

Family Law Terms to Know

The court has additional terms that you may find at: <http://www.utcourts.gov/howto/divorce/>

IVD: This refers to cases under Title IV-D of the Social Security Act. IV-D services are services required by federal and/or state law. IV-D cases include cases in which the child has received public assistance, but the child does not have to receive any public assistance in order for a parent to request IV-D services.

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

affidavit: a statement of facts that is written down. The person who signs it must swear to the truth of the information. The signature of the person must be notarized.

alimony: a court-ordered allowance that one spouse pays to the other spouse. It may also be called spousal support or maintenance.

alternative dispute resolution: Alternative Dispute Resolution (ADR) -Methods of resolving disputes outside of official court proceedings. These methods include mediation, arbitration, and conciliation.

annulment: A determination that a marriage never legally existed.

answer: The Respondent's written answers to the claims made by the Petitioner.

binding: To make the person responsible for.

child abuse: Any form of cruelty to a child's physical, moral or mental well being.

clerk of the court: Court official who keeps court records, files pleadings, motions, and judgments, and administers the oath to jurors and witnesses.

cohabitant: An emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:

- (a) is or was a spouse of the other party;
 - (b) is or was living as if a spouse of the other party;
 - (c) is related by blood or marriage to the other party;
 - (d) has one or more children in common with the other party;
 - (e) is the biological parent of the other party's unborn child; or
 - (f) resides or has resided in the same residence as the other party.
- (3) Notwithstanding Subsection (2), "cohabitant" does not include:

- (a) the relationship of natural parent, adoptive parent, or stepparent to a minor; or
- (b) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.

collaborative law: A system for settling cases in which counselors, financial advisors, mediators, lawyers and others work together to resolve conflict.

Commissioner: In domestic relations cases, a person who serves under the general supervision of the presiding judge. The Commissioner has the authority to: require the personal appearance of parties, require the parties to file financial disclosures, obtain child custody evaluations, make recommendations to the court, conduct evidentiary hearings, impose sanctions, issue temporary or ex parte orders, conduct settlement conferences and pretrials.

complaint: The document that starts a court case. It will state the reasons the court has jurisdiction and the relief that the Petitioner is seeking.

court reporter: A court official who records testimony and arguments, and transcribes it into a permanent record of all court proceedings.

custody: The right to or responsibility for a child's care and control, carrying with it the duty of providing food, shelter, medical care, education and discipline.

default: An order that is obtained when someone does not answer a complaint or petition in writing. The order gives the Petitioner the things asked for.

dependent child: A child who is homeless or without proper care through no fault of his parent, guardian, or custodian.

deposition: A witness's out-of-court testimony that is reduced to writing. The written document may later be used in court.

detention hearing: In Juvenile Court, a judicial hearing, usually held after the filing of a petition, to determine interim custody of a minor pending a judgment.

dissolution: Bringing a marriage to an end.

divorce education course: A course that is required for people who have children before their divorce will be final. For further information see http://courtslink.utcourts.gov/rules/ucja/ch04/4_907.htm

divorce: The legal end of a marriage by a court.

evidence: Testimony, records, documents, material objects, or other things presented at a trial to prove the existence or nonexistence of a fact.

ex parte: Something done by one party without the other party present.

exclusion of witnesses: An order of the court requiring all witnesses to remain outside the courtroom until each is called to testify, except the plaintiff or defendant. The witnesses are ordered not to discuss their testimony with each other and may be held in contempt if they violate the order.

exhibit: A paper, document or other article presented and offered into evidence in court during a trial or hearing to prove the facts of a case.

financial declaration: A document required in a domestic relations matter. Each party must provide information about their income, liabilities and assets.

fraud: An intentional perversion of truth; deceitful practice or device resorted to with intent to deprive another of property or other right.

garnishment: A court order to take part of a person's wages, before he gets them, and apply the amount taken to pay a debt owed to a creditor.

grounds for divorce: The legal reasons a divorce should be granted. The court puts one of the parties under oath to testify regarding the grounds.

guardian ad litem: A person appointed by the court to represent a minor.

hearsay: Second-hand evidence, generally consisting of a witness's testimony that he/she heard someone else say something.

impecuniosity: Without the financial resources to pay the costs of a court action.

in camera: In the judge's chambers.

income withholding: Having money taken from a paycheck for payment of an obligation.

interrogatories: Written questions given to the opposing party in a lawsuit as part of discovery.

