



ARKANSAS JUDICIARY

Published on *Arkansas Judiciary* (<https://www.arcourts.gov>)

---

## Common Legal Terms

[A](#)<sup>[1]</sup> [B](#)<sup>[2]</sup> [C](#)<sup>[3]</sup> [D](#)<sup>[4]</sup> [E](#)<sup>[5]</sup> [F](#)<sup>[6]</sup> [G](#)<sup>[7]</sup> [H](#)<sup>[8]</sup> [I](#)<sup>[9]</sup> [J](#)<sup>[10]</sup> [L](#)<sup>[11]</sup>  
[M](#)<sup>[12]</sup> [N](#)<sup>[13]</sup> [O](#)<sup>[14]</sup> [P](#)<sup>[15]</sup> [Q](#)<sup>[16]</sup> [R](#)<sup>[17]</sup> [S](#)<sup>[18]</sup> [T](#)<sup>[19]</sup> [U](#)<sup>[20]</sup> [V](#)<sup>[21]</sup> [W](#)<sup>[22]</sup>

### A

**Acquittal:** A legal finding by a judge or jury that a person accused of a crime is not guilty.

**Affidavit:** A voluntary written statement of facts made under oath before a notary public.

**Affirm:** A ruling of an appellate court confirming a decision or order of a lower court.

**Amicus Curiae:** Latin for "friend of the court." This term means a person who is not a party to a lawsuit, but who petitions the court to file a brief in an action because the person has a strong interest in the subject matter. A person must have permission of the appellate court or consent of all of the parties to file an *amicus brief*.

**Answer:** A pleading or formal written statement setting out a defendant's case in response to a petition. An answer usually denies a plaintiff's allegations.

**Appeal:** To seek a higher court review of a decision of a lower court.

**Appeal Bond:** Security that an appellate court may require from an appellant in a civil case as a condition of staying an execution of judgment. A *supersedeas bond* is an appellant's bond required to stay execution of a judgment pending an appeal.

**Appellant:** A party appealing a lower court decision, usually seeking reversal of the decision.

**Appellee:** A party against whom an appeal is filed.

**Appellate court:** A court having authority to hear an appeal.

**Appendix:** A compilation of supplementary materials such as copies of court records and portions of a transcript filed in a case that is required to be filed on appeal along with the briefs.

**Arraignment:** A proceeding held in the early stages of a criminal case after the filing of an indictment or information. The purpose of an arraignment is to allow a person accused of a crime to hear the charges in court and to enter a plea. In Iowa, a defendant may file a written arraignment in lieu of a court proceeding.

**Attorney:** A person who is licensed to give legal advice or to act as a representative for another in a court proceeding; a lawyer.

### B

**Bail:** Security, such as cash or a bond, required to release a person being held in jail on criminal charges. The purpose of bail is to secure the presence of the individual in court at a future time to answer to the charges. A person who posts bail forfeits it if the defendant fails to appear in court as directed.

**Bond:** In a criminal action, an obligation, sometimes referred to as a bail bond, assumed by a surety on behalf of a criminal defendant to ensure the appearance of the defendant in court at a future date.

**Brief:** A written document that sets out the legal contentions of a party, including a recitation of important facts, a statement of the issues presented for review, and legal authority supporting a party's legal contentions. A brief is required on appeal.

**Burden of Proof:** A party's burden to establish a disputed assertion or charge. The term can mean either the burden of producing certain evidence (the most common usage) or the burden of persuading a judge or jury of a certain proposition.

## C

**Certiorari:** A discretionary appeal used to ascertain whether a lower court had jurisdiction or whether its proceedings were authorized. If granted, a writ of certiorari proceeds in the manner of a regular appeal.

**Civil Case:** A matter or case pertaining to the private rights of an individual.

**Class Action:** A lawsuit in which a court authorizes a person or small group of people to represent the interests of a large group of people with common characteristics or interests. Iowa court rules allow commencement of a class action only if the class is so numerous or so constituted that joinder of all members, whether or not otherwise required or permitted, is impracticable, and there is a question of law or fact common to the class.

**Closing Argument:** A summary of evidence presented to the jury at trial by the attorneys.

**Code:** A systematic compilation of laws. For example, the Iowa Code is a compilation of all laws approved by the Iowa Legislature and the governor.

**Common Law:** A body of law derived from legal concepts and principles established in judicial decisions as opposed to statutes. American common law is rooted in the English common law in existence during colonial times, but it has developed over the years into a system of its own. In the United States, the general law is a combination of statutory and common law, and the common law supplements statutory law.

