

# Family Law Terminology

## A

**Affidavit:** A sworn written statement.

**Adjudicated Father:** A phrase that generally referred to about a man that a court or Recognition of Parentage (ROP) says is the legal father of the child.

**Alternative Dispute Resolution (ADR):** Any of a number of methods for resolving the issues in a divorce without using the courts. Alternatives include mediation, arbitration, collaborative law, and a number of others.

**Annulment:** A determination that a marriage never existed as opposed to a divorce that terminates a marriage.

**Answer:** The spouse who received the Summons and Petition must read the documents and decide how to respond. If s/he disagrees, s/he writes and serves an Answer. If the couple can reach an agreement, a Stipulated Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree is prepared by one or both of the parties.

**Arbitration:** A form of ADR, where parties submit their dispute to a neutral – outside of the court system – for resolution. Arbitration can be binding” (decision) or “non-binding” (opinion).

**Asset:** In mediation, an asset is something of value (e.g. stocks, bonds, real estate, business interest, etc.).

**Association of Family and Conciliation Courts (AFCC):** Interdisciplinary professional association comprised of attorneys, judges, court services professionals, mediators, parenting consultants etc.

## B - C

**Best Interests Standard:** The thirteen factors concerning custody addressed in Minnesota Statute 518.17 make up the Best Interest Standard. There are also 4 joint custody factors in the same statute.

**Bipolar:** A mental health disorder that causes drastic changes in mood. People affected by Bipolar experience extreme emotional highs/lows.

**Caucus:** Separate meeting with parties and/or attorney during mediation, arbitration, or other ADR process.

**Child Consultant:** as part of Child Inclusive Mediation, professional who meets with parents and children and provides feedback to parents and mediator regarding children's stresses and needs.

**Child Inclusive Mediation:** Mediation process in which a Child Consultant pairs with a Mediator. Role of Child Consultant is to understand the children from the perspective of the parents AND the children, to identify their unique divorce stressors, to provide guidance to parents in addressing stressors.

**Child Support:** Money paid for support of minor children in separation or divorce action.

**Child Support Calculator:** Formula established by State of Minnesota to determine amount of child support to be paid; based on number of children, percentage of overnights, and income of each parent.

**Collateral Resources:** Individuals who are not parties to the dispute, who are contacted in parenting consulting or custody evaluation process; may be personal or professional.

**Collaborative Law:** A method of dispute resolution in which the parties and their attorneys agree to resolve their divorce without going to court.

**Conflict Management:** The practice of recognizing and dealing with disputes in a rational, balanced, and effective way.

**Conflict of Interest:** This refers to a situation in which an attorney cannot fully represent a client due to a prior relationship or other interest in a case. For example, an attorney may have represented the opposing party in a previous divorce or other case and cannot now represent you against that former client.

**Consensual Special Magistrate (CSM):** Essentially a “private judge.” Parties present their dispute to a neutral third party in the same manner a civil lawsuit is presented to a judge. CSM process is binding, and includes the right to appeal to the Minnesota Court of Appeals.

**Corner House Technique:** Interview strategies and techniques to explore likelihood of sexual abuse of children.

**Custody:** Decision-making rights and duty to care for children. There are two types of custody – legal custody and physical custody. Either may be joint or sole.

**Custody Order:** A court order designating physical and/or legal custody.

**CV:** Curriculum Vitae

**Custody Study or Evaluation:** Process of having a qualified professional assess the best interests of children and make recommendations to the court as to parenting arrangements that best meet the children’s needs.

**Custodial Parent or Custodian:** The person who has the physical custody of the child at any particular time.

## D

**Defined Benefit Plan:** An annuity type of retirement plan that provides a certain amount upon retirement, usually a monthly payment. The amount depends upon the type of plan. Often, it is based on years of service and salary.

**Defined Contribution Plan:** A family of plans including IRAs and 401 (k)s in which the party or employer (or both) contribute a sum which is known. The plan grows through investment growth in addition to the contribution.

**Deposition:** A discovery process in which the party to be deposed is asked questions by the opposing party (or attorney) in front of a court reporter. The testimony is sworn and often used in court.

**Dissolution of Marriage:** Termination of the marital relationship between two parties. Issues to be addressed through dissolution include: legal and physical custody of minor children; parenting time; child support obligations; spousal maintenance; division of property.

