

Glossary

A

ABSOLUTE OR UNCONDITIONAL PARDON	A pardon which frees the criminal without any condition whatever from reaches both the punishment prescribed for the offense and the guilt of the offender. It obliterates in legal contemplation of the offense itself. It restores the accused to his civil rights and remits the penalty imposed for the particular offense of which he was convicted in so far as it remains unpaid or unserved.
ACQUITTAL	A deliverance or setting free of a person from a criminal charge.
ADJUDICATE	To decide judicially.
AFFIDAVIT	A written, printed, or videotaped declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath.
AFFIRMATIVE DEFENSE	A defense to a charge of criminal activity, which places the burden of proof on the defendant. Examples of Affirmative Defenses include insanity, self-defense and intoxication.
ALLOCUTION	Presentence step in which the judge asks the defendant whether he has any legal cause to show why judgment should not be pronounced against him, or whether he would like to make statement on his behalf and present any information in mitigation of sentence. It permits defendants to speak in their own behalf in criminal cases prior to sentencing and to present any information in mitigation of punishment procedure.
APPELLANT	The party who appeals a case from a court to another court having appellate jurisdiction over the case being appealed.
APPELLATE JURISDICTION	The power vested in an appellate court to review and revise the judicial action of an inferior court, evidenced by an appellate order or an appealable judgment rendered by such court. Limits of appellate jurisdiction are governed by statutes or constitutions. For example, the Court of Appeals has appellate jurisdiction over criminal cases (except capital murder cases) tried in circuit courts.
APPELLEE	The party in a cause against whom an appeal is taken. Sometimes also called the "respondent."
ARRAIGN	Arraignment of an accused consists of calling upon him by name, reading to him the charges in the arrest documents, demanding of him whether he pleads guilty or not guilty or, in misdemeanors, nolo contendere, and entering his plea. This hearing may be combined with right to counsel hearing.

ATTORNEY-IN-FACT	A person, not necessarily a lawyer, to whom authority is given by another to act in his place. The authority to act as an Attorney-In-Fact is given by a document containing a power or letter of attorney.
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B

BAIL	The release of a person from legal custody by a written agreement (recognizance) that he shall appear at the time and place designated and submit himself to the jurisdiction of the court and observe the requirements set forth in the recognizance.
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BAILIFF	A court officer or attendant who has charge of a court session in the matter of keeping order, custody of the jury, and custody of prisoners while in the court.
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BENCH TRIAL	The deposition of a criminal or civil case solely by a judge without the use of a jury.
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BILL OF COST	A certified, itemized statement of the amount of costs in an action or suit.
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BILL OF INDICTMENT	A formal written document accusing a person or persons named of having committed a felony or misdemeanor, lawfully presented by the prosecuting attorney for their action upon it.
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BOND	A certificate or evidence of a debt with a sum fixed as a penalty, which contains a written agreement binding the parties to pay the penalties. It contains a condition, however, that the payment of the penalty may be avoided by the performance by some one or more of the parties of certain acts.
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C**CALENDAR**

The court schedule of the list of pending cases.