**Complaint:** An initial pleading, also called a *petition*, containing a plaintiff's basis for a claim and demand for relief, which begins a civil lawsuit. An *amended complaint* is a complaint that modifies and replaces the original complaint.

**Concurrence:** A vote of an appellate judge that indicates the judge's agreement with the result or judgment of the majority opinion, but for different reasons. A judge who concurs may write a separate opinion known as a concurring opinion.

**Concurrent Sentences:** Multiple sentences imposed on a single defendant to be served over the same time.

**Contempt of Court:** An act that shows disrespect for the court's authority. Contempt usually involves willful disobedience of a court order. A finding of willful disobedience requires evidence of conduct that is intentional and deliberate. Contempt is punishable by a fine, imprisonment, or other sanctions. Often, sanctions are used to compel someone into obeying a court order.

**Contract:** An agreement between two or more parties, in which each party gives up something of value in return for another thing of value and that creates by its terms enforceable obligations.

**Continuance:** To continue a matter, hearing, or trial to another time.

**Conviction:** A legal finding or determination that a person is guilty of a crime.

**Criminal case:** A case initiated and prosecuted by the government to enforce criminal laws.

**Cross Examination:** Questioning of a witness by opposing counsel.

## D

**Damages:** A sum of money which a wronged or injured person is entitled to receive for compensation for a loss, detriment, or injury caused by a wrongful or negligent act of another. *Actual damages* means an amount to compensate for an actual loss. *Liquidated damages* means an amount contractually stipulated as a reasonable estimation for damages fixed for breach of the contract. *Punitive damages* means damages assessed in addition to actual damages as a form of punishment when a defendant has acted with actual or legal malice rather than mere negligence, which is established by showing wrongful conduct committed with the willful or reckless disregard for the rights of another; also *exemplary damages*.

**Declaratory Judgment:** An action in which a court, at the request of a party, declares the rights, duties, status, or other legal relationships of parties. A court may refuse to grant a declaratory judgment where it would not, if rendered, terminate the uncertainty or controversy giving rise to the proceeding.

**Decree:** A judicial decision or order. The word is typically used in reference to decisions and orders issued in dissolution, probate, and other types of cases heard in courts of equity.

**Default Judgment:** A judgment entered when a party who fails to take a step required in progress of an action. The typical default judgment occurs when a defendant fails to file and answer within the time allowed or fails to appear at trial or otherwise provide a defense.

**Defendant:** A person sued in a civil lawsuit or accused in a criminal proceeding.

**Deliberations:** Commonly used to describe the process of a jury discussing the facts of a case prior to reaching a verdict.

**De Novo:** Meaning "of new." Used most often to describe a standard of review in which a higher court reviews a new the evidence and record of a case from a lower court or tribunal, as opposed to a review limited to the correction of errors.

**Deposition:** The testimony of a witness not taken in open court, but pursuant to authority given by statute or court rule to take testimony elsewhere. Deposition testimony may be introduced as evidence in a court proceeding.

**Dissent:** A term denoting the disagreement of one or more judges of a court with the decision of the majority. A judge who dissents may write a separate opinion known as a dissenting opinion.

**Docket:** A summary, list or index of court cases and the proceedings or events in each case. The court docket is maintained by the clerk of court.

**Double Jeopardy:** When a person is prosecuted or sentenced twice for the same crime. The Fifth Amendment prohibits double jeopardy.

**Due Process:** A term that means the conduct of legal proceedings in a manner that protects and enforces the rights of individuals, including notice to all parties and the right to a fair hearing before an impartial decisionmaker.

## E

**En banc:** This term means "on the bench" and usually refers to all judges or justices of an appellate court sitting together to hear a case. For example, the Iowa Supreme Court hears all cases en banc.

**Equity:** A word meaning fairness or even handedness. Equity began as an English system of justice in which a judge of the High Court of Chancery turned to principles of natural justice to supplement the law. Today, equity denotes rights, remedies and common law principles recognized by a court in equity. The Iowa Code designates a number of civil actions as equitable, including, but not limited to dissolutions, probate matters, and foreclosures.

**Ex parte:** On or for one party only, for the benefit of that party, without notice to or argument from the opposing party. An *ex parte communication* is an exchange of information, orally or in writing, between the court and an attorney or party without the opposing attorney or party present. To maintain the court's impartiality, judicial ethics prohibit a judge from considering *ex parte* communications concerning a pending proceeding.

**Extradition:** When one state or country surrenders to another jurisdiction a person accused of a crime or convicted of an offense.

**Ex Post Facto:** Meaning "after the fact." The Constitution prohibits enactment of *ex post facto* criminal laws?laws that retroactively punish someone for a act that was legal when it was committed.