**Divorce:** Now referred to as Dissolution of Marriage.

**Domestic Violence (DV) or Domestic Abuse (DA):** In Minnesota, Domestic Abuse is defined as causing or creating fear of imminent physical harm, bodily injury or assault against a family or household member. It also includes making terroristic threats or interfering with a 911 emergency call.

**Domestic Abuse No Contact Order (DANCO):**

**Domestic Violence Evaluation (DOVE):** An instrument used to screen for domestic violence.

## E

**Early Neutral Evaluation (ENE):** Typically two evaluators in male/female team meet with parents and attorneys. Parents provide information and proposals, evaluators ask questions, confer, then speculate about what might occur in full evaluation. Opportunity to negotiate follows feedback. SENE (Social ENE) = parenting time; FENE (Financial) = property and finances. Both are confidential processes.

**Emancipation:** When a child becomes independent of a parent either upon reaching age 18 or earlier by virtue of having a child, entering the military, marrying, living independently of the parent, or by some other act evidencing independence.

**Enmeshed:** Refers to a condition where two or more people weave their lives and identities around one another so tightly that it is difficult for any one of them to function independently.

**Endangerment Standard:** In order to change custody of a child, the party seeking the change must show that the emotional or physical health of the child is endangered under the existing custody arrangement.

**Equalizer:** Amount paid as property settlement in divorce in order to make division equitable.

**Estranged:** Once harmonious relationship replaced by indifference or hostility.

**Ex Parte:** A request for relief to the court without the other party being present. It is used in limited circumstances, as it is contrary to notions of the adversarial process.

## F – H

**5-2-2-5:** Parenting time schedule, typically Monday-Tuesday parent 1 each week, Wednesday-Thursday parent 2 each week, alternate weekends.

**Family Group Decision Making (FGDM):** Facilitated meeting in which family members work with Child Protective Services to make a plan for minor children who have been abused or neglected.

**Filing:** When documents are delivered to the court administrator to be placed in the court's file on a case.

**Final Divorce Decree:** The official name of the divorce document is Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree. Once this document has been signed by a Judge and is "entered" by court administration, the divorce is considered final.

**Guardian Ad Litem (GAL):** In a court proceeding, a GAL is sometimes appointed as a neutral party to advocate for the child's best interests. Typically involved in cases where there are allegations of neglect or abuse, or the Court has reason for concern about the child's welfare.

**Harassment Restraining Order (HRO):** Order to avoid contact except in very specific circumstances outlined in each order.

## I

**Interim Case Management Conference (ICMC):** Judge's initial meeting with parties and attorneys to determine what resources case will require and set them on path to completing the divorce process.

***In Forma Pauperis (IFP):*** A status that is conferred by the Court based on a finding that an individual is unable to afford to pay fees and costs necessary to proceed with the lawsuit. The IFP waives court fees for that person.

**Impasse:** An impasse occurs when after engaging in good faith negotiation, mediation, factfinding with a mediator and post fact-finding negotiations, the parties are unable to reach an agreement.

**Interrogatories:** A list of questions submitted as part of the discovery process.

## J - K

**Joint Legal Custody:** Both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

**Joint Physical Custody:** The routine daily care and control and the residence of the child is structured between the parties.

**Judgment and Decree (J & D):** Final divorce document that is filed with county and allows folks to enter into new relationships.

**Karon Waiver:** Technically, "a waiver of the statutory right to modification of maintenance or support." Practically, it is an agreement between parties that the issues of maintenance may not be revisited after the issue has been addressed in the J & D.

## L

**Legal Custody:** The right to participate in the child's upbringing, including education, health care, and religious training. There is a presumption in Minnesota for joint legal custody.

**Legal Separation:** A court determination of the rights and responsibilities of a husband and wife arising out of the marriage relationship. A decree of legal separation does not terminate the marriage.

**Liens:** A security interest. Technically “a right to take or keep possession of property belonging to another person until a debt owed by that person is discharged.”

**Limited Scope Evaluation:** Specific question(s) posed to neutral evaluator, particularly when legal custody is not at issue. Eg, where should children attend school, or what should schedule be, or is it time to adjust a schedule when adjustments were initially contemplated.

**Liquidity:** A measure of the extent to which a person or organization has the cash to meet immediate and short-term obligations. Also used to describe how easily a particular asset can be converted into cash.

