



# The Guardian Law Firm, P.A.

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239-288-7664

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## Legal Terms

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### Family Law Glossary of Common Terms and Definitions

**Note:** The following definitions are intended to be helpful, BUT they are not intended to constitute legal advice or address every possible meaning of the term(s) contained in this glossary.

**Affidavit** – a written statement in which the facts stated are sworn or affirmed to be true.

**Alimony**– spousal support which may be ordered by the court in a proceeding for dissolution of marriage. Types of alimony include: bridge-the-gap, durational, rehabilitative, or retroactive, and may be either temporary or permanent. The court may order periodic payments, payment in lump sum, or both. In determining whether to award alimony, the court must determine whether either party has an actual need for alimony and whether the other party has the ability to pay. The court must consider the factors set forth in section 61.08, Florida Statutes, and must make certain written findings. An alimony award may not leave the paying party with significantly less net income than that of the receiving party without written findings of exceptional circumstances.

**Answer** – written response by a respondent that states whether he or she admits (agrees with) or denies (disagrees with) the allegations in the petition. Any allegations not specifically denied are considered to be admitted.

**Appeal** – asking a district court of appeal to review the decision in your case.

There are strict procedural and time requirements for filing an appeal.

**Asset** – everything owned by you or your spouse, including property, cars, furniture, bank accounts, jewelry, life insurance policies, businesses, or retirement plans. An asset may be marital or nonmarital, but that distinction is for the court to determine if you and your spouse do not agree.

**Attorney** – a person with special education and training in the field of law who is a member in good standing of The Florida Bar and licensed to practice law in Florida. An attorney is the only person who is allowed to give you legal advice. An attorney may file your case and represent you in court, or just advise you of your rights before you file your own case. In addition to advising you of your rights, an attorney may tell you what to expect and help prepare you for court. In family law matters, you are not entitled to a court-appointed lawyer, like a public defender in a criminal case. However, legal assistance is often available for those who are unable to hire a private attorney. You may consult the yellow pages of the telephone directory for a listing of legal aid or lawyer referral services in your area or ask your local clerk of court or family law intake staff what services are available in your area. You may also obtain information from the Florida Supreme Court's Internet site located at <http://www.flcourts.org>.

**Bond** – money paid to the clerk of court by one party in a case, to be held and paid to an enjoined party in the event that the first party causes loss or damage of property as a result of wrongfully enjoining the other party.

**Beneficiary Designation**-Florida law provides that a beneficiary designation made by or on behalf of a party providing for the payment or transference of an asset or benefit upon his or her death to the other spouse is void when the final judgment dissolving or declaring a marriage invalid is signed, unless the final judgment specifically states

otherwise. Federal law and other statutory provisions may also apply. This includes, but is not limited to, such assets as life insurance policies, annuities, employee benefit plans, individual retirement accounts, and payable-on-death accounts. Whether or not to continue a beneficiary designation is a complex area of the law and you may wish to consult with an attorney.

**Bridge-the-Gap Alimony**-spousal support which is ordered to assist a party to make the transition from being married to being single. Bridge-the-Gap alimony is designed to assist a party with legitimate, identifiable short-time needs; its length cannot exceed two years and it cannot be modified.

**Central Depository**-the office of the clerk of court that is responsible for collecting and disbursing court ordered alimony and child support payments. The depository also keeps payment records and files judgments if support is not paid.

**Certificate of Service** – a document that must be filed whenever a form you are using does not contain a statement for you to fill in showing to whom you are sending copies of the form. Florida Supreme Court Approved Family Law Form 12.914 is the certificate of service form and contains additional instructions.

**Certified Copy** – a copy of an order or final judgment, certified by the clerk of the circuit court to be an authentic copy.

**Certified Mail** – mail which requires the receiving party to sign as proof that they received it.

**Child Support** – money paid from one parent to the other for the benefit of their dependent or minor child(ren).

**Clerk of the Circuit Court** – elected official in whose office papers are filed, a case number is assigned, and case files are maintained. The clerk's office usually is located in the county courthouse.

**Concurrent Custody**-(for the purposes of a petition filed pursuant to chapter 751, Florida Statutes) means that an eligible extended family member is awarded custodial rights to care for a child or children concurrently with the child(ren)'s parent or parents.