irreconcilable differences: Persistent and unresolvable disagreements between spouses.

joint legal custody: Both parents share the legal right to make decisions for the child.

joint physical custody: Both parents share physical custody of the child.

legal separation: An arrangement where a husband and wife live apart from each other but remain married.

minute entry: A document created by the court clerk as a note of what occurred in court.

modification: A later court order that changes a prior order from the same court.

motion: A written or oral request to a court to make a ruling or enter an order.

motion for a temporary order: A motion requesting an order of the court that will be in place until the final order enters.

neglect: Failure of a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.

no-fault divorce - A kind of divorce in which the parties need not cast blame on one another for the failure of the marriage.

nunc pro tunc: An order of the court that is effective as of an earlier date.

order: A written direction or command delivered by a court.

order to show cause: An order of the court for the person to appear and explain why they should not be required to do something. An order to show cause in re contempt is used to require a person to come to court to explain why the court should not punish the person for failing to obey the order of the court.

parent-time: Time spent by the non-custodial parent with that parent's child.

parenting functions: Areas in which a parent makes decisions for a child. Parenting functions include:

(a) maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) attending to the daily needs of the child, such as feeding, clothing, physical care, grooming, supervision, health care, day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) attending to adequate education for the child, including remedial or other education essential to the best interest of the child;

(d) assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and family social and economic circumstances; and

(f) providing for the financial support of the child.

parenting plan: A plan for parenting a child that is included in a final order in a domestic matter. It shall include a determination of responsibilities of the parents in parenting functions.

party: The person who files a lawsuit, the person against whom the lawsuit is filed, or other persons or organizations who have the right to participate in the lawsuit.

petition: A written document that begins a lawsuit.

petition for conciliation: A petition filed for the purpose of preserving the marriage.

petitioner: The party who begins a lawsuit. The name will remain as the Petitioner throughout the case even if the other party later files an action in the same case.

pretrial conference: A meeting with the Commissioner or judge where the parties appear and discuss the issues. The purpose is to determine if the issues can be narrowed or if the parties can settle.

pro se: For himself; in his own behalf. One who does not retain a lawyer and appears for himself in court.

protective order: A court order limiting the contact the respondent can have with the petitioner.

protective supervision - A court order following a judgment on the ground of neglect or abuse, whereby the child is permitted to remain in his home, and supervision and assistance to correct the neglect or abuse is provided by the probation department or other agency designated by the court.

requests for admission: Questions asked by one party that require an admission or denial by the other party. Failure to answer may result in the court finding the information to be true.

res judicata: A rule of civil law that once a matter has been litigated and final judgment has been rendered by the trial court, the matter cannot be relitigated by the parties in the same court, or any other trial court. A court will use res judicata to deny reconsideration of a matter.

respondent: The person against whom a lawsuit is filed.

restraining order: A court order prohibiting or restricting a person from harassing, threatening, and sometimes even contacting or approaching another specified person.

sealed: A document that is closed to view except by court order.

service of process: Notifying a person that he or she has been named as a party to a lawsuit or has been accused of some offense. Process consists of a summons, citation or warrant, to which a copy of the complaint is attached. Subpoenas are court orders that, if properly served, compel the attendance of the witness in court.

stipulation : An agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial. It is not binding unless agreed to by the parties, and most stipulations must be in writing.

subpoena: An official order to appear in court (or at a deposition) at a specific time. Failure to obey a subpoena to appear in court is punishable as a contempt of court.

subpoena duces tecum: A special form of subpoena which commands a witness to produce certain documents or records in a trial or at a deposition.

summons: A writ or process which begins a lawsuit and which requires the respondent to answer in writing. The summons is served with a copy of the complaint or petition. It gives instructions regarding when and where the answer must be filed.

TANF: The letters stand for Temporary Assistance to Needy Families. These are the financial benefits received by families in need. It was previously known as AFDC.

termination of parental rights: A judicial proceeding freeing a child from all custody and control by parents, so others can adopt the child.

voluntary declaration of paternity: A legal document that is signed by both parents of a child who was born out of marriage and which establishes the paternity of the child. If the mother was married at the time of the conception or birth, the man to whom she was married must also sign.

waive: To give up a right or claim voluntarily

with prejudice: A dismissal "with prejudice" bars the right to bring or maintain another action on the same claim or cause.

without prejudice: A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

witness: One who testifies under oath to what he/she has seen, heard or otherwise observed.