CAPIAS	A type of arrest document issued by the court charging the offender with a violation of a court order or court process or contempt of court.
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CHALLENGE FOR CAUSE	A request from a party to a judge that a certain prospective juror not be allowed to be a member of the jury because of specified causes or reasons which would legally justify such person not being allowed to serve as a juror in the case.
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COMMISSIONER IN CHANCERY	An officer of the court appointed to be a finder of fact in an equity suit. The Commissioner of Chancery will make a report to the Court, and the Court may follow the recommendation of the Commissioner or make a ruling on its own.
COMMON LAW	In general, it is a body of law that develops and derives through judicial decisions, as distinguished from legislative enactments. The "common law" also includes all the statutory and case law background of England and the American colonies before the American Revolution.
COMMON LAW OFFENSE	An offense, which is defined by common law rather than by statute.
CONCURRENT SENTENCE	A sentence imposed which is to be served at the same time as another sentence imposed earlier or at the same time.
CONSECUTIVE SENTENCE	Separate sentences (each additional to the others) imposed upon a defendant who has been convicted for several distinct offenses; one of such sentences being made to begin at the expiration of another.
CONTEMPT	Any act which is calculated to embarrass, hinder, or obstruct the court in administration of justice, or which is calculated to lessen its authority or its dignity.
CONTINUANCE	The adjournment or postponement of a session, hearing, trial, or other proceeding to a subsequent day or time; usually on the request or motion of one of the parties. Also the entry of a continuance made upon the record of the court, for the purpose of formally evidencing the postponement.
COSTS	(1) A pecuniary allowance, made to the successful party (and recoverable from the losing party), for his expenses in prosecuting or defending an action or a distinct proceeding within an action. Generally, "costs" do not include attorney fees unless such fees are by a statute classified as costs or are by statute allowed to be recovered as costs in the case. (2) Fees and charges required by law to be paid to the courts or some of their officers, the amount of which is fixed by statute; e.g. filing and service fees.
CUSTODY	The detainment of a person by virtue of lawful process or authority; actual imprisonment.

D

DEPOSITION	The testimony of a witness taken upon oral examination, after notice to the adverse party, not in open court, but in pursuance of a notice to take testimony issued by the parties wanting the deposition. The adverse party has the right to attend and cross-examine. Testimony is reduced to writing and duly authorized, and intended to be used in connection with the trial of an action in court.
DISCOVERY	Procedures by which one party to a lawsuit may obtain information relevant to the case which is held or know by the other party.
DISMISSAL	An order disposing of an action, suit, etc., without trial.
DOCKET	A record of all cases and actions scheduled to be heard in court, whether or not the matter is actually heard in a court on a particular day.
DOUBLE JEOPARDY	A second prosecution for the same offense and multiple punishments for the same offense. Double jeopardy is prohibited by the Fifth Amendment to the Constitution of the United State, which provided that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb."
DUE PROCESS	Law in its regular course of administration through courts of justice as now used, the term refers to the rights if an individual to a fair trial and to be free from certain forms of government intrusion. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individuals rights as those maxims prescribe for the class of case to which the one in question belongs. A course of legal proceedings according to those rules and principals which have been established in our systems of jurisprudence for the enforcement and protection of private rights. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, this is not due process of law.

E

ENCUMBRANCE TO PROPERTY	Binding claim or liability attached to real property. Encumbrances are generally liens which affect the title to the property or restrictions which affect the physical use of property, such as easements or encroachments.
EXHIBITS	An item of physical/tangible evidence which is to be or has been offered to the court for inspection.
EXPUNGEMENT OF RECORD	Process by which record of criminal conviction is destroyed or sealed after court order to do so as permitted by statute.
EXTRADITION	The surrender by one state to another state of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other state, which, being competent to try and punish him, demands the surrender.

F

FELONY	A crime punishable by death or confinement in the penitentiary. See Va Code § 18.2-10 for classification of felonies and the punishment for each classification.
FINAL ORDER	One which either terminates the action itself, or finally decides some matter litigated by the parties, or operates to divest some right; or one which completely disposes of the subject-matter and the rights of the parties.
FOREMAN	The presiding member of a grand or petit jury, who speaks or answers for the jury.

G

GRAND JURY	A jury of inquiry who are summoned and returned by the sheriff and whose duty is to receive complaints and accusations in criminal cases, hear the evidence adduced on the part of the state, and determine whether probable cause exists that a crime has been committed and whether an indictment (true bill) should be returned against one for such a crime. If the grand jury determines that probable cause does not exist, it returns a "no bill." It is an accusatory body and its function does not include a determination of guilt.
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H

HABEAS CORPUS

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

I

INDICTMENT

Technically called "A Bill of Indictment." It is an accusation in writing presented to a grand jury. To the court in which it is impaneled, charging that a person therein named has done some act, or been guilty of some omission, which by law is a public offense, punishable on indictment. An indictment is merely a charge which must be proved at trial beyond a reasonable doubt before defendant may be convicted.

