

# Report of the Family Law Committee

1 *To the Council of Delegates*

2 The Family Law Committee respectfully requests your favorable consideration of the  
3 following proposal to adopt the Ohio Collaborative Family Law Act. The proposal is  
4 attached as Exhibit A.

5 Respectfully submitted,

6 **Thomas P. Taggart**, *Saint Marys, WV*  
7 Chair

8

## 9 **EXHIBIT A**

### 10 **R.C. \_\_\_\_ . COLLABORATIVE FAMILY LAW ACT**

11 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Ohio Collaborative Family  
12 Law Act.

13 **SECTION 2. DEFINITIONS.** In this [act]:

14 (1) “Collaborative Family Law communication” means a statement, whether oral or in a  
15 record, verbal or nonverbal, that:

16 (A) occurs after the parties sign a Collaborative Family Law participation agreement and  
17 before the Collaborative Family Law process is concluded; and

18 (B) is made for the purpose of conducting, participating in, continuing, or reconvening a  
19 collaborative law process.

20 (2) “Collaborative Family Law participation agreement” means an agreement by persons  
21 to participate in a Collaborative Family Law process.

22 (3) “Collaborative Family Law process” means a procedure intended to resolve a matter  
23 without intervention by a tribunal in which parties:

24 (A) sign a Collaborative Family Law participation agreement; and

25 (B) are represented by Collaborative Family Lawyers.

26 (4) “Collaborative Family Lawyer” means a lawyer who represents a party in a  
27 Collaborative Family Law process.

28 (5) “Collaborative matter” or “matter” means a dispute, transaction, claim, problem, or  
29 issue for resolution relating to Family Relations Law (Title 31 of the Ohio Revised Code)

30 and as further described in a Collaborative Family Law participation agreement. The term  
31 includes a dispute, claim, or issue in a proceeding.

32 (6) “Law firm” means lawyers who practice law together in a partnership, professional  
33 corporation, sole proprietorship, limited liability company, or other association, or  
34 lawyers employed in a legal services organization, or the legal department of a  
35 corporation or other organization, or the legal department of a government or  
36 governmental subdivision, agency, or instrumentality.

37 (7) “Nonparty participant” means a person, other than a party and the party’s  
38 Collaborative Family Lawyer, that participates in a Collaborative Family Law process.

39 (8) “Party” means a person that signs a Collaborative Family Law participation  
40 agreement and whose consent is necessary to resolve a matter.

41 (9) “Person” means an individual, corporation, business trust, estate, trust, partnership,  
42 limited liability company, association, joint venture, public corporation, government or  
43 governmental subdivision, agency, or instrumentality, or any other legal or commercial  
44 entity.

45 (10) “Proceeding” means: a judicial, administrative, arbitral, or other adjudicative process  
46 before a tribunal, including related pre-hearing and post-hearing motions, conferences,  
47 and discovery.

48 (11) “Prospective party” means a person that discusses the possibility of signing a  
49 Collaborative Family Law participation agreement with a prospective Collaborative  
50 Family Lawyer.

51 (12) “Record” means information that is inscribed on a tangible medium or that is stored  
52 in an electronic or other medium and is retrievable in perceivable form.

53 (13) “Related to a Collaborative Family Law matter” or “related to a matter” means  
54 involving the same parties, transaction or occurrence, nucleus of operative fact, claim,  
55 issue, or dispute as a matter.

56 (14) “Sign” means, with present intent to authenticate or adopt a record:

57 (A) to execute or adopt a tangible symbol; or

58 (B) to attach to or logically associate with the record an electronic symbol, sound, or  
59 process.

60 (15) “Tribunal” means a court, arbitrator, administrative agency or other body acting in  
61 an adjudicative capacity that, after presentation of evidence or legal argument, has  
62 jurisdiction to render a decision affecting a party’s interests in a matter.

63 **SECTION 3. APPLICABILITY; SCOPE.**

64 (a) This [act] applies to a Collaborative Family Law participation agreement that meets  
65 the requirements of section 4 signed [on or] after [the effective date of this [act]].

66 (b) A tribunal may not order a party to participate in a Collaborative Family Law process  
67 over that party's objection.

