



27 directed to create part III of chapter 61, Florida Statutes,  
28 consisting of ss. 61.55-61.58, to be entitled the "Collaborative  
29 Law Process Act."

30 Section 3. Section 61.55, Florida Statutes, is created to  
31 read:

32 61.55 Purpose.—The purpose of this part is to create a  
33 uniform system of practice for the collaborative law process in  
34 this state. It is the policy of this state to encourage the  
35 peaceful resolution of disputes and the early resolution of  
36 pending litigation through a voluntary settlement process. The  
37 collaborative law process is a unique nonadversarial process  
38 that preserves a working relationship between the parties and  
39 reduces the emotional and financial toll of litigation.

40 Section 4. Section 61.56, Florida Statutes, is created to  
41 read:

42 61.56 Definitions.—As used in this part, the term:

43 (1) "Collaborative attorney" means an attorney who  
44 represents a party in a collaborative law process.

45 (2) "Collaborative law communication" means an oral or  
46 written statement, including a statement made in a record, or  
47 nonverbal conduct that:

48 (a) Is made in the conduct of or in the course of  
49 participating in, continuing, or reconvening for a collaborative  
50 law process; and

51 (b) Occurs after the parties sign a collaborative law  
52 participation agreement and before the collaborative law process

53 is concluded or terminated.

54 (3) "Collaborative law participation agreement" means an  
55 agreement between persons to participate in a collaborative law  
56 process.

57 (4) "Collaborative law process" means a process intended  
58 to resolve a collaborative matter without intervention by a  
59 tribunal and in which persons sign a collaborative law  
60 participation agreement and are represented by collaborative  
61 attorneys.

62 (5) "Collaborative matter" means a dispute, transaction,  
63 claim, problem, or issue for resolution, including a dispute,  
64 claim, or issue in a proceeding which is described in a  
65 collaborative law participation agreement and arises under this  
66 chapter or chapter 742, including, but not limited to:

67 (a) Marriage, divorce, dissolution, annulment, and marital  
68 property distribution.

69 (b) Child custody, visitation, parenting plans, and  
70 parenting time.

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

72 (d) Parental relocation with a child.

73 (e) Parentage and paternity.

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

75 (6) "Law firm" means:

76 (a) One or more attorneys who practice law in a  
77 partnership, professional corporation, sole proprietorship,  
78 limited liability company, or association; or

79 (b) One or more attorneys employed in a legal services  
80 organization, the legal department of a corporation or other  
81 organization, or the legal department of a governmental entity,  
82 subdivision, agency, or instrumentality.

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

86 (8) "Party" means a person who signs a collaborative law  
87 participation agreement and whose consent is necessary to  
88 resolve a collaborative matter.

89 (9) "Person" means an individual; a corporation; a  
90 business trust; an estate; a trust; a partnership; a limited  
91 liability company; an association; a joint venture; a public  
92 corporation; a government or governmental subdivision, agency,  
93 or instrumentality; or any other legal or commercial entity.

94 (10) "Proceeding" means a judicial, administrative,  
95 arbitral, or other adjudicative process before a tribunal,  
96 including related prehearing and posthearing motions,  
97 conferences, and discovery.

98 (11) "Prospective party" means a person who discusses with  
99 a prospective collaborative attorney the possibility of signing  
100 a collaborative law participation agreement.

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

104 (13) "Related to a collaborative matter" means involving

105 the same parties, transaction or occurrence, nucleus of  
106 operative fact, dispute, claim, or issue as the collaborative  
107 matter.

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

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

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

113 (15) "Tribunal" means a court, arbitrator, administrative  
114 agency, or other body acting in an adjudicative capacity which,  
115 after presentation of evidence or legal argument, has  
116 jurisdiction to render a decision affecting a party's interests  
117 in a matter.

118 Section 5. Section 61.57, Florida Statutes, is created to  
119 read:

120 61.57 Beginning, concluding, and terminating a  
121 collaborative law process.-

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

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

127 (3) A collaborative law process is concluded by any of the  
128 following:

129 (a) Resolution of a collaborative matter as evidenced by a  
130 signed record;

- 131        (b) Resolution of a part of the collaborative matter,  
132 evidenced by a signed record, in which the parties agree that  
133 the remaining parts of the collaborative matter will not be  
134 resolved in the collaborative law process; or
- 135        (c) Termination of the collaborative law process.
- 136        (4) A collaborative law process terminates when a party:  
137        (a) Gives notice to the other parties in a record that the  
138 collaborative law process is concluded;  
139        (b) Begins a proceeding related to a collaborative matter  
140 without the consent of all parties;  
141        (c) Initiates a pleading, motion, order to show cause, or  
142 request for a conference with a tribunal in a pending proceeding  
143 related to a collaborative matter;  
144        (d) Requests that the proceeding be put on the tribunal's  
145 active calendar in a pending proceeding related to a  
146 collaborative matter;  
147        (e) Takes similar action requiring notice to be sent to  
148 the parties in a pending proceeding related to a collaborative  
149 matter; or  
150        (f) Discharges a collaborative attorney or a collaborative  
151 attorney withdraws from further representation of a party,  
152 except as otherwise provided in subsection (7).
- 153        (5) A party's collaborative attorney shall give prompt  
154 notice to all other parties in a record of a discharge or  
155 withdrawal.
- 156        (6) A party may terminate a collaborative law process with

157 | or without cause.

