

Office of Revisor of Statutes

300 S.W. 10th Avenue
Suite 24-E, Statehouse
Topeka, Kansas 66612-1592
Telephone (785) 296-2321 FAX (785) 296-6668

MEMORANDUM

To: Chairman King and Members of the Senate Judiciary Committee
From: Katherine McBride, Assistant Revisor of Statutes
Date: January 24, 2013
Subject: 2013 SB 17, SB 19

SB 17: Amending the crime of unlawful sexual relations.

During the hearing on SB 17, a question was raised as to whether the provisions of the bill would criminalize consensual sexual intercourse between an employee of an adult care home and a resident living in an apartment within such adult care home. Any apartment or an individual living unit within an adult care home licensed in Kansas falls under the definition of "adult care home" in SB 17, and would thus criminalize consensual sexual intercourse between an employee of an adult care home and a resident living in an apartment or individual living unit within such adult care home.

The bill indicates on page 4, line 41 that the definition of "adult care home" derives from K.S.A. 39-923.¹ "Adult care home" is the broadest definition within the entire section, encompassing all classifications of adult care homes required to be licensed by the department for aging and disability services. An "assisted living facility" and a "residential health care facility" fall under the broader definition of "adult care home". K.S.A. 39-923(a)(1), (a)(5) and (a)(6). An "apartment" is included within the definition of assisted living facility. K.S.A. 39-923(a)(5) and (a)(19). In addition, an individual living unit is included within the definition of residential health care facility. K.S.A. 39-923(a)(6) and (a)(20).

¹ See K.S.A. 2012 Supp. 39-923a. K.S.A. 39-923 contains a conflict from the 2012 Legislative Session. The substantive conflict between K.S.A. 39-923 and K.S.A. 2012 Supp. 92-923a relates to the definition of "intermediate care facility for people with intellectual disability", housed at subsection (a)(4) in both statutes.

SB 19: Mistreatment of a dependent adult.

During the hearing on SB 19, a question was raised as to whether the term “improper” on page 2, line 30, needed to be defined. The term “improper” was not defined in the drafting of the bill, as it does not carry a peculiar or specific meaning within the law in the context in which such term is used within SB 19.

While the term is not used or defined in chapter 21 of the Kansas Statutes Annotated, the term is used more than 100 times throughout the entirety of the statutes. It appears that the only instance within the statutes that the term is defined is within the uniform trade secrets act, K.S.A. 60-3320 et seq., and amendments thereto.

In the review of the term “improper” within SB 19, it may be helpful for the committee to refer to the second statutory rule of construction housed in K.S.A. 77-201:

In the construction of the statutes of this state the following rules shall be observed, unless the construction would be inconsistent with the manifest intent of the legislature or repugnant to the context of the statute:.... *Words and phrases shall be construed according to the context and the approved usage of the language*, but technical words and phrases, and other words and phrases that have acquired a peculiar and appropriate meaning in law, shall be construed according to their peculiar and appropriate meanings (emphasis added).

As it has not been common practice to define the term “improper” within the statutes, it can be argued that the approved usage of the term is applicable. Black’s Law Dictionary indicates that the primary definition for the term “improper” is “incorrect; unsuitable or irregular.” Black’s Law Dictionary 344 (3rd pocket ed. 2006).

Attachments: K.S.A. 39-923

K.S.A. 2012 Supp. 39-923a

Black’s Law Dictionary excerpt

2012 Kansas Statutes

39-923. Definitions. [See Revisor's Note] (a) As used in this act:

- (1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary of aging.
- (2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.
- (3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.
- (4) "Intermediate care facility for people with intellectual disability" means any place or facility operating 24 hours a day, seven days a week, caring for four or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by intellectual disability or related conditions, need services to compensate for activities of daily living limitations.
- (5) "Assisted living facility" means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.
- (6) "Residential health care facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.
- (7) "Home plus" means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.
- (8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.
- (9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.
- (10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.
- (11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.
- (12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.
- (13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.
- (14) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.
- (15) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.
- (16) "Licensing agency" means the secretary of aging.
- (17) "Skilled nursing home" means a nursing facility.

