

27 process for proceedings under chapters 61 and 742, Florida
 28 Statutes.

29 (2) Encourage the peaceful resolution of disputes and the
 30 early resolution of pending litigation through voluntary
 31 settlement procedures.

32 (3) Preserve the working relationship between parties to a
 33 dispute through a nonadversarial method that reduces the
 34 emotional and financial toll of litigation.

35 Section 2. The Division of Law Revision and Information is
 36 directed to create part III of chapter 61, Florida Statutes,
 37 consisting of ss. 61.55-61.58, to be entitled the "Collaborative
 38 Law Process Act."

39 Section 3. Section 61.55, Florida Statutes, is created to
 40 read:

41 61.55 Purpose.—The purpose of this part is to create a
 42 uniform system of practice for the collaborative law process in
 43 this state. It is the policy of this state to encourage the
 44 peaceful resolution of disputes and the early resolution of
 45 pending litigation through a voluntary settlement process. The
 46 collaborative law process is a unique nonadversarial process
 47 that preserves a working relationship between the parties and
 48 reduces the emotional and financial toll of litigation.

49 Section 4. Section 61.56, Florida Statutes, is created to
 50 read:

51 61.56 Definitions.—As used in this part, the term:

52 (1) "Collaborative attorney" means an attorney who

53 represents a party in a collaborative law process.

54 (2) "Collaborative law communication" means an oral or
55 written statement, including a statement made in a record, or
56 nonverbal conduct that:

57 (a) Is made in the conduct of or in the course of
58 participating in, continuing, or reconvening for a collaborative
59 law process; and

60 (b) Occurs after the parties sign a collaborative law
61 participation agreement and before the collaborative law process
62 is concluded or terminated.

63 (3) "Collaborative law participation agreement" means an
64 agreement between persons to participate in a collaborative law
65 process.

66 (4) "Collaborative law process" means a process intended
67 to resolve a collaborative matter without intervention by a
68 tribunal and in which persons sign a collaborative law
69 participation agreement and are represented by collaborative
70 attorneys.

71 (5) "Collaborative matter" means a dispute, transaction,
72 claim, problem, or issue for resolution, including a dispute,
73 claim, or issue in a proceeding which is described in a
74 collaborative law participation agreement and arises under this
75 chapter or chapter 742, including, but not limited to:

76 (a) Marriage, divorce, dissolution, annulment, and marital
77 property distribution.

78 (b) Child custody, visitation, parenting plans, and

79 parenting time.

80 (c) Alimony, maintenance, and child support.

81 (d) Parental relocation with a child.

82 (e) Parentage and paternity.

83 (f) Premarital, marital, and postmarital agreements.

84 (6) "Law firm" means:

85 (a) One or more attorneys who practice law in a
 86 partnership, professional corporation, sole proprietorship,
 87 limited liability company, or association; or

88 (b) One or more attorneys employed in a legal services
 89 organization, the legal department of a corporation or other
 90 organization, or the legal department of a governmental entity,
 91 subdivision, agency, or instrumentality.

92 (7) "Nonparty participant" means a person, other than a
 93 party and the party's collaborative attorney, who participates
 94 in a collaborative law process.

95 (8) "Party" means a person who signs a collaborative law
 96 participation agreement and whose consent is necessary to
 97 resolve a collaborative matter.

98 (9) "Person" means an individual; a corporation; a
 99 business trust; an estate; a trust; a partnership; a limited
 100 liability company; an association; a joint venture; a public
 101 corporation; a government or governmental subdivision, agency,
 102 or instrumentality; or any other legal or commercial entity.

103 (10) "Proceeding" means a judicial, administrative,
 104 arbitral, or other adjudicative process before a tribunal,

105 including related prehearing and posthearing motions,
106 conferences, and discovery.

107 (11) "Prospective party" means a person who discusses with
108 a prospective collaborative attorney the possibility of signing
109 a collaborative law participation agreement.

110 (12) "Record" means information that is inscribed on a
111 tangible medium or that is stored in an electronic or other
112 medium and is retrievable in perceivable form.