**Constructive Service** – notification of the other party by newspaper publication or posting of notice at designated places when the other party cannot be located for personal service. You may also be able to use constructive service when the other party lives in another state. Constructive service is also called “service by publication.” However, when constructive service is used, the relief the Court may grant is limited; that relief cannot include either alimony or child support. For more information on service, see the instructions for Florida Family Law Rules of Procedure Forms 12.910(a) and 12.913(b) and Florida Supreme Court Approved Family Law Form 12.913(a).

**Contested Issues** – any or all issues upon which the parties are unable to agree and which must be resolved by the judge at a hearing or trial.

**Contingent Asset** – an asset that you **may** receive or get later, such as income, tax refund, accrued vacation or sick leave, a bonus, or an inheritance.

**Contingent Liability** – a liability that you **may** owe later, such as payments for lawsuits, unpaid taxes, or debts that you have agreed or guaranteed to pay if someone else does not.

**Counterpetition** – a written request to the court for legal action, which is filed by a respondent after being served with a petition.

**Custody Order** – a judgment or order incorporating a Parenting Plan is a child custody determination for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act, the International Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., the Parental Kidnapping Prevention Act, and the Convention on the Civil Aspects of International Child Abduction enacted at the Hague on October 25, 1980.

**Default** – a failure of a party to respond to the pleading of another party. This failure to respond may allow the court to decide the case without input from the party who did not appear or respond.

**Delinquent** – late.

**Dependent Child(ren)** – child(ren) who depend on their parent(s) for support either because they are under the age of 18, have a mental or physical disability that prevents them from supporting themselves, or are in high school, between the ages of 18 and 19, and performing in good faith with a reasonable expectation of graduation before the age of 19.

**Deputy Clerk** – an employee of the office of the clerk of court, which is usually located in the county courthouse or a branch of the county courthouse.

**Dissolution of Marriage** – divorce; a court action to end a marriage.

**Durational Alimony**-spousal support which is ordered to provide economic assistance for a set period of time following a marriage of short or moderate duration or following a marriage of long duration if there is no ongoing need for support on a permanent basis. Durational alimony terminates upon the death of either party or upon remarriage of the party receiving support. It may be modified or terminated , but cannot exceed the length of a marriage.

**Electronic Communication** – Contact, other than face-to- face contact, facilitated by tools such as telephones, electronic mail or email, webcams, video-conferencing equipment and software or other wired or wireless technologies, or other means of communication to supplement fact-to face contact between a parent and that parent’s minor child.

**Enjoined** – prohibited by the court from doing a specific act.

**Ex Parte** – communication with the judge by only one party. In order for a judge to speak with either party, the other party must have been properly notified and have an opportunity to be heard. If you have something you wish to tell the judge, you should ask for a hearing or file information in the clerk of court’s office, with certification that a copy was sent to the other party.

**Extended Family**-(for the purposes of a petition filed pursuant to chapter 751, Florida

Statutes) is a person who is either:

▲ relative of a minor child within the third degree by blood or marriage to the parent;

OR

▶ The stepparent of a minor child if the stepparent is currently married to the parent of the child and is not a party in a pending dissolution, separate maintenance, domestic violence, or other civil or criminal proceeding in any court of competent jurisdiction involving one or both of the child's parents as an adverse party.

**Family Law Intake Staff** – a court's employee(s) who is (are) available to assist you in filing a family law case. Family law intake staff are not attorneys and cannot give legal advice.

They may only assist you with filling out the form(s). Your local clerk's office can tell you if your county has such assistance available.

**Filing** – delivering a petition, response, motion, or other pleading in a court case to the clerk of court's office.

**Filing Fee** – an amount of money, set by law, that the petitioner must pay when filing a case. If you cannot afford to pay the fee, you must file an **Application for Determination of Civil Indigent Status**, to ask the clerk to file your case without payment of the fee. This form can be obtained from the clerk's office.

**Final Hearing** – trial in your case.

**Financial Affidavit** – a sworn statement that contains information regarding your income, expenses, assets, and liabilities.

**Final Judgment** – a written document signed by a judge and recorded in the clerk of the circuit court's office that contains the judge's decision in your case.

**Guardian ad Litem** – a neutral person who may be appointed by the court to evaluate or investigate your child's situation, and file a report with the court about what is in the best interests of your child(ren). Guardians do not "work for" either party. The guardian may interview the parties, visit their homes, visit the child(ren)'s school(s) and speak

with teachers, or use other resources to make their recommendation.

**Hearing** – a legal proceeding before a judge or designated officer (general magistrate or hearing officer) on a motion.

**Health Insurance**-coverage under a fee-for-service arrangement, health care maintenance organization, or preferred provider organization, and other types of coverage

available to either parent, under which medical services could be provided to a minor or dependent child.