**Evidence:** Any demonstration of a fact that tends to prove or disprove the existence of an alleged fact. Evidence can take many forms such as a statement of a witness, an object, etc., that bears on or establishes a point in question. *Admissible evidence* refers to evidence that is relevant to a case and is of the character of evidence eligible to be received into the record. Rules of evidence designed to ensure reliability and fairness govern the admissibility of evidence in court.

## F

**Felony:** A crime considered to be of a grave nature and subject to severe penalties. For example, in most jurisdictions felonies include murder, kidnapping, manslaughter, burglary, robbery, and other grievous crimes. Iowa law provides for four classes of felonies, ranging from class "D," the least serious, to class "A," the most serious.

## G

**Grand Jury:** A group of citizens whose duty it is to inquire into a crime to determine if a criminal indictment against a person is warranted. In Iowa, a grand jury shall meet at the direction of the court, upon the request of a majority of grand jurors, or at the request of the county attorney. Typically, the county attorney is allowed to appear before a grand jury for the purpose of presenting information and examining witnesses. Grand jury proceedings are closed to the public.

**Guardian:** One who has legal authority and the duty to care for another person because of the person's age, incapacity, or disability.

**Guardian Ad Litem:** A person, usually an attorney, appointed by the court to represent a the interests of another person, usually a child, in court. For instance, a guardian ad litem is often appointed for a child who is the subject of a child in need of assistance case. Sometimes the court will appoint a guardian ad litem to represent the best interests of a child when the child's parents are dissolving their marriage. Note: At least in Iowa, the appointment of a guardian ad litem does not necessarily mean the government will cover the expense.

## H

**Habeas corpus:** Latin for "you have the body." A petition to bring a person before a court or a judge, most frequently used to ensure that a person's imprisonment, detention, or commitment is legal.

**Hearsay:** Testimony of a witness relating an out-of-court statement of someone else. Such evidence is generally inadmissible under the rules of evidence because the person who actually made the statement is not under oath and not subject to cross examination.

## I

**Indictable offense:** A crime prosecuted by indictment or information. In Iowa, indictable offenses include serious misdemeanors, aggravated misdemeanors, and felonies, all of which are punishable by a fine of more than \$500 and more than 30 days in jail.

**Indictment:** A formal accusation of a crime issued by a grand jury, charging that a person has committed an indictable offense. An indictment is a plain, concise and definite statement of the offense charged.

**Information:** A formal accusation of crime filed by the prosecuting attorney.

**Injunction:** A court order requiring a party to do or to refrain from doing a certain act. An injunction may be granted as part of a final judgment; or at any prior stage of the proceedings, in which case it is a preliminary, or temporary, injunction. A *preliminary injunction* is to be issued only with extreme caution where it is likely a petitioner would suffer irreparable injury if the injunction is not granted, or in any case specially authorized by statute.

**Interlocutory:** Preliminary, not constituting a final resolution of the whole controversy. An interlocutory appeal involves an appeal of a matter before a final decision is rendered by the lower court. An appeal of an interlocutory ruling is discretionary and may only be granted if the appellate court finds the ruling involves substantial rights and will materially affect the final decision and that a determination of its correctness before trial on the merits will better serve the interests of justice.

**Interrogatories:** Written questions propounded by one party and served on an adversary, who must provide written answers under oath; a discovery procedure in preparation for a trial.

## J

**Jurisdiction:** The extent of the authority and power of a court to preside over a case and interpret and apply the law.

**Jury:** A number of people, selected according to law, and sworn to inquire of certain matters of fact and declare the truth upon evidence presented to them.

**Jury Instructions:** The judge's written directions to a jury concerning the laws pertinent to the case under consideration. A set of jury instructions is given to the jury just prior to its deliberations.

## L

**Lien:** A legal right or interest a creditor has in a debtor's property for the purpose of securing the payment of a debt. The Iowa Code authorizes a number of liens for specific obligations as well as for judgments.

**Litigant:** A party to a lawsuit.

**Litigation:** The process of carrying on a lawsuit; a lawsuit.

## M

**Mandamus:** The name of a writ which is issued from a court, directed to a public officer, commanding the performance of a particular legal duty. Mandamus will not lie to control the discretion of an official unless it appears the act official acted arbitrarily or capriciously.

**Misdemeanor:** Offenses considered less grievous than felonies. There are three classes of misdemeanors?simple, serious, and aggravated. In Iowa, a simple misdemeanor is punishable by a fine not to exceed \$500 and imprisonment not to exceed 30 days. The penalty for a serious misdemeanor is a fine in an amount between \$250 and \$1500 and imprisonment up to one year. An aggravated misdemeanor is punishable by a fine between \$500 and \$5000 and imprisonment not to exceed two years with some exceptions.

