



Glossary of Legal Terms for Civil and Criminal History

Adjudication - A decision or sentence imposed by a judge.

Bound Over (Bind Over)- Bound over is a term usually referring to the court's power to hold a person accused of a crime to conditions of bail. Definitions and procedures vary by jurisdiction. For example, one local definition defines bound over as "The transfer of a felony case from the associate division to the circuit court upon finding of probable cause that the defendant committed a felony or upon waiver of the preliminary hearing by the defendant.

Deferred Adjudication - It often involves probation, treatment programs, and/or some type of community supervision. If all the conditions of probation are met for the allotted time handed down by the court, the offender can avoid a formal sentence, and in some jurisdictions, no permanent record of the crime will be made. Typically, at the end of the probationary period the charge will be dismissed and no record of conviction will result.

Dismiss - The ruling by a judge that all or a portion (one or more of the causes of action) of the plaintiff's lawsuit is terminated (thrown out) at that point without further evidence or testimony.

- This judgment may be made before, during, or at the end of a trial, when the judge becomes convinced that the plaintiff has not and cannot prove his/her/its case.
- This can be based on the complaint not alleging a cause of action, a motion for summary judgment, plaintiff's opening statement of what will be proved, or some development in the evidence by either side which bars judgment for the plaintiff.
- The judge may dismiss on his own or upon motion by the defendant.
- The plaintiff may voluntarily dismiss a cause of action before or during trial if the case is settled, if it is not provable, or trial strategy dictates getting rid of a weak claim.
- A defendant may be "dismissed" from a lawsuit, meaning the suit is dropped against that party.

Note: Dismissed does not mean the case does not appear on one's record. See expungement.

Dismissal With Prejudice - Occurs when a case is dismissed after adjudication on the merits and the plaintiff is barred from bringing an action on the same claim. Dismissal with

prejudice is a final judgment and the case becomes res judicata on the claims that were or could have been brought in it.

Dismissal Without Prejudice - A judge's decision to end the case which permits the complainant or prosecutor to renew the case later.

Dispose - Ending a legal case or a judicial proceeding.

Disposition - The court's final determination of a lawsuit or criminal charge.

Diversion - A system for giving a chance for a first time criminal defendant in lesser crimes to perform community service, make restitution for damage due to the crime, obtain treatment for alcohol or drug problems and/or counseling for antisocial or mentally unstable conduct. If the defendant cooperates and the diversion results in progress, the charges eventually may be dismissed. Diversion may not be granted for a second offense.

Expungement - The process of legally destroying, obliterating or striking out records or information in files, computers and other depositories relating to criminal charges. State laws govern the expungement of criminal records. The records cannot be accessed for general law enforcement or civil use. An expunged record may usually not be considered by any private or public entity in employment matters, certification, licensing, revocation of certification or licensure, or registration.

Expungement of records usually requires a formal request for expungement by the subject person of the records. Local laws should be consulted to determine what requirements apply to expungement in your state.

Felony - A serious crime (contrasted with misdemeanors and infractions, less serious crimes), usually punishable by a prison term of more than one year or, in some cases, by death. For example, murder, rape, burglary extortion and kidnapping are felonies; a minor fist fight is usually charged as a misdemeanor, and a speeding ticket is generally an infraction.

Felonies may be classified by level of seriousness. More serious felonies carry harsher penalties. The classification of felonies varies by jurisdiction and crime. Typically, when felonies are classified into categories, a Class A felony is more severely punished than lower level Class B and even lower level Class C felonies. The statute of limitations varies by jurisdiction and type of felony.

Guilty - Having been convicted of a crime or having admitted the commission of a crime by pleading "guilty" (saying you did it). A defendant may also be found guilty by a judge after a plea of "no contest," or in Latin "nolo contendere."

Juvenile - Generally, a juvenile case involves a person who is under the age of 17. Juvenile cases are heard by the family division of the circuit court. The three types of juvenile cases are juvenile delinquency cases, child protective proceedings and traffic cases.

Juvenile Delinquency - Cases involving a minor under the age of 17 who has been accused of committing an offense that would be considered criminal if committed by an

adult. Another type of delinquency case is a status offense. Status offenses are cases involving minors who repeatedly disobey their parents, fail to attend school, or run away from home.

Misdemeanor: A crime, less serious than a felony, punishable by no more than one year in jail. Petty theft (of articles worth less than a certain amount), first-time drunk driving and leaving the scene of an accident are all common misdemeanors. Misdemeanors are tried in the lower courts, such as municipal, police or justice courts.