68 **SECTION 4. COLLABORATIVE FAMILY LAW PARTICIPATION**  
69 **AGREEMENT; REQUIREMENTS.**

70 (a) A Collaborative Family Law participation agreement must:

71 (1) be in a record;

72 (2) be signed by the parties;

73 (3) state the parties' intention to resolve a matter through a Collaborative Family Law  
74 process under this [act];

75 (4) describe the nature and scope of the matter;

76 (5) identify the Collaborative Family Lawyer who represents each party in the  
77 Collaborative Family Law process; and

78 (6) contain a statement by each Collaborative Family Lawyer confirming the lawyer's  
79 representation of a party in the Collaborative Family Law process.

80 (b) Parties to a Collaborative Family Law participation agreement may agree to include  
81 additional provisions not inconsistent with this [act].

82 **SECTION 5. BEGINNING AND CONCLUDING A COLLABORATIVE FAMILY**  
83 **LAW PROCESS.**

84 (a) A Collaborative Family Law process begins when the parties sign a Collaborative  
85 Family Law participation agreement.

86 (b) A Collaborative Family Law process is concluded by a:

87 (1) negotiated resolution of the matter as evidenced by a signed record;

88 (2) negotiated resolution of a portion of the matter as evidenced by a signed record where  
89 the parties agree that the remaining portions of the matter will not be resolved in the  
90 Collaborative Family Law process; or

91 (3) termination of the process.

92 (c) A Collaborative Family Law process terminates:

93 (1) when a party gives notice in a record that the Collaborative Family Law process is  
94 ended; or

95 (2) when a party:  
96 (A) begins a proceeding related to the Collaborative Family Law matter without the  
97 agreement of all parties; or  
98 (B) in a pending proceeding related to the Collaborative Family Law matter:  
99 (i) initiates a pleading, motion, order to show cause, or request for a conference with the  
100 tribunal;  
101 (ii) requests that the proceeding be put on the [tribunal's active calendar]; or  
102 (iii) takes similar action requiring notice to be sent to the parties; or 5  
103 (3) except as otherwise provided by subsection (e), when a party discharges a  
104 Collaborative Family Lawyer or a Collaborative Family Lawyer withdraws from further  
105 representation of a party. The party's Collaborative Family Lawyer shall give prompt  
106 notice in a record of such discharge or withdrawal to all other parties.  
107 (d) A party may terminate a Collaborative Family Law process with or without cause. A  
108 notice of termination need not specify a reason for terminating the process.  
109 (e) Notwithstanding the discharge or withdrawal of a Collaborative Family Lawyer, a  
110 Collaborative Family Law process continues if not later than 30 days after the date that  
111 the notice of the discharge or withdrawal of a Collaborative Family Lawyer required by  
112 subsection (c)(3) is sent to the parties:  
113 (1) the unrepresented party engages a successor Collaborative Family Lawyer; and  
114 (2) in a signed record:  
115 (A) all parties consent to continue the process by reaffirming the Collaborative Family  
116 Law participation agreement;  
117 (B) the Collaborative Family Law participation agreement is amended to identify the  
118 successor Collaborative Family Lawyer; and  
119 (C) the successor Collaborative Family Lawyer confirms the lawyer's representation of a  
120 party in the Collaborative Family Law process.  
121 (f) A Collaborative Family Law process does not terminate if, with the consent of all  
122 parties, a party requests a tribunal to approve a negotiated resolution of the matter or any  
123 portion thereof as evidenced by a signed record.  
124 (g) A Collaborative Family Law participation agreement may provide additional methods  
125 of terminating a Collaborative Family Law process.

126 **SECTION 6. PROCEEDINGS PENDING BEFORE TRIBUNAL; STATUS**  
127 **REPORT.**

128 (a) Parties to a proceeding pending before a tribunal may sign a Collaborative Family  
129 Law participation agreement to seek to resolve a matter related to the proceeding. Parties  
130 shall file promptly a notice of the agreement with the tribunal after the Collaborative  
131 Family Law participation agreement is signed. Subject to subsection (c) and Section 7  
132 and 8, the filing operates as a stay of the proceeding.

133 (b) Parties shall file promptly a notice of termination in a record with the tribunal when a  
134 Collaborative Family Law process terminates. The stay of the proceeding under  
135 subsection (a) is lifted when the notice is filed with the tribunal. The notice may not  
136 specify any reason for the termination.

137 (c) A tribunal may require parties and Collaborative Family Lawyers to provide status  
138 reports on the proceeding.