113 (13) "Related to a collaborative matter" means involving
114 the same parties, transaction or occurrence, nucleus of
115 operative fact, dispute, claim, or issue as the collaborative
116 matter.

117 (14) "Sign" means, with present intent to authenticate or
118 adopt a record, to:

119 (a) Execute or adopt a tangible symbol; or

120 (b) Attach to or logically associate with the record an
121 electronic symbol, sound, or process.

122 (15) "Tribunal" means a court, arbitrator, administrative
123 agency, or other body acting in an adjudicative capacity which,
124 after presentation of evidence or legal argument, has
125 jurisdiction to render a decision affecting a party's interests
126 in a matter.

127 Section 5. Section 61.57, Florida Statutes, is created to
128 read:

129 61.57 Beginning, concluding, and terminating a
130 collaborative law process.-

131 (1) The collaborative law process commences, regardless of
 132 whether a legal proceeding is pending, when the parties enter
 133 into a collaborative law participation agreement.

134 (2) A tribunal may not order a party to participate in a
 135 collaborative law process over that party's objection.

136 (3) A collaborative law process is concluded by any of the
 137 following:

138 (a) Resolution of a collaborative matter as evidenced by a
 139 signed record;

140 (b) Resolution of a part of the collaborative matter,
 141 evidenced by a signed record, in which the parties agree that
 142 the remaining parts of the collaborative matter will not be
 143 resolved in the collaborative law process; or

144 (c) Termination of the collaborative law process.

145 (4) A collaborative law process terminates when a party:

146 (a) Gives notice to the other parties in a record that the
 147 collaborative law process is concluded;

148 (b) Begins a proceeding related to a collaborative matter
 149 without the consent of all parties;

150 (c) Initiates a pleading, motion, order to show cause, or
 151 request for a conference with a tribunal in a pending proceeding
 152 related to a collaborative matter;

153 (d) Requests that the proceeding be put on the tribunal's
 154 active calendar in a pending proceeding related to a
 155 collaborative matter;

156 (e) Takes similar action requiring notice to be sent to

157 the parties in a pending proceeding related to a collaborative
158 matter; or

159 (f) Discharges a collaborative attorney or a collaborative
160 attorney withdraws from further representation of a party,
161 except as otherwise provided in subsection (7).

162 (5) A party's collaborative attorney shall give prompt
163 notice to all other parties in a record of a discharge or
164 withdrawal.

165 (6) A party may terminate a collaborative law process with
166 or without cause.

167 (7) Notwithstanding the discharge or withdrawal of a
168 collaborative attorney, the collaborative law process continues
169 if, not later than 30 days after the date that the notice of the
170 discharge or withdrawal of a collaborative attorney required by
171 subsection (5) is sent to the parties:

172 (a) The unrepresented party engages a successor
173 collaborative attorney;

174 (b) The parties consent to continue the collaborative law
175 process by reaffirming the collaborative law participation
176 agreement in a signed record;

177 (c) The collaborative law participation agreement is
178 amended to identify the successor collaborative attorney in a
179 signed record; and

180 (d) The successor collaborative attorney confirms his or
181 her representation of a party in the collaborative law
182 participation agreement in a signed record.

183 (8) A collaborative law process does not conclude if, with
 184 the consent of the parties, a party requests a tribunal to
 185 approve a resolution of a collaborative matter or any part
 186 thereof as evidenced by a signed record.

187 (9) A collaborative law participation agreement may
 188 provide additional methods for concluding a collaborative law
 189 process.

190 Section 6. Section 61.58, Florida Statutes, is created to
 191 read:

192 61.58 Confidentiality of a collaborative law
 193 communication.—Except as provided in this section, a
 194 collaborative law communication is confidential to the extent
 195 agreed by the parties in a signed record or as otherwise
 196 provided by law.

197 (1) PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW
 198 COMMUNICATION; ADMISSIBILITY; DISCOVERY.—

199 (a) Subject to subsections (2) and (3), a collaborative
 200 law communication is privileged as provided under paragraph (b),
 201 is not subject to discovery, and is not admissible into
 202 evidence.