Misdemeanors may be classified by level of seriousness. More serious misdemeanors carry harsher penalties. The classification of misdemeanors varies by jurisdiction and crime. Typically, when misdemeanors are classified into categories, a Class A misdemeanor is more severely punished than lower level Class B and even lower level Class C misdemeanors.

Nolo Contendere - It means "no contest". A plea in a criminal case that allows the defendant to be convicted without admitting guilt for the crime charged. Although a finding of guilty is entered on the criminal court record; the defendant can deny the charges in a civil action based on the same acts.

No Contest - A plea in a criminal case that allows the defendant to be convicted without admitting guilt for the crime charged. Also called nolo contendere. Although a finding of guilty is entered on the criminal court record, the defendant can deny the charges in a civil action based on the same acts.

Not Guilty Verdict - A verdict in a criminal trial by a judge sitting without a jury or by a jury after finding that the prosecution has not proved the defendant guilty of a crime beyond a reasonable doubt or that it believes the accused person was insane at the time the crime was committed. The bar against double jeopardy under the U.S. Constitution prevents the defendant from being tried again for the crime charged.

Not Guilty Plea - A plea entered by a defendant in a criminal or civil case denying blame for the charges brought against him/ her. Not guilty means you deny having done one or more of the elements contained in the offense or that you have a justifiable excuse for doing what you have done. If you plead not guilty the matter will be set for trial at some date in the future.

Not Disposed - see also Open or Pending. The case is going through the due process of the courts and does not have a disposition.

Open - see also Not Disposed or Pending. The case is going through the due process of the courts and does not have a disposition.

Pending - see also Not Disposed or Open. The case is going through the due process of the courts and does not have a disposition.

Plea Bargain - In criminal procedure, a negotiation between the defendant and his attorney on one side and the prosecutor on the other, in which the defendant agrees to

plead "guilty" or "no contest" to some crimes, in return for reduction of the severity of the charges, dismissal of some of the charges, the prosecutor's willingness to recommend a particular sentence, or some other benefit to the defendant. The judge must agree to the result of the plea bargain before accepting the sentence. If he does not, then the bargain is cancelled. Reasons for the bargaining include a desire to cut down on the number of trials, danger to the defendant of a long term in prison if convicted after trial, and the ability to get information on criminal activity from the defendant.

Possession - The ownership, control, or occupancy of a thing, most frequently land or Personal Property, by a person. Depending on how and when it is used, the term possession has a variety of possible meanings. As a result, possession, or lack of possession, is often the subject of controversy in civil cases involving real and personal property and criminal cases involving drugs and weapons—for example, whether a renter is entitled to possession of an apartment or whether a criminal suspect is in possession of stolen property.

In Civil Cases, an eviction for possession only gives the property owner the right to remove or evict the individual from the physical location, but does not give the property owner the right to any monies.

Sex Offender - A sex offender is a person who has been criminally charged and convicted of, or has pled "guilty" or Nolo contendere to, a sex crime (usually involving a minor). Crimes requiring mandatory sex offender registration may include child sexual abuse, downloading child pornography, rape, and statutory rape. The term sex offender is a broad term, with sexual predator often being used to describe a more severe physical or repeat sexual offense. In the United States a convicted sex offender is often required to register with the respective jurisdiction's sex offender registry.

Individual states decide what information will be made available and how it should be disseminated. Commonly included information includes the offender's name, picture, address, incarceration date, and nature of crime. Some states may legislate registration for all sex crimes, even if no minors were involved. It is a felony in most jurisdictions to fail to register or fail to update information.

At the Federal level, Megan's Law is known as the Sexual Offender (Jacob Wetterling) Act of 1994, and requires persons convicted of sex crimes against children to notify local law enforcement of any change of address or employment after release from custody (prison or psychiatric facility). The notification requirement may be imposed for a fixed period of time - usually at least ten years - or permanently.

Suspended Imposition of Sentence (S.I.S.) - the defendant is placed on probation.

- If the defendant violates probation and faces revocation, the Judge may order any sentence within the full range of punishment for the crime convicted.
- If the defendant successfully completes probation, no sentence is ever actually ordered so an S.I.S. is not considered a 'conviction' for anything other than law enforcement purposes.

Suspended Execution of Sentence (S.E.S.) - The defendant is placed on probation with an incarceration amount preset in case of revocation.

- The Judge is limited to executing only that sentence if the defendant is revoked. An S.E.S. is a conviction for all purposes.