INDIGENT

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

INFORMATION

An accusation exhibited against a person for some offense, without an indictment. An accusation in the nature of an indictment, from which it differs only in being presented by a competent public officer on his oath of office, instead of a grand jury on their oath. A written accusation made by a public prosecutor, without the intervention of a grand jury.

J

**JUDGMENT LIEN
DOCKET**

A list or docket of the judgments entered in a given court, methodically kept by the clerk or other proper officer, open to the public inspection, and intended to afford official notice to interested parties of the existence or lien of judgment.

JURISDICTION

The authority of a court or other governmental agency to adjudicate controversies brought before it. CAUTION: It is sometimes used to mean the county, city or town where something occurred, especially in describing venue.

JURY TRIAL

Trial of matter or cause before jury as opposed to trial before judge. In a jury trial, the jury decides issues of facts, but issues of law are decided by a judge.

L

LESSER INCLUDED OFFENSE	One which is composed of some, but not all elements of a greater offense and which does not have any element not included in greater offense so that it is impossible to commit greater offense without necessarily committing the lesser offense.
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M

MAGISTRATE	A judicial officer having by statute some, but not all, of the powers of a judge. These powers include the power to issue arrest process and to admit a defendant to bail.
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MANDATE	A precept or order issued upon the decision of an appeal or writ of error, directing action to be taken or disposition to be made of case, by inferior court. Official mode of communicating judgment of appellate court to lower court, directing action to be taken or disposition to be made of cause by trial court.
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MATERIAL WITNESS	In criminal trial, a witness whose testimony is crucial to either the defense or prosecution, he may be required to furnish bond for his appearance and, for want of surety, he may be confined until he testifies.
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MISDEMEANANT	A person guilty of a misdemeanor, one sentenced to punishment upon conviction of a misdemeanor.
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MISDEMEANOR	Offenses punishable by fine not exceeding \$2,500 or being jailed for a term not exceeding 12 months or a combination of fine and jail within these limits.
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MISTRIAL	An erroneous, invalid, or nugatory trial. A trial of an action which cannot stand in law because of disregard of some fundamental requisite before or during trial. A device used to halt trial proceedings when error is so prejudicial and fundamental that expenditure of further time and expense would be wasteful if not futile.
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MOTION (generally)	A request made to the judge by a litigant or other person connected with the case for a ruling or order.
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N

NOLLE PROSEQUI	A formal entry by the prosecuting officer in a criminal action, by which he declares that he "will no further prosecute" the case. It is the equivalent of a motion to dismiss without prejudice, permitting the prosecutor to refile the case at a later time.
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NOLO CONTENDERE	“I will not contest it.” The name of a plea in a criminal action, having the same legal effect as a plea of guilty, so far as regards all proceedings in the case, and on which the defendant may be sentenced, but which does not contain an admission of guilt.
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1. Knowledge of facts which would naturally lead an honest and prudent person to make inquiry, and does not necessarily mean knowledge of all the facts.
2. Information, and advise, or written warning, in more or less formal shape, intended to apprise a person of some proceeding in which his interests are involved, or informing him of some fact which it is his right to know and the duty of the notifying party to communicate.

NOTICE	A person has notice of a fact if he knows the fact, has reason to know it, should know, or has been given notification of it.
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Notice may be either (1) statutory, i.e., made so by legislative enactment; (2) actual, which brings the knowledge of fact directly home to the party; or (3) constructive. Constructive notice may be subdivided into: (a) Where there exists actual notice of matter, to which equity has added constructive notice of facts, which inquiry after such matter would have elicited; and (b) where there has been a designed abstinence from inquiry for the very purpose of escaping notice.

