where no defence is available. In such cases, a person is held liable because s/he committed a prohibited act or omission even if such commission is unintentional or negligent.

Joint liability: A situation where two or more parties share responsibility for an event or

act/omission that results in damage to another party

Limited Liability: Responsibility that is limited by law or contract of the parties. For example, financial liability of partners in a business partnership may be restricted to the amount of money invested by them in the business.

Several Liability: Individual liability of a person separate from others

Strict Liability: Responsibility of an individual because a certain prohibited act or omission occurred. Unlike an absolute liability offence, the defenses of absence of intention and negligence are available to some extent in case of a strict liability offence.

Vicarious liability: It arises when one party is held accountable for the actions of another. Generally, this relates to an employer's responsibility for acts of an employee done during the course of employment.

Limitation Period: Period of time within which a party must bring a claim or start a court action or they will lose their right to do so

Litigation: Legal proceedings, which are not criminal, before a court or tribunal

M

Master: A special official appointed by a court to assist it, typically by making findings or rulings in matters specified by the court or legislation

Matrimonial Home: A dwelling occupied by married spouses as their family residence after marriage. Such a property may be owned, leased or rented by one or both of the spouses

Mediation: A form of alternative dispute resolution (ADR) in which the parties to a lawsuit meet with a neutral third-party in an effort to resolve the dispute. The third-party is called a mediator

Mediator: One who intervenes between two contending parties with their consent for the purpose of assisting them in settling their differences

Mens Rea: Generally, there are two basic elements of an offence – criminal intention and wrongful act or omission. *Mens rea* refers to criminal intent, which is also known as guilty mind.

Mentally Incapable: In law a person is considered mentally incapable when s/he lacks mental capacity to understand relevant information as well as the nature and consequences of her/his acts or omissions.

Minor: A young individual who is under the legal age of majority. Alberta, Manitoba, Ontario, Quebec, Saskatchewan, and Prince Edward Island have the age of majority set at 18, while in British Columbia, Yukon, Northwest Territories, Nunavut, Newfoundland, Nova Scotia, and New Brunswick, the age of majority is 19.

Minutes of Settlement: A document that contains the terms of a settlement between the parties to a legal dispute and is signed by them. The parties may file this document with the court to obtain either a consent order or an order approving such settlement.

Misrepresentation: A fraudulent, negligent, or incomplete statement, or misstatement of a material fact

Mitigation: Legal obligation of a person, who sues another for damages, to minimize those damages by taking reasonable steps

Motion or Application: A formal request made to a judge for an order or judgment

N

Neglect: (1) A failure of duty to take care; (2) a form of child abuse where a child's parent/guardian is unwilling or unable to provide them with proper care and support

Negligence: A failure to exercise the care that a reasonable person would exercise in like circumstances

No Contact Order: An order to prohibit a person from directly or indirectly, physically or verbally contacting another person. It is a type of restraining order.

Nominal Damages: Minimal money damages awarded to an individual in an action where the person has not suffered any substantial injury or loss for which he or she must be compensated

Non-Pecuniary Damages: Damages that are not readily quantifiable or can't be exactly valued in money, such as compensation for pain and suffering

Notary/ Notary Public: A person who has legal authority to prepare, attest and certify, by her/his hand and official seal, certain classes of documents, in order to give them authority and authenticity

Notice: A legal notification or warning that is delivered in a written format or through a formal announcement

O

Oath: A religious or solemn affirmation to tell the truth or to take a certain action

Offence: An act or omission that is prohibited by law

Hybrid Offence: A criminal offence, which can be tried, at the option of the prosecutor, as a summary conviction offence or as an indictable offence

Indictable Offence: More serious offences that have greater penalties

Quasi-Criminal Offence: Non-criminal code offences that contravene regulations of federal, provincial or local government statutes

Regulatory Offence: An act or omission that is not inherently immoral or wrong but is illegal because it is prohibited by legislation. Some examples of regulatory offenses are exceeding the speed limit, public intoxication, and hunting, fishing, or driving without the appropriate license.

Summary Conviction Offence: Less serious offences than indictable offences because they are punishable by shorter prison sentences and smaller fines. The maximum penalty for a summary conviction offence is a sentence of 6 months of imprisonment, a fine of \$5,000, or both.

Omission: A failure to act; when a person is bound to do an act but s/he omits to do it or deliberately neglects to do it

Order: A formal written direction given by a member of the judiciary; a court decision

Final Order: An order or judgment of the Court that finally decides the rights and liabilities of the parties

Interim or Interlocutory Order: A temporary court order, intended to be of limited duration, usually just until the court has had an opportunity of hearing the full case and make a final order.