139 (d) Except as authorized by subsection (e), a status report may not include a report,  
140 assessment, evaluation, recommendation, finding, or other communication regarding a  
141 Collaborative Family Law process.

142 (e) A tribunal may require parties and lawyers to disclose in a status report whether the  
143 process is ongoing or concluded.

144 (f) A communication made in violation of subsection (d) may not be considered by a  
145 tribunal.

146 (g) If a notice of a Collaborative Family Law process is filed in a pending proceeding, a  
147 tribunal may not dismiss the proceeding based on delay or failure to prosecute without  
148 providing parties and their Collaborative Family Lawyers appropriate notice and an  
149 opportunity to be heard.

150 **SECTION 7. EMERGENCY ORDER.** During the Collaborative Family Law process a  
151 tribunal may issue emergency orders to protect the health, safety, welfare, or interests of  
152 a party or [insert term for family or household member as defined in [state civil  
153 protection order statute]]. The Collaborative Family Lawyer is authorized to seek or  
154 defend an emergency order under section 9(c)(2).

155 **SECTION 8. APPROVAL OF AGREEMENT BY TRIBUNAL.** A tribunal may  
156 approve an agreement resulting from a Collaborative Family Law process.

157 *Legislative Note: In states where judicial procedures for management of proceedings*  
158 *may be prescribed only by court rule or administrative guideline and not by legislative*  
159 *act, the duties of courts and other tribunals listed in Sections 6 through 8 should be*  
160 *adopted by the appropriate measure.*

161 **SECTION 9. DISQUALIFICATION OF COLLABORATIVE FAMILY LAWYER**  
162 **AND LAWYERS IN ASSOCIATED LAW FIRM.**

163 (a) Except as otherwise provided in subsection (c), a Collaborative Family Lawyer may  
164 not appear before a tribunal to represent a party in a proceeding related to the  
165 Collaborative Family Law matter.

166 (b) Except as otherwise provided in subsection (c) and Sections 10 and 11, a lawyer in a  
167 law firm with which the Collaborative Family Lawyer is associated may not appear  
168 before a tribunal to represent a party in a proceeding related to the Collaborative Family  
169 Law matter if the Collaborative Family Lawyer is disqualified from doing so under  
170 subsection (a).

171 (c) A Collaborative Family Lawyer or a lawyer in a law firm with which the  
172 Collaborative Family Lawyer is associated may represent a party:

173 (1) to ask a tribunal to approve an agreement resulting from the Collaborative Family  
174 Law process; or

175 (2) to seek or defend an emergency order to protect the health, safety, welfare, or interests  
176 of a party, or [insert term for family or household member as defined in [state civil  
177 protection order statute]] if a successor lawyer is not immediately available to represent  
178 that person. In that event, subsections (a) and (b) apply when the party, or [insert term for  
179 family or household member] is represented by a successor lawyer or reasonable  
180 measures are taken to protect the health, safety, welfare, or interests of that person.

#### 181 **SECTION 10. LOW INCOME PARTIES.**

182 (a) The disqualification of Section 9(a) applies to a Collaborative Family Lawyer  
183 representing a party without fee.

184 (b) After a Collaborative Family Law process concludes, another lawyer in a law firm  
185 with which the Collaborative Family Lawyer is associated may represent the party  
186 without fee in the Collaborative Matter or a matter related to the Collaborative Matter if:

187 (1) the party has an annual income which qualifies the party for free legal representation  
188 under the criteria established by the law firm for free legal representation;

189 (2) the Collaborative Family Law participation agreement so provides; and

190 (3) the Collaborative Family Lawyer is isolated from any participation in the  
191 Collaborative Matter or a matter related to the Collaborative Matter through procedures  
192 within the law firm which are reasonably calculated to isolate the Collaborative Family  
193 Lawyer from such participation.

#### 194 **SECTION 11. GOVERNMENTAL ENTITIES AS PARTIES.**

195 (a) The disqualification of Section 9(a) applies to a Collaborative Family Lawyer  
196 representing a party that is a government or governmental subdivision, agency, or  
197 instrumentality.