- (18) "Intermediate nursing care home" means a nursing facility.
- (19) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.
- (20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.
- (21) "Operator" means an individual who operates an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and environment on principles of assisted living and has successfully passed an examination approved by the secretary of health and environment on principles of assisted living and such other requirements as may be established by the secretary of health and environment by rules and regulations.
- (22) "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including but not limited to eating, nutrition, dressing, personal hygiene, mobility and toileting.
- (23) "Personal care" means care provided by staff to assist an individual with, or to perform activities of daily living.
- (24) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.
- (25) "Kitchen" means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.
- (26) The term "intermediate personal care home" for purposes of those individuals applying for or receiving veterans' benefits means residential health care facility.
- (27) "Paid nutrition assistant" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, and who provides such assistance under the supervision of a registered professional or licensed practical nurse.
- (28) "Medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.
- (b) The term "adult care home" shall not include institutions operated by federal or state governments, except institutions operated by the Kansas commission on veterans affairs, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 et seq., and amendments thereto, and which provide services only to hospice patients.
- (c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.
- (d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.
- (e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.
- (f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.
- History:** L. 1961, ch. 231, § 1; L. 1967, ch. 246, § 1; L. 1972, ch. 171, § 1; L. 1975, ch. 462, § 39; L. 1978, ch. 161, § 11; L. 1982, ch. 189, § 1; L. 1983, ch. 146, § 1; L. 1992, ch. 322, § 7; L. 1994, ch. 6, § 2; L. 1994, ch. 279, § 2; L. 1995, ch. 143, § 1; L. 1998, ch. 200, § 3; L. 2002, ch. 197, § 7; L. 2003, ch. 149, § 2; L. 2004, ch. 146, § 3; L. 2011, ch. 62, § 1; L. 2012, ch. 113, § 2; July 1.

Revisor's Note:

Section was amended twice in the 2012 session, see also 39-923a.

2012 Kansas Statutes

39-923a. Definitions. [See Revisor's Note] (a) As used in this act:

- (1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary of aging.
- (2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.
- (3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.
- (4) "Intermediate care facility for people with intellectual disability" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by intellectual disability or related conditions, need services to compensate for activities of daily living limitations.
- (5) "Assisted living facility" means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.
- (6) "Residential health care facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.
- (7) "Home plus" means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.
- (8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.
- (9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.
- (10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.
- (11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.
- (12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.
- (13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.
- (14) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.
- (15) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.
- (16) "Licensing agency" means the secretary of aging.
- (17) "Skilled nursing home" means a nursing facility.

- (18) "Intermediate nursing care home" means a nursing facility.
- (19) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.
- (20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.
- (21) "Operator" means an individual who operates an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and environment on principles of assisted living and has successfully passed an examination approved by the secretary of health and environment on principles of assisted living and such other requirements as may be established by the secretary of health and environment by rules and regulations.
- (22) "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including but not limited to eating, nutrition, dressing, personal hygiene, mobility, toileting.
- (23) "Personal care" means care provided by staff to assist an individual with, or to perform activities of daily living.
- (24) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.
- (25) "Kitchen" means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.
- (26) The term "intermediate personal care home" for purposes of those individuals applying for or receiving veterans' benefits means residential health care facility.
- (27) "Paid nutrition assistant" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, and who provides such assistance under the supervision of a registered professional or licensed practical nurse.
- (b) The term "adult care home" shall not include institutions operated by federal or state governments, except institutions operated by the Kansas commission on veterans affairs, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 et seq., and amendments thereto, and which provide services only to hospice patients.
- (c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.
- (d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.
- (e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.
- (f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

History: L. 1961, ch. 231, § 1; L. 1967, ch. 246, § 1; L. 1972, ch. 171, § 1; L. 1975, ch. 462, § 39; L. 1978, ch. 161, § 11; L. 1982, ch. 189, § 1; L. 1983, ch. 146, § 1; L. 1992, ch. 322, § 7; L. 1994, ch. 6, § 2; L. 1994, ch. 279, § 2; L. 1995, ch. 143, § 1; L. 1998, ch. 200, § 3; L. 2002, ch. 197, § 7; L. 2003, ch. 149, § 2; L. 2004, ch. 146, § 3; L. 2011, ch. 62, § 1; L. 2012, ch. 91, § 17; July 1.

Revisor's Note:

Section was amended twice in the 2012 session, see also 39-923.

gives the executive branch a line-item veto over legislative spending.

impracticability (im-prak-ti-kə-bil-ə-tee). *Contracts*. 1. A fact or circumstance that excuses a party from performing an act, esp. a contractual duty, because (though possible) it would cause extreme and unreasonable difficulty. • For performance to be truly impracticable, the duty must become much more difficult or much more expensive to perform, and this difficulty or expense must have been unanticipated. 2. The doctrine by which such a fact or circumstance excuses performance. Cf. FRUSTRATION (2); IMPOSSIBILITY (4).

commercial impracticability. The occurrence of a contingency whose nonoccurrence was an assumption in the contract, as a result of which one party cannot perform.