Probation Order: An order by a magistrate or judge providing that the offender, who is sentenced to imprisonment, be released from confinement but must still be supervised by an officer of the court until the expiry of that sentence

Restraining Order: A court order restricting a person from doing something. An example of a restraining order in a family law matter is an order prohibiting a person from harassing or communicating with her or his spouse or children, or an order stopping the spouses from disposing of their property when a matter regarding division of matrimonial property is pending before the court

Restitution Order: A court order that requires a convicted offender to compensate the victim by return, repair or replacement of property that was lost or damaged as a result of the crime

Support Order: An order that requires a person to pay a fixed sum of money by way of financial support for a specific period of time, to his/her spouse or partner and/or children

Temporary Order: A court order that is effective for a temporary period until a final order is made

P

Pardon: A process whereby the criminal record of a convicted offender, who has completed the sentence, may be removed from the Canadian Police Information Centre, and may not be disclosed when there is a criminal record check for employment or other purposes

Parenting Plan: A written agreement between parents that explains their plan for taking care of the children after their separation

Parole: Conditional release of prisoners before they complete their full sentence of imprisonment. The prisoners must follow the conditions of their release and must be supervised by a parole officer.

Party: A person taking part in a transaction or contract; a person directly involved in a legal action.

Payor: A person who pays or is obliged to pay money to another under a court order or an agreement.

Peace Bond: An order from a criminal court that requires a person to keep the peace and be on good behaviour for a specific period of time

Peace Officer: An officer who works to uphold and enforce certain laws and regulations in Alberta and is empowered to make arrests for that purpose; a police officer

Perjury: A crime that occurs when an individual intentionally makes a false statement after s/he has taken an oath or made a solemn affirmation to tell the truth

Plaintiff: A person who sues or starts a court action against another

Plea: An accused person's formal reply in a criminal court, to a charge by the crown prosecutor that s/he has committed an offence. The accused may plead "guilty" by admitting that s/he has committed the offence or may plead "not guilty" by denying that s/he has committed the offence

Plea Bargain: Negotiations between the accused person (usually represented by their lawyer) and the crown prosecutor in which the prosecutor offers to recommend to the court a less severe sentence in exchange for the accused's admission of guilt. Any such negotiation must be approved by the court.

Pleading: Written statements of facts and law that parties to a law suit submit to the court in support of their claim or defence to a claim

Power of Attorney: (1) When the owner of a property authorizes another person to make decisions regarding that property, such authority is called "power of attorney"; (2) A legal document in which a person gives another the power to act on their behalf

Precedent: A court decision that is cited as an authority to resolve similar questions of law in later cases

Preliminary Inquiry: A hearing held by a Provincial Court to determine whether the prosecution has sufficient evidence for the trial of an accused person for an alleged offence. A preliminary inquiry is required only in case of an indictable offence.

Pre-Sentence Report: A report about an offender's personal history. The judge considers this report prior to deciding the sentence for a convicted offender.

Pre-Trial Conference: An informal meeting among parties, their counsel and the judge before the trial. The purpose of this meeting is to first consider the possibility of resolving the dispute. If there is no possibility for resolution and parties decide to go to trial, then the focus is on the preparation for the trial. The participants try to narrow down the disputed issues, discuss liabilities and rights of the parties and estimate the duration of the trial.

Prima Facie: A Latin term meaning “at first sight”. In law, this is used to describe something that is sufficient to establish a fact or raise a presumption unless it is disproved (eg. Prima facie evidence is required so a judge does not dismiss a case).

Pro-Bono Services: Latin phrase for professional work undertaken voluntarily and without fee for an individual or a group of people as a public service

Probate: A document by a court that certifies that a Will has been proven to be valid and last Will of the deceased, and gives the person appointed in the Will as executor has the legal authority to execute the Will by administering the estate of the deceased

Probation Order: An order by a magistrate or judge that allows an offender to be released from custody but remain under the court’s supervision.

Proceeding: A process or action in a court or tribunal that is initiated to obtain legal remedies or enforce a law

Prohibition: A legal restriction against use of something (such as drugs) or against certain conduct (such as being around children)

Prohibition Order: A legal order that prohibits someone from doing something

Writ of Prohibition: An order of a superior court directing a lower court or tribunal to stop hearing or determining a matter before it because it does not have legal authority (jurisdiction) to do so. This is a rarely used remedy.

Property: A bundle of rights and interests in something that can be owned, possessed and used

Real Property: Land and all things that are attached to it such as buildings and trees

Personal Property: Anything that is not real property is personal property such as cars, jewelry, cash etc. Personal property can also be called “chattels”.

Prosecute: To bring or administer judicial proceedings against a person accused of a crime

Prosecution: A criminal court proceeding against a person accused of a crime

Prosecutor: A lawyer who is appointed by the government to prosecute a person accused of a crime. As the prosecutor represents the government, s/he is called a Crown Prosecutor.