198 (b) After a Collaborative Family Law process concludes, another lawyer in a law firm  
199 with which the Collaborative Family Lawyer is associated may represent the government  
200 or governmental subdivision, agency, or instrumentality in the Collaborative Matter or a  
201 matter related to the Collaborative matter if:

202 (1) the Collaborative Family Law participation agreement so provides; and

203 (2) the Collaborative Family Lawyer is isolated from any participation in the  
204 Collaborative Matter or matter related to the Collaborative Matter through procedures  
205 within the law firm which are reasonably calculated to isolate the Collaborative Family  
206 Lawyer from such participation.

207 **SECTION 12. DISCLOSURE OF INFORMATION.** During the Collaborative Family  
208 Law process on the request of another party, a party shall make timely, full, candid, and  
209 informal disclosure of information related to the Collaborative Matter without formal  
210 discovery, and shall update promptly information that has materially changed. Parties  
211 may define the scope of disclosure, except as provided by law other than this [act].

212 **SECTION 13. STANDARDS OF PROFESSIONAL RESPONSIBILITY AND**  
213 **MANDATORY REPORTING.** This [act] does not affect:

214 (a) the professional responsibility obligations and standards applicable to a lawyer or  
215 other licensed professional; or

216 (b) the obligation of a person to report abuse or neglect of a child or adult under the law  
217 of this state.

218 **SECTION 14. APPROPRIATENESS OF THE COLLABORATIVE FAMILY**  
219 **LAW PROCESS.**

220 (a) Before a prospective party signs a Collaborative Family Law participation agreement,  
221 a prospective Collaborative Family Lawyer shall:

222 (1) discuss with the prospective party factors the prospective Collaborative Family  
223 Lawyer reasonably believes relate to whether a Collaborative Family Law process is  
224 appropriate for the prospective party's matter;

225 (2) provide the party with information that the lawyer reasonably believes is sufficient for  
226 the party to make an informed decision about the material benefits and risks of a  
227 Collaborative Family Law process as compared to the material benefits and risks of other  
228 reasonably available alternatives for resolving the proposed Collaborative Matter, such as  
229 litigation, mediation, arbitration, or expert evaluation; and

230 (3) advise the party that:

231 (A) after signing an agreement:

232 (i) if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding  
233 related to the Collaborative Matter, the Collaborative Family Law process terminates; and

234 (ii) the Collaborative Family Lawyer and any lawyer in a law firm with which the  
235 Collaborative Family Lawyer is associated may not represent a party before a tribunal in  
236 such a proceeding except as authorized by Section 9(c), 10(b), or 11(b);

237 (B) participation in a Collaborative Family Law process is voluntary and any party has  
238 the right to terminate unilaterally a Collaborative Family Law process with or without  
239 cause; and

240 (C) when the process concludes, the Collaborative Family Lawyer and any lawyer in a  
241 law firm with which the Collaborative Family Lawyer is associated may not appear  
242 before a tribunal to represent a party in a proceeding related to the Collaborative Matter,  
243 except as authorized by Section 9(c), 10(b), or 11(b).

244 **SECTION 15. COERCIVE OR VIOLENT RELATIONSHIP.**

245 (a) Before a prospective party signs a Collaborative Family Law participation agreement,  
246 a prospective Collaborative Family Lawyer shall make reasonable inquiry whether the  
247 prospective party has a history of a coercive or violent relationship with another  
248 prospective party.

249 (b) A Collaborative Family Lawyer shall throughout the Collaborative Family Law  
250 process continue to reasonably assess whether the party the Collaborative Family Lawyer  
251 represents has a history of a coercive or violent relationship with another party.

252 (c) If the Collaborative Family Lawyer reasonably believes that the party the lawyer  
253 represents or the prospective party who consults the lawyer has a history of a coercive or  
254 violent relationship with another party or prospective party, the lawyer may not begin or  
255 continue a Collaborative Family Law process unless:

256 (1) the party or the prospective party requests beginning or continuing a Collaborative  
257 Family Law process; and

258 (2) the Collaborative Family Lawyer reasonably believes that the safety of the party or  
259 prospective party can be protected adequately during a Collaborative Family Law  
260 process.

261 **SECTION 16. CONFIDENTIALITY OF COLLABORATIVE FAMILY LAW**  
262 **COMMUNICATION.** A Collaborative Family Law communication is confidential to  
263 the extent agreed by the parties in a signed record or as provided by law of this state other  
264 than this [act].