**Litigation:** The legal steps of settling a case between two or more private parties.

**Line of Credit (LOC):** The maximum borrowing power granted to a person from a financial institution.

**LTA :** Living Together Arrangement

## **M - N**

**Magistrate:** Any individual who has the power of a public civil officer to administer and enforce law.

**Maintenance:** An award made in a dissolution or legal separation proceeding of payments from the future income or earnings of one spouse for the support and maintenance of the other. This was once called alimony and is also referred to as spousal maintenance.

**Mandated Reporting:** Certain professionals who have frequent contact with children are required to report when they know or have reason to believe that a child is being neglected or physically or sexually abuse, or has been within the previous three years. Governed by Minn. Stat. 626.556.

**Marital Property/Assets:** Property and monies acquired during the marriage that do not meet criteria for non-marital property/assets. May include the increase in value. Also referred to as “the martial estate.”

**Marital Termination Agreement:** The settlement agreement. Sometimes referred to as the “contract” between the parties that dissolves the marriage.

**Med Arb Hybrid:** ADR process in which initial attempt is to mediate, but if agreement is not reached, neutral becomes arbitrator and makes decision. Parenting Time Expediting is example of med art hybrid, as is parenting consulting.

**Mediation:** A process in which an impartial third party facilitates negotiations between two or more parties in a proceeding.

**Mitigate:** To reduce the severity or seriousness of a consequence.

**Motion:** A formal request asking the court to do something. In a divorce matter, a **Motion for Temporary Relief** allows you to ask the court to issue a **Temporary Order** for child custody, child support, spousal support and certain property issues. The Temporary Order allows you to get needed financial support while your case is pending in court. The Temporary Order will expire when the final divorce decree is signed by the Judge and “entered” by court administration.

**MSRS:** Minnesota State Retirement System

**Neutral Expert:** Professional typically appointed by court to respond to issues before the court (e.g., custody evaluator.) Expertise might be in specific area of interest to court – e.g., attachment, child development, best interests of children, etc.)

**Non-Marital Property/Assets:** Items of personal property brought into marriage, or received by individual as gift or inheritance during marriage. Not considered part of the “marital estate.”

## O - Q

**Obligor:** The party paying child support.

**Obligee:** The party receiving child support.

**On-Duty Parent:** Parent who is scheduled to have parenting responsibility, in contrast to “off-duty” parent.

**Order for Protection (OFP):** A Court Order that offers civil protection from domestic abuse. Typically, the Order prohibits the perpetrator from having contact with the victim, or causing others to contact the victim on their behalf. Violating an Order for Protection may result in criminal charges.

**Parental Alienation:** Process of attempting to turn children against one parent.

**Parenting Consultant (PC):** Individual agreed upon by parties and court ordered to work with divorcing parents. Process includes attempts to facilitate agreement, coaching, and deciding. Decisions are binding on parties.

**Parenting Time/Plan:** The time a parent spends with a child regardless of the custodial designation regarding the child.

**Parenting Time Expeditor (PTE):** A person appointed pursuant to Minn. Stat. 518.1751 to assist parents with parenting time disputes and uses a mediation-arbitration process to resolve disputes raised by the parties. The process is confidential, as defined by the statute.

**Paternity:** Has to do with who is the “legal father” of a child. The biological father is not always the legal father. Only the legal father has the rights and responsibilities of a father. Paternity can be established when both the mother and father sign a Recognition of Parentage (ROP) or with a paternity action in court.

**Percentage of Income for Child Support (PICS):** Child Support Calculator determines income of each parent as a percentage of total, which is applied to calculation of child support, health insurance premiums and co-pays, and child care expenses.

**Personal Service:** When documents are delivered to a party to the case rather than mailed. Generally, Personal service is only required when the Summons and Petition for Dissolution of Marriage must be served at the beginning of the divorce. After that, documents may be served by mail.

**Personality Disorder:** Conditions in which an individual differs significantly from an average person, in terms of how they think, perceive, feel or relate to others.

**Petition for Dissolution of Marriage:** Document commencing a divorce action upon service to responding spouse.

**Petitioner:** The party initiating the divorce proceeding.

**Physical Custody:** The routine daily care and time that the children spend with each parent in separation or divorce process.

**Pre/Post Decree:** The decree is the judgment and Decree, filed with the Court on a certain date. Pre-decree would be issues arising before that date; post-decree would be issues arising after that date.

**Principal, Interest, Taxes, Insurance (PITI):** the sum total of most mortgage payments.

**Pro-Bono:** Free

**Pro Se:** Literally translates to “for oneself.” Pro Se means that you do not have an attorney and are representing yourself in court.