158 | (7) Notwithstanding the discharge or withdrawal of a  
159 | collaborative attorney, the collaborative law process continues  
160 | if, not later than 30 days after the date that the notice of the  
161 | discharge or withdrawal of a collaborative attorney required by  
162 | subsection (5) is sent to the parties:

163 | (a) The unrepresented party engages a successor  
164 | collaborative attorney;

165 | (b) The parties consent to continue the collaborative law  
166 | process by reaffirming the collaborative law participation  
167 | agreement in a signed record;

168 | (c) The collaborative law participation agreement is  
169 | amended to identify the successor collaborative attorney in a  
170 | signed record; and

171 | (d) The successor collaborative attorney confirms his or  
172 | her representation of a party in the collaborative law  
173 | participation agreement in a signed record.

174 | (8) A collaborative law process does not conclude if, with  
175 | the consent of the parties, a party requests a tribunal to  
176 | approve a resolution of a collaborative matter or any part  
177 | thereof as evidenced by a signed record.

178 | (9) A collaborative law participation agreement may  
179 | provide additional methods for concluding a collaborative law  
180 | process.

181 | Section 6. Section 61.58, Florida Statutes, is created to  
182 | read:

183       61.58 Confidentiality of a collaborative law  
 184 communication.—Except as provided in this section, a  
 185 collaborative law communication is confidential to the extent  
 186 agreed by the parties in a signed record or as otherwise  
 187 provided by law.

188       (1) PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW  
 189 COMMUNICATION; ADMISSIBILITY; DISCOVERY.—

190       (a) Subject to subsections (2) and (3), a collaborative  
 191 law communication is privileged as provided under paragraph (b),  
 192 is not subject to discovery, and is not admissible into  
 193 evidence.

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

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

197       2. A nonparty participant may refuse to disclose, and may  
 198 prevent another person from disclosing, a collaborative law  
 199 communication of a nonparty participant.

200       (c) Evidence or information that is otherwise admissible  
 201 or subject to discovery does not become inadmissible or  
 202 protected from discovery solely because of its disclosure or use  
 203 in a collaborative law process.

204       (2) WAIVER AND PRECLUSION OF PRIVILEGE.—

205       (a) A privilege under subsection (1) may be waived orally  
 206 or in a record during a proceeding if it is expressly waived by  
 207 all parties and, in the case of the privilege of a nonparty  
 208 participant, if it is expressly waived by the nonparty

209 participant.

210 (b) A person who makes a disclosure or representation  
211 about a collaborative law communication that prejudices another  
212 person in a proceeding may not assert a privilege under  
213 subsection (1). This preclusion applies only to the extent  
214 necessary for the person prejudiced to respond to the disclosure  
215 or representation.

216 (3) LIMITS OF PRIVILEGE.—

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

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

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

224 3. Intentionally used to plan a crime, commit or attempt  
225 to commit a crime, or conceal an ongoing crime or ongoing  
226 criminal activity; or

227 4. In an agreement resulting from the collaborative law  
228 process, as evidenced by a record signed by all parties to the  
229 agreement.

230 (b) A privilege under subsection (1) for a collaborative  
231 law communication does not apply to the extent that such  
232 collaborative law communication is:

233 1. Sought or offered to prove or disprove a claim or  
234 complaint of professional misconduct or malpractice arising from

235 or related to a collaborative law process; or

236 2. Sought or offered to prove or disprove abuse, neglect,  
237 abandonment, or exploitation of a child or adult unless the  
238 Department of Children and Families is a party to or otherwise  
239 participates in the process.

240 (c) A privilege under subsection (1) does not apply if a  
241 tribunal finds, after a hearing in camera, that the party  
242 seeking discovery or the proponent of the evidence has shown  
243 that the evidence is not otherwise available, the need for the  
244 evidence substantially outweighs the interest in protecting  
245 confidentiality, and the collaborative law communication is  
246 sought or offered in:

247 1. A court proceeding involving a felony; or

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

251 (d) If a collaborative law communication is subject to an  
252 exception under paragraph (b) or paragraph (c), only the part of  
253 the collaborative law communication necessary for the  
254 application of the exception may be disclosed or admitted.

255 (e) Disclosure or admission of evidence excepted from the  
256 privilege under paragraph (b) or paragraph (c) does not make the  
257 evidence or any other collaborative law communication  
258 discoverable or admissible for any other purpose.

259 (f) A privilege under subsection (1) does not apply if the  
260 parties agree in advance in a signed record, or if a record of a

261 proceeding reflects agreement by the parties, that all or part  
262 of a collaborative law process is not privileged. This paragraph  
263 does not apply to a collaborative law communication made by a  
264 person who did not receive actual notice of the collaborative  
265 law participation agreement before the communication was made.

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

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