NOTICE OF APPEAL	A document giving notice of an intention to appeal.
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O

ORDINANCE	The enactments of the legislative body of a local government.
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ORIGINAL JURISDICTION	Jurisdiction in the first instance; jurisdiction to take cognizance of a cause at its inception, try it, and pass upon the law and facts.
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P

PEACE OFFICER	In general, any person who has been given authority to make arrests. Generally, a “peace officer” is a person designated by public authority to keep the peace and arrest persons guilty or suspected of crime and he is a conservator of the peace, which term is synonymous with the term “peace officer.” This term includes sheriffs and their deputies, member of the police force of cities, and other officers whose duty is to preserve the public peace.
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PEREMPTORY CHALLENGE	The right to challenge a juror without assigning or being required to assign, a reason for the challenge. Each party to an action, both civil or criminal, has a specified number of such challenges.
PETIT JURY	The ordinary jury for the trial of a civil or criminal action; so called to distinguish it from, the grand jury.
PETITION	A formal written application to a court requesting judicial action in a certain matter.
PLEA	Statement made by the defendant either as to his guilt or innocence to the charge made against him.
PLEA BARGAINING	The process whereby the accused and the prosecutor in a criminal case work out a mutually satisfactory disposition of the case subject to court approval. It usually involves the defendant's pleading guilty to a lesser offense or to only one or some of the counts of a multi-count indictment in return for a lighter sentence than that possible for the graver charge.
POWER OF ATTORNEY	An instrument in writing whereby one person, as principal, appoints another as his agent and confers authority to perform certain specified acts or kinds of acts on behalf of principal. An instrument authorizing another to act as one's agent or attorney. The agent is attorney in fact and his power is revoked on the death of the principal by operation of law. Such power may be either general (full) or special (limited).
PRELIMINARY HEARING	The hearing given to an accused which is held by a judge, to ascertain whether there is sufficient evidence (probable cause) to warrant the binding over of the accused on the felony charge to the circuit court for further proceedings.
PRESENTENCE REPORT	The report prepared from the presentence investigation, which is designed to assist the judge in passing sentence on a convicted defendant.
PRESENTMENT	The written notice taken by a grand jury of any offense, from their own knowledge or observation, without any bill of indictment laid before them at the suit of the government. A presentment is an accusation, initiated by the grand jury itself. A written accusation of crime made and returned by the grand jury upon its own initiative in the exercise of its lawful inquisitorial powers, is in the form of a bill of indictment.
PROBABLE CAUSE	A reasonable ground for belief in the existence of facts warranting the proceedings complained (e.g., probable cause to believe that a crime has been committed and the person accused may have committed it).

PROBATION	In modern criminal administration, allowing a person convicted of some offense to remain free under a suspension of a jail sentence during good behavior and generally under the supervision or guardianship of probation officer together with other restrictions as the court may impose.
PROCESS	Any means used by a court such as a "Capias to Show Cause" or "Witness Subpoena" to acquire or exercise its jurisdiction over a person or over specific property. Means whereby court compels appearance of defendant or property before it or a compliance with its demands which is completed with a notice served on an individual.
R	
RECORD	A written account of some act, court proceeding, transaction, or instrument, drawn up, under authority of law, by a proper officer, and designed to remain as a memorial or permanent evidence of the matters to which it relates. The act or fact of recording or being recorded; reduction to writing as evidence, also, the writing so made.
RECUSAL	The process by which a judge is disqualified on objection of either party (disqualifies himself or herself) from hearing a lawsuit because of self-interest, bias, or prejudice.
RESTITUTION	The act of making good or giving equivalent for any loss, damage or injury.
RULE OF SHOW CAUSE	A court ruling directing the recipient to appear and present to the court such reasons and considerations as one has to offer why the recipient should not be punished for violating a court order or legal process or for contempt of court.
S	
SATISFACTION	The discharge of an obligation by paying a party what is due to him or what is awarded to him, by the judgment of a court or otherwise.
SEARCH WARRANT	An order in writing, issued by a judicial officer, in the name of the state, directed to a sheriff, or other officer commanding him to conduct a search to aid an official investigation.