**Motion:** An application to the court requesting a specific ruling in a pending case. Usually, a motion concerns an issue with the court's discretion.

## N

**Negligence:** Generally defined as conduct that falls below a standard established by law for the protection of others against unreasonable risk of harm. *Comparative negligence* or *comparative fault* means a plaintiff's own negligence that proportionately reduces the damages recoverable from a defendant. *Concurrent* or *joint negligence* involves the negligence of two or more parties causing the same damage. *Negligence per se* is negligence established as a matter of law that renders a person absolutely liable for resulting damages.

**Notice of Appeal:** A filing required to appeal a ruling made by a lower court. In Iowa, the notice of appeal is filed with the clerk of district court in the county where decision being appealed from is entered, a copy must be served on the other parties, and the clerk of district court sends a copy to the clerk of the supreme court.

## O

**Oath:** A pledge to speak the truth.

**Objection:** A statement by an attorney opposing specific testimony or admission of evidence.

**Opening Argument:** A procedure at the start of a trial in which the attorney for each party summarizes the basis of the case.

**Opinion:** A formal written statement or decision by a judge or justice of the law bearing on a case, usually as a resolution of an appeal.

**Ordinance:** A law passed by a city, town or county legislative body, usually matters that the state government allows to be regulated by local government.

**Original Jurisdiction:** The power of a court to hear a case for the first time instead of waiting for the case to be tried in a lower court.

**Original Notice:** A document filed in court to begin a law suit. The notice of the filing of a lawsuit served on a defendant, stating a time in which a response must be filed.

**Overrule:** The court's denial of a motion or objection.

## P

**Parties:** A person, corporation, or association, who is a plaintiff or defendant in a case.

**Perjury:** The act of lying while under oath.

**Petition:** A written application to a court, usually the first pleading in a lawsuit, requesting a remedy available under law; also, called a complaint. For example, a petition for dissolution of marriage is the first pleading filed in a divorce.

**Plaintiff:** A person who initiates a civil lawsuit; the party who complains or sues in a personal action and is so named on the record.

**Pleading:** A written statement setting out a cause of action or a defense of a legal case.

**Preliminary Hearing:** A court hearing that occurs in the initial stages of a criminal prosecution. In Iowa, the preliminary hearing takes place soon after an arrest and initial appearance. A defendant is entitled to a preliminary hearing unless the defendant has been indicted by a grand jury or a trial information, or has waived the hearing. The purpose of the preliminary hearing is to determine if there is probable cause to believe the defendant committed a crime.

**Pre-sentence Investigation Report:** A report, generally prepared by a probation officer, which presents pertinent information needed by a judge to sentence a person convicted of an indictable crime. The report includes such information as the defendant's criminal history, characteristics, family and financial circumstances, harm to the victim, the victim's family and the community, and any mitigating circumstances relating to the defendant's potential for probation, etc. In Iowa, this report is confidential.

**Prima Facie:** A term meaning sufficient to establish a fact or raise a rebuttable presumption. *Prima facie evidence* means a fact presumed to be true unless disproved by some evidence to the contrary.

**Probable Cause:** In criminal law, probable cause is a constitutionally prescribed standard of proof—a requirement of a reasonable ground to suspect that a person is committing or has committed a crime, or there is a fair probability that evidence of a crime would be found in a certain location that is the subject of a search warrant. In torts, probable cause means a reasonable belief in the existence of certain facts on which a claim is based.

**Probation:** A criminal sentence in which a person convicted of a crime is released by the court subject to certain conditions imposed by the court and supervision by a probation officer. Conditions of probation may include payment of restitution, fines, and court costs, community service, substance abuse treatment, regular drug testing, payment of child support obligation, travel restrictions, and other requirements intended to promote rehabilitation of a defendant.

**Prosecute:** To initiate and carry out a legal action, usually associated with carrying out a criminal case.

**Prosecutor:** A government attorney who initiates and maintains a criminal action on behalf of the people against a person accused of a crime. In Iowa, a county attorney, city attorney, and the attorney general are prosecutors.

**Public Defender:** A lawyer employed by the government to represent a person accused of a serious crime and who cannot afford to hire a lawyer.

## Q

**Quash:** To vacate, annul, or terminate.

## R

**Restitution:** An equitable remedy under which a person is restored to his or her original position prior to loss or injury. Restitution is commonly used to describe full or partial compensation owed by a criminal to a victim of a crime as part of a criminal sentence. In Iowa, this word may also include the entire amount of a defendant's monetary obligation, including victim restitution, fines, court costs, surcharges, and fees.