**Judge** – an elected official who is responsible for deciding matters on which you and the other parties in your case are unable to agree. A judge is a neutral person who is responsible for ensuring that your case is resolved in a manner which is fair, equitable, and legal. **A judge is prohibited by law from giving you or the other party any legal advice, recommendations, or other assistance, and may not talk to either party unless both parties are present, represented, or at a properly scheduled hearing.**

**Judicial Assistant** – the judge’s personal staff assistant.

**Liabilities** – everything owed by you or your spouse, including mortgages, credit cards, or car loans. A liability may be marital or nonmarital, but that distinction is for the court to determine if you and your spouse do not agree.

**Lump Sum Alimony** – money ordered to be paid by one spouse to another in a limited number of payments, often a single payment.

**Mandatory Disclosure** – items that must be disclosed by both parties except those exempted from disclosure by Florida Family Law Rule 12.285.

**Marital Asset** – generally, anything that you and/or your spouse acquired or received (by gift or purchase) during the marriage. For example, something you owned before your marriage **may** be nonmarital. An asset may only be determined to be marital by agreement of the parties or determination of the judge.

**Marital Liability** – generally, any debt that you and/or your spouse incurred during the marriage. A debt may only be determined to be nonmarital by agreement of the parties or determination of the judge.

**Mediator** – a person who is trained and certified to assist parties in reaching an agreement before going to court.

Mediators do not take either party's side and are not allowed to give legal advice. They are only responsible for helping the parties reach an agreement and putting that agreement into writing. In some areas, mediation of certain family law cases may be required before going to court.

**Modification** – a change made by the court in an order or final judgment.

**Motion** – a request made to the court, other than a petition.

**No Contact** – a court order directing a party not speak to, call, send mail to, visit, or go near his or her spouse, ex-spouse, child(ren), or other family member.

**Nonlawyer** – a person who is not a member in good standing of The Florida Bar.

**Nonmarital Asset** – generally, anything owned separately by you or your spouse. An asset may only be determined to be nonmarital by either agreement of the parties or determination of the judge.

**Nonmarital Liability** – generally, any debt that you or your spouse incurred before your marriage or since your separation. A debt may only be determined to be nonmarital by either agreement of the parties or determination of the judge.

**Nonparty** – a person who is not the petitioner or respondent in a court case.

**Notary Public** – a person authorized to witness signatures on court related forms.

**Obligee** – a person to whom money, such as child support or alimony, is owed.

**Obligor** – a person who is ordered by the court to pay money, such as child support or alimony.

**Order** – a written decision, signed by a judge and filed in the clerk of the circuit court's office, that contains the judge's decision on part of your case, usually on a motion.

**Original Petition** – see **Petition**.

**Parenting Course** – a class that teaches parents how to help their child(ren) cope with divorce and other family issues.

**Parenting Plan** – a document created to govern the relationship between the parents relating to the decisions that must be made regarding the minor child(ren). The Parenting Plan must contain a time-sharing schedule for the parents and child(ren) and shall address the issues concerning the minor child(ren). The issues concerning the minor child(ren) may include, but are not limited to, the child(ren)'s education, health care, and physical, social, and emotional well-being. In creating the Plan, all circumstances between the parents, including their historic relationship, domestic violence, and other factors must be taken into consideration. The Parenting Plan must be developed and agreed to by the parents and approved by the court. If the parents cannot agree to a Parenting Plan, or if the parents agreed to a plan that is not approved by the court, a Parenting Plan will be established by the court with or without the use of **parenting plan recommendations**.

**Parenting Plan Recommendation** – A nonbinding recommendation concerning one or more elements of a Parenting Plan made by a court-appointed mental health practitioner or other professional designated pursuant to either section 61.20 or 61.401, Florida Statutes, or Florida Family Law Rule of Procedure 12.363.

**Party** – a person involved in a court case, either as a petitioner or respondent.

**Paternity Action** – A lawsuit used to determine whether a designated individual is the father of a specific child or children.

**Payor** – an employer or other person who provides income to an obligor.

**Permanent Alimony** – spousal support ordered to provide for the needs and necessities of life as they were established during the marriage for a party who lacks the financial ability to meet his or her needs and necessities after dissolution of marriage. Permanent alimony is paid at a specified, periodic rate until: modification by a court order; the death of either party; or the remarriage of the party receiving alimony, whichever occurs first. Permanent alimony requires consideration of the factors set forth in section 61.08(2), Florida Statutes, and must include certain written findings by the court.

