

# DOMESTIC/DIVORCE

**Addendum:** An attachment to a written document, for example, affidavits may be addendums to a petition.

**Adultery:** Voluntary sexual intercourse between a married person and another person who is not their married spouse.

**Advance directive:** see living will.

**Affidavit:** A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of a party making it, taken before a person having authority to administer such oath or affirmation.

**Alimony:** Also called maintenance or spousal support in a divorce or separation, the money paid by one spouse to the other in order to fulfill the financial obligation that comes with marriage.

**Allocation of Parental Responsibilities:** In all divorce, dissolution and legal separation actions where there are minor children the Court will allocate parental rights and responsibilities (formerly “custody”) for the care of the children. An allocation of parental rights and responsibilities may be awarded to one parent who is designated the residential parent and legal custodian or both parents if shared parenting is awarded.

**Alternative Dispute Resolution:** Methods for resolving problems without going to court also known as **ADR**.

**Antenuptial:** An event or document, which pre-dates a marriage.

**Appeal:** A request by the losing party in a lawsuit for a higher court to review a lower court decision.

**Appearance:** The act of showing up in court.

**Arbitration:** The referral of a dispute to an impartial third person chosen by the parties to the dispute. The parties agree in advance to abide by the arbitrator's decision following a hearing at which both parties have an opportunity to be heard. Sometimes three persons sit as an arbitration panel.

**Bench warrant:** An order issued by a judge for the arrest of a person.

**Bigamy:** Any married person, who while still married, marries or cohabits in this state with another.

**Cohabitation agreement:** Also called a living-together contract. A document that spells out the terms of a relationship and often addresses financial issues and how property will be divided if the relationship ends.

**Common law marriage:** In some states, a couple is considered married if they meet certain requirements, such as living together as husband and wife for a specific length of time. Such a couple has all the rights and obligations of a traditionally married couple.

**Community property:** Property acquired by a couple during their marriage.

**Custody:** to have charge and control over a child or ward, responsibility for the safety and well-being of someone or something. See "*Allocation of Parental Responsibilities*". On and after February 1, 1999, the term "custody" and related terms such as "custodial" and "custodian" have been changed to "parental responsibilities" §C.R.S. 14-10-103.

**Declaration of Invalidity:** A court order that your marriage is null and void and has been null and void since the time of marriage. To obtain a declaration that your marriage is invalid you need to prove one of the grounds set forth in state statutes.

**Decree:** A decision or order of the court. A final decree fully and finally disposes of the litigation; an interlocutory decree is provisional or temporary.

**Depose:** To make a deposition, to give evidence in the shape of a deposition, to make statements which are written down and sworn to; to give testimony which is reduced to writing by a duly qualified officer and sworn to by the deponent.

**Deposition:** The testimony of a witness, taken in writing, under oath or affirmation, in answer to questions. This is held out of court with no Judge present, but the answers often can be used as evidence in the trial.

**Divorce:** a) The final, legal ending of a marriage by a court order; b) Includes dissolution of marriage, and "annulment" includes a declaration of invalidity, as such terms are used in the "Uniform Dissolution of Marriage Act in article 10 of title 14 C.R.S.

***Duces tecum:*** Latin meaning "bring with you". Used most frequently for a species of subpoena (as in "subpoena duces tecum) which seeks not so much the appearance of a person before a court but the surrender of a thing (document or some other evidence) by its holder, to the court, to serve as evidence in a trial.

**Due process:** The idea that laws and legal proceedings must be fair. The Constitution guarantees that the government cannot take away a person's basic rights to "life, liberty or property, without due process of law." Courts have issued numerous rulings about what this means in particular cases.

**Emancipated:** Refers to freeing of a child by his or her parents, which involves an entire surrender of the right to the care, custody, and earnings of such child as well as renunciation of parental duties.

**Enjoin:** To order a person to perform, or to abstain and desist from performing, a specified act or course of conduct.

**Exigent circumstances:** Emergency conditions.

**Exhibit:** A paper document or other physical object introduced into evidence during a trial, hearing, or deposition.

**Expunge:** To physically erase, to white or strike out. To “expunge” something from a court record means to remove every reference to it. In juvenile delinquency records, “such records are deemed never to have existed”.

**Guardian *ad litem*:** A court-appointed representative charged with defending or protecting the interests of a person under legal disability, such as a child or incompetent individual involved in litigation.

***In Camera*:** Latin for “In chambers”; referring to a hearing or inspection of documents that takes place in private, often in a Judge’s chambers.

**Incest:** Any person who knowingly marries, inflicts sexual penetration or sexual intrusion on an ancestor or descendant, including a natural child, child by adoption, or stepchild twenty-one years of age or older, a brother or sister of the whole or half blood, or an uncle, aunt, nephew or niece of whole blood.