**Psychological Evaluation:** Psych. Eval. Performed by a licensed psychologist. Typically done in the context of custody evaluation, but sometimes parenting consulting. Should attempt to answer questions and address concerns at issue in the custody or parenting matter.

**Qualified Neutral under Rule 114:** A neutral person who assists the parties in reaching a durable solution to their issues. This individual has completed 40 hours of training.

**Quasi-Judicial Immunity:** The action taken and discretion exercised by public administrative agencies or bodies that are obliged to investigate or ascertain facts and draw conclusions from them as the foundation for official actions. Eg, a Court Order for parenting consulting gives the PC quasi-judicial immunity in performing that function.

## R

**Rebuttable Presumption:** A conclusion as to the existence or nonexistence of a fact that a judge or jury must draw when certain evidence has been introduced and admitted as true in a lawsuit but that can be contradicted by evidence to the contrary.

**Recognition of Parentage (ROP):** A form that unmarried parents can sign to create the legal relationship between the father and the child.

**Referee:** A judicial officer who is not a judge, but may hear a case and issue orders like a judge. These officials are heavily used in Ramsey and Hennepin Counties.

**Residence:** The place where a party has established a permanent home from which the party has no present intention of moving.

**Resolution:** A formal decision.

**Respondent:** The party responding to the divorce proceeding.

**Restitution:** The act of making up for damages or harm.

**Retainer:** A contract between attorney and client specifying the nature of the services to be rendered and the cost of the services.

**Reunification Therapy:** Attempts to identify the relationship between the child and the reunifying parent while identifying the stressors, which have impacted the relationship.

**Right of First Refusal (ROFR):** obligation of one (on-duty) parent to offer the other (off-duty) parent child care responsibility when the on-duty parent is unable to be present during the scheduled parenting time. Length of absence should be specified (eg, 4 hours, overnight, etc.)

**Rule:** Regulates court practice or the action of parties.

## S - T

**Safe Harbor Agreements:** Agreement reached with a therapist (typically) to protect information learned in therapy, especially when therapy is with children. Information may still be provided (eg, to a Parenting Consultant), but the PC protects that information and does not disclose it.

**Separation:** A termination of cohabitation of spouses or partners.

**Service:** Delivery or mailing of documents to the opposing party to start a divorce.

**Settlement:** The act of adjusting or determining the dealings or disputes between persons without pursuing the matter through a trial.

**Spousal Maintenance:** Payment for support of an ex-spouse or a spouse while a divorce is pending, ordered by the court.

**Statute:** Law

**Stipulation:** an agreement between the attorneys for the two sides in a legal action. Some stipulations are oral, but the courts often require that the stipulation be put in writing, signed, and filed with the court.

**Structured Settlement:** An agreement in a lawsuit by which specific payments are made over a period of time.

**Subpoena:** A form issued by the court requiring someone to appear in court and/or bring documents.

**Summons and Petition:** One spouse must start the divorce by writing a Summons and Petition and “serving” it on the other spouse. There are specific rules for how to serve the documents.

**NOTE:** If both spouses agree on how to settle all the issues in their divorce and can sign the same papers, you could do a Joint Petition for Divorce.

**Syndrome:** A group of symptoms that consistently occur together or a condition characterized by a set of associated symptoms.

**THP:** Totally Helpless Person?

**Temporary Relief:** An expedited process allowing for a hearing before a judicial officer for determining issues such as child support, custody, property division, etc. pending final resolution of the case.

**Tracing:** The party claiming that an asset is non-marital must trace the asset back to its non-marital origin. For example, if you claim that your parents made the down payment on your home as a gift to you alone, you must try to produce the check and any other documents supporting this claim.

**Triangulation:** An attempt to pull or persuade a person to one’s side, typically aligning against another individual.

## U - Z

**Valuation:** The process of determining the value or worth of an asset.

**Venue:** The county courthouse in which the case is heard. The case may be venued in the county in which either party resides.

**Vesting:** Indicates when the employee has the right to an employment benefit, usually a retirement plan. For example, if a plan vests after three years of service, the employee must work there for three years before he may be entitled to any benefit.

**Visitation:** See parenting time.

**Visitation Expeditor:** A neutral person authorized to use a mediation-arbitration process to resolve visitation disputes. A visitation expeditor shall attempt to resolve a visitation dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the visitation expeditor shall make a decision resolving the dispute.