Punitive Damages: Damages exceeding simple compensation and awarded to punish the wrongdoer

Q

Quash: To annul or make void (e.g. a decision)

R

R v. (name of the defendant) / The Queen v (name of the defendant): In criminal proceedings, the state is the prosecuting party and is referred to in court decisions as the letter “R”. R stands for Rex (King) or Regina (Queen), as the current monarch is technically the head of the Canadian government. The Letter “v” stands for versus the defendant.

Recipient: In family law matters, a person who receives or is entitled to receive money or financial support under a court order or an agreement

Reciprocating Jurisdiction: Provinces and countries that have a mutual agreement to recognize and enforce in their jurisdiction support orders and agreements made in other jurisdictions

Recognizance: (1) A form that sets out terms and conditions of release on bail or a peace bond; (2) An acknowledgment by a person posting a bond that money is owed to the court if conditions of the bond are not fulfilled (for example, if they do not appear)

Registrar: An officer who has the responsibility to run the administration of the court. Such responsibility usually includes issuing and filing court documents and maintaining the court records.

Regulation: Rules made by government or governmental agencies at all levels - municipal, state and federal - under the authority delegated to them by legislation. Regulations are enforceable as law.

Relief: Generic term for any remedies that a party to a legal action may ask for and the court may grant

Remand: (1) To send back a case to a lower court from which it was appealed, with instructions as to what further actions should be taken; (2) To send back a prisoner or accused person into custody to await trial or further investigation.

Remedy: (1) To enforce a right or to obtain compensation for a wrong; (2) Relief

Reply: An answer or response to a claim

Rescind: Where both parties to a contract mutually declare it null and void, having no force and effect. Where only one party rescinds, it is called a “breach”.

Respondent: Party that replies or responds to a claim filed in a court against her or him by a plaintiff

Review Board (Criminal Code): A tribunal of experts in each province. The Review Board reviews and oversees dispositions concerning an accused who, because of a mental illness or disability, has been found Not Criminally Responsible or Unfit to Stand Trial for an offence

S

Seal: (1) An impression upon wax or some other substance capable of being imprinted in a document; (2) A seal affixed to a document by a Notary Public to prove its authenticity and accuracy; (3) An imprint affixed to a document as signature of a corporation or other legal entity

Search Warrant: A court order authorizing a law enforcement officer to enter and search a place or search a person to seize an evidence of a crime or an intended crime

Security: Something that secures the fulfillment of an obligation or law

Security for Costs: Payment or deposit of money into court by a party to a legal action so that it may be used to pay such costs as may be ordered by the court to the opposite party who wins the case

Seizure: An act of taking property without consent and against the will of the owner or possessor under a court order or law by a law enforcement or other public officer

Sentence: Punishment given to a person convicted of a crime

Conditional Sentence: A judge's order that a convicted person serve a sentence of imprisonment (of less than two years) while residing in the community subject to certain conditions and supervision by a court officer

Consecutive Sentences: Sentences that run one after the other in a case where there are more than one sentences

Concurrent Sentences: Sentences that are served at the same time in a case where there are more than one sentences

Fine: Monetary charges imposed upon individuals convicted of a crime or an offence

Imprisonment: Incarceration; confinement in a jail or prison

Intermittent sentence: A sentence of imprisonment that is served in intervals (usually on weekends) over a period of time. Under the Criminal Code, a judge can only impose an intermittent sentence if the term of imprisonment is ninety days or less. Usually, an intermittent sentence is given by the court to allow the convicted offender to continue with her or his employment or schooling.

Probation: An order imposed by a magistrate or judge under which a convicted offender is released from confinement but is still under the court's supervision.

Restitution: A court order that directs the wrongdoer to return to the owner, property or the monetary value of the lost or damaged property, or pay the cost of repair or replacement of damaged property, or compensate for lost income.

Separation: Spouses living separate and apart with at least one of them wanting to end the relationship

Separation Agreement: An agreement between the spouses that may lay down each spouse's rights and responsibilities regarding child custody and access, child and spousal support and may also address division of matrimonial property between spouses on separation

Several Liability: Situations where the parties are individually liable for their acts or omissions

Sheriff: Court officers who are responsible for enforcement of court orders, management and transport of prisoners to the court and security of the court

Sine die: A Latin term, meaning adjourning a court proceeding without fixing a day for next hearing

Solicitor: A lawyer that restricts her or his practice to the giving of legal advice and preparation of formal legal documents, and does not normally conduct proceedings in a court

Solicitor-Client Privilege: A right of the client that any communication between the client and the lawyer relating to the provision of the legal services to the client be kept strictly confidential

Special damages: Damages awarded to a person to compensate for quantifiable monetary loss caused to her or him by wrongful act of another, for example, loss of earnings, property damage, and any out of pocket expenses such as medical bills

Special Expenses: In family law matters, extraordinary expenses related to the care of a child such as expenses for extracurricular activities, counseling, orthodontics, eye-care and other such items

Specific Performance: A remedy in the event of breach of contract where the Court orders a party found in breach of her or his contractual obligations to perform their specific duty as set out in the contract

Spousal Support: Financial support to a former spouse to help her or him with living expenses. Spousal support may be paid under an agreement or a court order.