imprescriptible (im-prə-skrip-tə-bəl), *adj.* Not subject to prescription; not capable of being acquired by prescription. See PRESCRIPTION.

impressment (im-pres-ment), *n.* 1. The act of forcibly taking (something) for public service. 2. A court's imposition of a constructive trust on equitable grounds. See *constructive trust* under TRUST. — **impress**, *vb.* **imprison**, *vb.* To confine (a person) in prison. — **imprisonment**, *n.* **improper**, *adj.* 1. Incorrect; unsuitable or irregular. 2. Fraudulent or otherwise wrongful.

improved land. Real property that has been developed. • The improvements may or may not enhance the value of the land.

improved value. *Real estate*. In the appraisal of property, the value of the land plus the value of any improvements.

improvement. An addition to real property, whether permanent or not; esp., one that increases its value or utility or that enhances its appearance. Cf. FIXTURE.

general improvement. An improvement whose primary purpose or effect is to benefit the public generally, though it may incidentally benefit property owners in its vicinity.

local improvement. A real-property improvement, such as a sewer or sidewalk, financed by special assessment, and specially benefiting adjacent property.

necessary improvement. An improvement made to prevent the deterioration of property.

valuable improvement. An improvement that adds permanent value to the freehold.

improvident (im-prahv-ə-dent), *adj.* 1. Lacking foresight and care in the management of property. 2. Of or relating to a judgment arrived at by using misleading information or a mistaken assumption. — **improvidence** (im-prahv-ə-dents), *n.*

impugn (im-pyoon), *vb.* To challenge or call into question (a person's character, the truth of a statement, etc.). — **impugnement**, *n.*

impulse, *n.* A sudden urge or inclination that prompts an unplanned action.

uncontrollable impulse. An impulse so overwhelming that it cannot be resisted. See IRRESISTIBLE-IMPULSE TEST.

impunity (im-pyoo-nə-tee). An exemption or protection from punishment. See IMMUNITY.

impute (im-pyoot), *vb.* To ascribe or attribute; to regard (usu. something undesirable) as being done, caused, or possessed by. — **imputation**, *n.* — **imputable**, *adj.*

imputed income. See INCOME.

imputed interest. See INTEREST (3).

imputed knowledge. See KNOWLEDGE.

imputed negligence. See NEGLIGENCE.

imputed notice. See NOTICE.

in, *prep.* Under or based on the law of <to bring an action in contract>.

in absentia (in ab-sen-shee-ə or ab-sen-shə). [Latin] In the absence of (someone); in (someone's) absence. **in action**. (Of property) attainable or recoverable through litigation. See *chose in action* under CHOSE.

inactive case. See CASE.

inadequate consideration. See CONSIDERATION.

inadequate remedy at law. A remedy (such as money damages) that does not sufficiently correct the wrong, as a result of which an injunction may be available to the disadvantaged party. See IRREPARABLE-INJURY RULE.

inadmissible, *adj.* 1. (Of a thing) not allowable or worthy of being admitted. 2. (Of evidence) excludable by some rule of evidence.

inadvertence, *n.* An accidental oversight; a result of carelessness.

inadvertent discovery. *Criminal procedure*. A law-enforcement officer's unexpected finding of incriminating evidence in plain view. • Even though this type of evidence is obtained without a warrant, it can be used against the accused under the plain-view exception to the warrant requirement.

inadvertent negligence. See NEGLIGENCE.

inalienable, *adj.* Not transferable or assignable.

inalienable interest. See INTEREST (2).

inarbitrable, *adj.* 1. (Of a dispute) not capable of being arbitrated; not subject to arbitration. 2. Not subject to being decided.

in arrears (in ə-reez), *adj.* & *adv.* 1. Behind in the discharging of a debt or other obligation <the tenants were in arrears with the rent>. 2. At the end of a term or period instead of the beginning <the interests, fees, and costs are payable in arrears>. **in articulo mortis**. See IN EXTREMIS.

in being. Existing in life <life in being plus 21 years>. • In property law, this term includes children conceived but not yet born. See LIFE IN BEING.

in blank. (Of an indorsement) not restricted to a particular indorsee. See *blank indorsement* under INDORSEMENT.

Inc. abbr.: Incorporated.

in camera (in kam-ə-rə), *adv.* & *adj.* [Law Latin "in a chamber"] 1. In the

BLACK'S LAW DICTIONARY

THIRD POCKET EDITION

BRYAN A. GARNER, EDITOR IN CHIEF

- Authoritative and up-to-date
- Fully defines more than 10,000 terms
- Unmatched in readability and ease of use
- Based on the award-winning eighth edition of *Black's Law Dictionary*

THOMSON
WEST