**Indigent:** Meeting certain standards of poverty, thereby, qualifying a criminal defendant for a public defender, waiver of fees and court-appointed counsel.

**Injunction:** A court order directing a person to refrain from doing something or ordering the person to do something.

***In limine*:** Latin meaning “at the beginning or on the threshold”. A motion “in limine” is a motion that is tabled by one of the parties at the very beginning of the legal procedures.

**Interlineation:** An addition of something to a document after it has been signed.

**Interlocutory:** Provisional, temporary, not final. Refers to orders and decrees of a court.

**Interim order:** One made in the meantime, and until something is done.

**Interrogatories:** Written questions offered by one party and served on an adversary, who must provide written answers under oath.

**Intervenor:** A person who voluntarily interposes in an action or other proceedings with the leave of the court.

**Joint property:** Sometimes called joint tenancy. Property that names a co-owner on its deed or title. Co-owners retain ownership of the property upon the death of a co-owner. A co-owner in a joint property arrangement cannot give away his or her share of the property.

**Joint tenants with right of survivorship/community property with the right of survivorship:** The purposes of this code only includes co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others, but excludes forms of co-ownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

**Magistrate:** Any person other than a judge authorized by statute or by Colorado Rules for Magistrates to enter orders or judgments in judicial proceedings.

**Med-arb:** A process in which parties begin by mediation, and failing settlement, the same neutral third party acts as arbitrator of the remaining issues.

**Mediation:** A confidential process whereby a trained neutral third party assists disputing parties to reach their own solution.

**Motion:** An application for a rule or order, made to the judge.

**Notice of appeal:** The document a person must file with the trial court in order to pursue an appeal.

**Parent:** Any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under the probate code by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent or grandparent.

**Parental responsibility:** Previously known as "custody". Both parents are expected to assume responsibility for ensuring that the children's needs are met. Parental responsibilities are to be defined and apportioned between the parents, other criteria have been provided to help parents divide decision-making authority. (i.e.: decisions about health, education, religion, etc.)

**Parenting time:** Previously known as "visitation". The right of a parent to spend time with children pursuant to a court order.

**Permanent Restraining Order (PRO):** An order granting continuous protective relief to prevent assaults and threatened bodily harm, to prevent domestic abuse, to prevent emotional abuse of the elderly, and to prevent stalking.

**Power of attorney:** A document which gives a person the right or authority to make binding decision for another.

**Pro Se:** (pronounced pro say) Latin phrase that means "for himself." A person who represents himself in court alone without the help of a lawyer is said to appear pro se.

**Pro bono:** For the good; used to describe work or services done or performed free of charge.

**Protective order:** In litigation, an order that prevents the disclosure of sensitive information except to certain individuals under certain conditions. In a domestic dispute, an order that prevents one party from approaching another, often within a specified distance.

**Real property:** Land and all the things that are attached to it. Anything that is not real property is personal property and personal property is anything that isn't nailed down dug into or built onto the land. A house is real property, but a dining room set is not.

**Separation Agreement:** Written arrangements concerning custody or parental obligation, with child support, spousal maintenance and property division made by a married couple who are usually about to obtain a divorce or legal separation.

**Sequestration of witnesses:** A discretionary action by the court excluding witnesses from the courtroom while earlier witnesses are being examined.

**Service of process:** The act of notifying the other parties that an action has begun and informing them of the steps they should take in order to respond.

**Settlement:** The resolution or compromise by the parties in a civil lawsuit. In Probate: In reference to a decedent's estate, means the full process of administration, distribution and closing.

**Settlement Conference:** An informal assessment and negotiation session conducted by a legal professional who hears both sides of the case, may advise the parties on the law and precedent relating to the dispute, and suggest a settlement.

**Strict liability:** A concept applied by courts in product liability cases in which a seller is liable for any and all defective or hazardous products that unduly threaten a consumer's personal safety.

**Subpoena:** An order to a witness to appear and testify at a specified time and place.

**Temporary restraining order (TRO):** An order granted without notice or hearing, maintaining the status quo until a hearing to determine the propriety of injunctive relief, temporary or permanent. In other states and in the federal courts this can be referred to as a protective order.

**Voir dire:** Literally. “To speak the truth.” The preliminary examination of prospective jurors or witnesses. Such an examination of a witness (outside the presence of a jury) may determine whether evidence is admissible. Pronounced “vwa dear.”

**Ward:** A person who by reason of incapacity (as minority or mental illness) is under the protection of a court either directly or through a guardian appointed by the court —called also *ward of court*.

**Waiver:** The intentional and voluntary relinquishment of a legal right.