## S

**Scheduled Violation:** A criminal offense that is usually charged by citation and for which the exact amount of fine is fixed by statute. In Iowa, the majority of scheduled violations are traffic offenses.

**Sentence:** Judgment formally pronounced by a judge upon defendant after the defendant's conviction in the criminal prosecution.

**Service:** The formal delivery of notice of a legal document, such as a pleading, to assure that the opposing party is aware of the action and is given an opportunity to appear. *Personal service* means the actual delivery of the notice to the person to whom it is directed and is usually required for the initiation of most law suits. Personal service is typically performed by a sheriff or process server. *Service by publication*, which is accomplished by publishing notice in a newspaper or other public medium, is allowed under certain circumstances, usually when a defendant's whereabouts are unknown.

**Statute:** A law adopted by the legislature.

**Statute of Limitations:** A law that sets a time limit for bringing a lawsuit in a case.

**Stipulation:** A written agreement by opposing parties in a case as to any manner pertaining to court proceedings or trial. Stipulations serve to simplify and expedite proceedings when parties agree on certain facts or procedures.

**Subpoena:** A written legal notice compelling a person to appear in court to testify as a witness. *Subpoena duces tecum* is a notice to compel a person to appear and bring specified documents, records, or items.

**Suppress:** To prevent something from being seen, heard, or said. To suppress evidence is to keep evidence being offered by a party from being used in a trial. Typically, a court will suppress evidence if it is irrelevant or was obtained illegally.

**Sustain:** The court's acceptance of a motion or objection.

## T

**Testimony:** Spoken evidence given by a witness, under oath, as distinguished by evidence derived by writings and other sources.

**Tort:** A civil wrong, other than a breach of contract, committed against a person or their property, for which the law provides a remedy.

**Transcripts:** A copy of the record of a trial, hearing or other proceeding as prepared by a court reporter.

## U

**Uniform Citation:** A statutory procedure that allows a peace officer to issue a citation in lieu of arrest. Typically, uniform citations are authorized for offenses that are scheduled violations.

## V

**Venue:** The proper place for a lawsuit or place where a court has jurisdiction. A court may change venue under certain circumstances.

**Verdict:** The formal decision or finding made by a jury on the factual issues of a case and accepted by the court.

**Voire Dire:** An inquiry of prospective jurors, by the attorneys and by the judge, to determine if such jurors are fit for jury duty in a given case.

## W

**Warrant:** A writ or order authorizing an officer to make an arrest, conduct a search, or to perform some other designated act.

**Witness:** One who testifies to what he or she has seen, heard, or otherwise observed or testifies to his or her opinion based on a hypothetical statement.

**Writ:** An order issued from a court requiring the performance of a specified act, or giving authority and commission to having it done.

---

**Source URL:** <https://www.arcourts.gov/administration/public-education/terms>

### Links

- [1] <https://www.arcourts.gov/administration/public-education/terms/#A>
- [2] <https://www.arcourts.gov/administration/public-education/terms/#B>
- [3] <https://www.arcourts.gov/administration/public-education/terms/#C>
- [4] <https://www.arcourts.gov/administration/public-education/terms/#D>
- [5] <https://www.arcourts.gov/administration/public-education/terms/#E>
- [6] <https://www.arcourts.gov/administration/public-education/terms/#F>
- [7] <https://www.arcourts.gov/administration/public-education/terms/#G>
- [8] <https://www.arcourts.gov/administration/public-education/terms/#H>
- [9] <https://www.arcourts.gov/administration/public-education/terms/#I>
- [10] <https://www.arcourts.gov/administration/public-education/terms/#J>
- [11] <https://www.arcourts.gov/administration/public-education/terms/#L>
- [12] <https://www.arcourts.gov/administration/public-education/terms/#M>
- [13] <https://www.arcourts.gov/administration/public-education/terms/#N>
- [14] <https://www.arcourts.gov/administration/public-education/terms/#O>
- [15] <https://www.arcourts.gov/administration/public-education/terms/#P>
- [16] <https://www.arcourts.gov/administration/public-education/terms/#Q>
- [17] <https://www.arcourts.gov/administration/public-education/terms/#R>
- [18] <https://www.arcourts.gov/administration/public-education/terms/#S>
- [19] <https://www.arcourts.gov/administration/public-education/terms/#T>
- [20] <https://www.arcourts.gov/administration/public-education/terms/#U>
- [21] <https://www.arcourts.gov/administration/public-education/terms/#V>
- [22] <https://www.arcourts.gov/administration/public-education/terms/#W>