203 (b) In a proceeding, the following privileges apply:

204 1. A party may refuse to disclose, and may prevent another
 205 person from disclosing, a collaborative law communication.

206 2. A nonparty participant may refuse to disclose, and may
 207 prevent another person from disclosing, a collaborative law
 208 communication of a nonparty participant.

209 (c) Evidence or information that is otherwise admissible
 210 or subject to discovery does not become inadmissible or
 211 protected from discovery solely because of its disclosure or use
 212 in a collaborative law process.

213 (2) WAIVER AND PRECLUSION OF PRIVILEGE.—

214 (a) A privilege under subsection (1) may be waived orally
 215 or in a record during a proceeding if it is expressly waived by
 216 all parties and, in the case of the privilege of a nonparty
 217 participant, if it is expressly waived by the nonparty
 218 participant.

219 (b) A person who makes a disclosure or representation
 220 about a collaborative law communication that prejudices another
 221 person in a proceeding may not assert a privilege under
 222 subsection (1). This preclusion applies only to the extent
 223 necessary for the person prejudiced to respond to the disclosure
 224 or representation.

225 (3) LIMITS OF PRIVILEGE.—

226 (a) A privilege under subsection (1) does not apply to a
 227 collaborative law communication that is:

228 1. Available to the public under chapter 119 or made
 229 during a session of a collaborative law process that is open, or
 230 is required by law to be open, to the public;

231 2. A threat, or statement of a plan, to inflict bodily
 232 injury or commit a crime of violence;

233 3. Intentionally used to plan a crime, commit or attempt
 234 to commit a crime, or conceal an ongoing crime or ongoing

235 criminal activity; or

236 4. In an agreement resulting from the collaborative law
237 process, as evidenced by a record signed by all parties to the
238 agreement.

239 (b) A privilege under subsection (1) for a collaborative
240 law communication does not apply to the extent that such
241 collaborative law communication is:

242 1. Sought or offered to prove or disprove a claim or
243 complaint of professional misconduct or malpractice arising from
244 or related to a collaborative law process; or

245 2. Sought or offered to prove or disprove abuse, neglect,
246 abandonment, or exploitation of a child or adult unless the
247 Department of Children and Families is a party to or otherwise
248 participates in the process.

249 (c) A privilege under subsection (1) does not apply if a
250 tribunal finds, after a hearing in camera, that the party
251 seeking discovery or the proponent of the evidence has shown
252 that the evidence is not otherwise available, the need for the
253 evidence substantially outweighs the interest in protecting
254 confidentiality, and the collaborative law communication is
255 sought or offered in:

256 1. A court proceeding involving a felony; or

257 2. A proceeding seeking rescission or reformation of a
258 contract arising out of the collaborative law process or in
259 which a defense is asserted to avoid liability on the contract.

260 (d) If a collaborative law communication is subject to an

261 exception under paragraph (b) or paragraph (c), only the part of
262 the collaborative law communication necessary for the
263 application of the exception may be disclosed or admitted.

264 (e) Disclosure or admission of evidence excepted from the
265 privilege under paragraph (b) or paragraph (c) does not make the
266 evidence or any other collaborative law communication
267 discoverable or admissible for any other purpose.

268 (f) A privilege under subsection (1) does not apply if the
269 parties agree in advance in a signed record, or if a record of a
270 proceeding reflects agreement by the parties, that all or part
271 of a collaborative law process is not privileged. This paragraph
272 does not apply to a collaborative law communication made by a
273 person who did not receive actual notice of the collaborative
274 law participation agreement before the communication was made.

275 Section 7. Sections 61.55-61.58, Florida Statutes, as
276 created by this act, shall not take effect until 30 days after
277 the Florida Supreme Court adopts rules of procedure and
278 professional responsibility consistent with this act.

279 Section 8. Except as otherwise expressly provided in this
280 act, this act shall take effect July 1, 2015.