SERVICE	The exhibition or delivery of a writ, summons and complaint, criminal summons, notice, order, etc., by an authorized person, to a person who thereby officially notified of some action or proceeding in which he is concerned, and is thereby advised or warned of some action or step which he is commanded to take or to forbear.
SERVICE OF PROCESS	The service of writs, complaints, summonses, etc., signifies the delivering to or leaving them with the party to whom or with whom they ought to be delivered or left; and when they are so delivered, they are then said to have been served.
SET-OFF DEBT COLLECTION ACT	Allows a governmental agency as judgment creditor to set-off a judgment against a debtor's tax refund to satisfy the outstanding judgment or other debt.
SPEEDY TRIAL	A trial had as soon as prosecution, with reasonable diligence, can prepare for it; a trial according to fixed rules, free from capricious and oppressive delays, but the time within which it must be had to satisfy the constitutional guaranty depends on the circumstances and the time within which it must be had to satisfy the statutory limits are contained in the applicable statutes.
SPLIT SENTENCING	One where penalty of fine and imprisonment, as provided by statute, is imposed and imprisonment part is suspended and fine part enforced. It is also exemplified in a sentence by which the defendant serves some time and the balance of the sentence is suspended.
SUBPOENA	A process to cause a witness to appear and give testimony commanding him to appear before the court therein names at a time therein mentioned to testify for the party named under a penalty therein mentioned.
SUBPOENA DUCES TECUM	A process by which the court, at the instances of a party to an action, commands a person who has in his possession or control controversy, to produce it at or before the trial.
SUMMONS	A document notifying defendant that an action has been instituted against him and that he is required to answer to it at time and place named. It is delivered to him. It does not cause the defendant to be arrested prior to trial.
SURETY	One who undertakes to pay money or to do any other act in the event that his principal fails to perform as promised. In criminal cases, the accused is the principal.

SUSPENDED SENTENCE

The court decision postponing the imposition of sentence upon a convicted person or postponing the execution of a sentence that has been imposed, by the court. When the court suspends a sentence, it retain jurisdiction over the person, and may later set or execute a penalty. When a sentence is suspended the person is usually placed on probation. A violation of the conditions of probation may lead to revocation of probation and return to court for re-sentencing.

T**TERM DAY**

The first day of the period of time prescribed by law during which a court holds session. The docket is set on this day for the session of not set at some other time(s).

TRANSCRIPT

An official copy of the record of proceedings in a trial or hearing. Word-for-word typing of everything that was said "on the record" during the trial. The stenographer (court reporter) types this transcription which is paid for by the parties requesting it.

TRIAL DE NOVO

A new trial conducted in an appellate court in which the whole case is retired as if no trial whatever had been had in the court below.

TRUE BILL

The endorsement made by a grand jury upon a bill of indictment, when they find it sustained by the evidence laid before them, and are satisfied of the truth of the accusation. The endorsement made by a grand jury when they find sufficient evidence to warrant a criminal charge. An indictment.

V**VENIREMAN**

A member of a panel of jurors; a prospective juror. Before becoming a juror a person must pass voir dire examination.

VENUE

"Venue" designates the particular county or city within which a court with jurisdiction may hear and determine a case. CAUTION: the term "jurisdiction" is used to designate a particular locality for venue purposes.

VOIR DIRE

(French-to see and speak). Questioning of potential jury members by the court, lawyers or parties themselves if not represented by counsel. Voir Dire is intended to determine the suitability of prospective jurors to hear a particular case.

W

WARRANT OF ARREST	A written order issued and signed by a judicial officer directed to a law enforcement officer or some other person specially named and commanding him to arrest the body of a person named in it who is accused of an offense.
WRIT OF CERTIORARI	An order by the appellate court which is used by that court when it has discretion on whether or not to hear an appeal from a lower court. If the writ is denied the court refuses to hear the appeal and, in effect, the judgment below stands unchanged. If the writ is granted, then it has the effect of ordering the lower court to certify the record and send it up to the higher court which has used its discretion to hear the appeal.
WRIT OF HABEAS CORPUS AND TESTIFICANDUM	The writ, meaning “you have the body to testify”, used to bring up a prisoner detained in a jail or prison to give evidence before the court.