Standard of Proof: Level of proof required to establish an assertion or charge as true, in a civil or criminal court proceedings

Statement: An allegation or declaration of matters of fact

Stay of Proceedings: A suspension of court proceedings

Submission: A document that summarizes the relevant facts and law on behalf of a litigant, and is submitted to the court for its consideration

Subpoena: An order issued by a court authority to compel the attendance of a witness at a judicial proceeding

Summary Conviction Offence: Less serious offences than indictable offences because they are punishable by shorter prison sentences and smaller fines. The maximum penalty for a summary conviction offence is a sentence of 6 months of imprisonment, a fine of \$5,000, or both. The court procedure for trying a summary conviction offence is simpler as compared to that for trial of an indictable offence.

Summary Judgment: A judgment entered by a court for one party and against another party summarily, i.e., without a full trial

Summons (to witness): An order issued under the authority of a court, commanding a person who has information about a matter before the court, to appear in the court on a specific date to give testimony and to produce documents etc., in regard to that matter

Support: In family law matters, to provide financial support for maintenance of a child or a former spouse or partner

Child Support: Periodic monetary payments by a non-custodial parent to the custodial parent for the care of their child/ children where both parents are living separately.

T

Testament: A document that contains a statement of the author's wish as to how her or his property must be distributed or disposed of after death. This document is also known as a Will, and takes effect on the death of the author.

Testate: One who dies leaving a valid Will

Testator: One who makes a testament or a Will, especially one who dies and leaves a valid Will

Testimony: Evidence obtained from a witness who makes a solemn statement or declaration of a fact

Tort: Civil wrongs recognized by law as grounds for a legal action. The primary aim of tort law is to award compensation for the damages or injury suffered by a person because of the wrongful act of another.

Transcript: An official written record of what was said in testimony in a court proceeding

Trial: A formal judicial examination of issues of law or fact between parties by a court

Trier of Fact: A judge or jury (jurors) who hears testimony and determines facts in a trial

Trust: A legal obligation of a person who holds a property for the benefit of another

Trustee: A person who holds property for the benefit of another (beneficiary)

U

Uncontested: Not disputed or contested by the other party, or a case where all issues are agreed upon by both the parties

Undertaking: A written promise offered as security for the performance of a particular act required in a legal action

Undue Hardship: Special circumstances that partially or fully exempt a person from performance of a legal obligation. In Family law, the amount of child support can be reduced if the paying parent can prove to the court that paying the full amount is unreasonably financially difficult for her or him.

Unexecuted Warrant: A warrant that has not been executed by an officer

Unlawful: Contrary to law

V

Valuation Date: Date on which the net family property of the spouses is calculated for the purpose of evaluating its monetary value

Variation: A change to a court order or other legal document, made by the authority of a court

Vary: To modify or alter

Verdict: Decision of a judge or jury after the trial of a case.

Vexatious Litigant: An individual who habitually or persistently engages in legal proceedings without having a legitimate claim that requires resolution

Vicarious liability: Liability of a person for the actions of another. Generally, this refers to an employer's responsibility for actions of an employee.

Victim Impact Statement: A written statement about how the crime has affected a victim. The court considers the statement when the offender is sentenced.

W

Warrant: A written order issued by a judicial officer or other authorized person commanding a law enforcement officer to arrest a suspect, to conduct a search of property for evidence of a crime and to bring persons who have ignored a subpoena to court

Arrest Warrant: A document issued by a judge or magistrate that authorizes the police to take a person into custody

Search warrant: A court order that gives a police officer permission to enter private property and search it for evidence of commission of a crime, the proceeds of crime, or property that the police suspect may be used to commit a crime

Withdrawal: To abandon or discontinue a claim or legal proceeding

Without Notice: One party may apply to the court to grant an order without notifying and hearing the other party

Witness: A person who has information about a matter before the court and gives testimony under oath or affirmation

Writ: A legal document issued by a judge or any other body with administrative or judicial authority, directing a person or authority to perform or cease performing a specified act

Y

Young Person: Children between 12 to 17 years of age

Youth Court (Youth Justice Court): A court that deals with young persons who are in conflict with law

Youth Criminal Justice Act (YCJA): A federal law that governs Canada's youth justice system