**Personal Service** – when a summons and a copy of a petition (or other pleading) that has been filed with the court are delivered by a deputy sheriff or private process server to the other party. Personal service is required for all petitions and supplemental petitions.

**Petition** – a written request to the court for legal action, which begins a court case.

**Petitioner** – the person who files a petition that begins a court case.

**Pleading** – a formal, written statement of exactly what a party wants the court to do in a lawsuit or court action.

**Pro Se or Self-Represented Litigant** – a person who appears in court without the assistance of a lawyer.

**Pro Se Coordinator** – see [Family Law Intake Staff](#).

**Rehabilitative Alimony** – spousal support ordered to be paid for a limited period of time to allow one of the parties an opportunity to complete a plan of education or training, according to a rehabilitative plan accepted by the court, so that he or she may better support himself or herself after dissolution of marriage.

**Relocation** – a change in the location of the principal residence of a parent or other person in accordance with section 61.13001, Florida Statutes.

**Respondent** – the person who is served with a petition requesting some legal action against him or her.

**Scientific Paternity Testing** – a medical test to determine who the father of a child is.

**Service** – the delivery of legal documents to a party. Service must be in accordance with Florida Rule of Judicial Administration 2.516.

**Shared Parental Responsibility** – an arrangement under which both parents have full parental rights and responsibilities for their child(ren), and the parents make major decisions affecting the welfare of the child(ren) jointly. Shared Parental Responsibility is presumptive in Florida.

**Sole Parental Responsibility** – a parenting arrangement under which the responsibility for the minor child(ren) is given to one parent by the court, with or without rights of time- sharing to the other parent.

**State Disbursement Unit**– the unit established and operated by the Title IV-D agency to provide one central address for the collection and disbursement of child support payments made in both Department of Revenue and non-Department of Revenue cases, in which the obligation is paid through an income deduction order.

**Supervised Time-Sharing**– a parenting arrangement under which time-sharing between a parent and his or her child(ren) is supervised by either a friend, family member, or a supervised visitation center.

**Supplemental Petition** – a petition that may be filed by either party after the judge has made a decision in a case and a final judgment or order has been entered. For example, a supplemental petition may be used to request that the court modify the previously entered final judgment or order.

**Supportive Relationship**-a relationship, defined in section 61.14(1)(b)1, Florida Statutes, existing between a spouse who receives alimony and a person with whom that spouse resides.

**Time-Sharing Schedule** – a timetable that must be included in the Parenting Plan

that specifies the time, including overnights and holidays, that a minor child or children will spend with each parent. The time-sharing schedule shall either be developed and agreed to by the parents of a minor child or children and is approved by the court or established by the court if the parents cannot agree, or if their agreed-upon schedule is not approved by the court.

**Trial** – the final hearing in a contested case.

**Uncontested** – any and all issues on which the parties are able to agree and which are part of a marital settlement agreement.

### **DISCLAIMER:**

The legal information provided in this document is for general reference and educational purposes only.

#### **Our Intention: Useful Information.**

It is the intention of **The Guardian Law Firm, P.A.** to provide a comprehensive resource of useful, accurate general information about the law and help individuals learn more about and strategize their own specific legal needs to make more informed decisions.

#### **Document Offered as Instructive Guideline.**

Although every effort has been made to ensure that the information presented is helpful, explanations of legal principles have been simplified to present material in an easier to understand format for use by the general public. Moreover, **laws can vary considerably in different jurisdictions (from state to state and from county to county) and are subject to frequent changes, as well as diverse interpretations** dependent upon the facts unique to a particular situation.

#### **This is a Helpful Forum. It is Not Personalized Legal Counsel.**

This document is offered as an instructive guideline and represents one source of information among many and should not be construed as advice to replace the counsel of a qualified and licensed professional to determine specific legal rights. It is the responsibility of any person or entity using this document to determine the applicable information and facts, and the recommendation of **The Guardian Law Firm, P.A.** to read other material, research additional sources and consult with appropriate legal, financial or clinical professionals before making any decisions that could affect the outcome of a legal proceeding, financial obligation, treatment evaluation, or other important determination.

#### **In Conclusion.**

**The Guardian Law Firm, P.A.** make no representation, guarantee, or warranty (express or implied) as to the legal ability, competence, or quality of representation which may be provided by any attorney, political representative, practitioner, public agency, private service provider or court which are listed herein.

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