265 **SECTION 17. PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE**  
266 **FAMILY LAW COMMUNICATION; ADMISSIBILITY; DISCOVERY.**

267 (a) Subject to Section 18 and 19, a Collaborative Family Law communication is  
268 privileged under subsection (b), is not subject to discovery, and is not admissible in  
269 evidence.

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

271 (1) A party may refuse to disclose, and may prevent any other person from disclosing, a  
272 Collaborative Family Law communication; or

273 (2) A nonparty participant may refuse to disclose, and may prevent any other person from  
274 disclosing, a Collaborative Family Law communication of the nonparty participant.

275 (c) Evidence or information that is otherwise admissible or subject to discovery does not  
276 become inadmissible or protected from discovery solely by reason of its disclosure or use  
277 in a Collaborative Family Law process.

278 **SECTION 18. WAIVER AND PRECLUSION OF PRIVILEGE.**

279 (a) A privilege under Section 17 may be waived in a record or orally during a proceeding  
280 if it is expressly waived by all parties and, in the case of the privilege of a nonparty  
281 participant, it is also expressly waived by the nonparty participant.

282 (b) A person that discloses or makes a representation about a Collaborative Family Law  
283 communication which prejudices another person in a proceeding may not assert a  
284 privilege under Section 17, but only to the extent necessary for the person prejudiced to  
285 respond to the disclosure or representation.

286 **SECTION 19. LIMITS OF PRIVILEGE.**

287 (a) There is no privilege under Section 17 for a Collaborative Family Law  
288 communication that is:

289 (1) available to the public under [state open records act] or made during a session of a  
290 Collaborative Family Law process that is open, or is required by law to be open, to the  
291 public;

292 (2) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

293 (3) intentionally used to plan a crime, commit or attempt to commit a crime, or conceal  
294 an ongoing crime or ongoing criminal activity; or

295 (4) in an agreement resulting from the Collaborative Family Law process, evidenced by a  
296 record signed by all parties to the agreement.

297 (b) The privileges under Section 17 for a Collaborative Family Law communication do  
298 not apply to the extent that a communication is:

299 (1) sought or offered to prove or disprove a claim or complaint of professional  
300 misconduct or malpractice arising from or related to a Collaborative Family Law process;  
301 or

302 (2) sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of  
303 a child, unless the [child protective services agency or adult protective services agency] is  
304 a party to or otherwise participates in the Collaborative Family Law process.

305 (c) There is no privilege under Section 17 if a tribunal finds, after a hearing in camera,  
306 that the party seeking discovery or the proponent of the evidence has shown the evidence  
307 is not otherwise available, the need for the evidence substantially outweighs the interest  
308 in protecting confidentiality, and the Collaborative Family Law communication is sought  
309 or offered in:

310 (1) a court proceeding involving a felony [or misdemeanor]; or

311 (2) a proceeding seeking rescission or reformation of a contract arising out of the  
312 Collaborative Family Law process or on which a defense to avoid liability on the contract  
313 is asserted.

314 (d) If a Collaborative Family Law communication is subject to an exception under  
315 subsection (b) or (c), only the portion of the communication necessary for the application  
316 of the exception may be disclosed or admitted.

317 (e) Disclosure or admission of evidence excepted from the privilege under subsection (b)  
318 or (c) does not render the evidence or any other Collaborative Family Law  
319 communication discoverable or admissible for any other purpose.

320 (f) The privileges under Section 17 do not apply if the parties agree in advance in a  
321 signed record, or if a record of a proceeding reflects agreement by the parties, that all or  
322 part of a Collaborative Family Law process is not privileged. This subsection does not  
323 apply to a Collaborative Family Law communication made by a person that did not  
324 receive actual notice of the agreement before the communication was made.

325 **SECTION 20. COLLABORATIVE FAMILY LAW PARTICIPATION**  
326 **AGREEMENT NOT MEETING REQUIREMENTS.**

327 (a) Although a Collaborative Family Law participation agreement fails to meet the  
328 requirements of Section 4 or a lawyer fails to comply with the disclosure requirement of  
329 Section 14, a tribunal may find that the parties intended to enter into a Collaborative  
330 Family Law participation agreement if they:

331 (1) signed a record indicating an intention to enter into a Collaborative Family Law  
332 participation agreement; and

333 (2) reasonably believed they were participating in a Collaborative Family Law process.

334 (b) If a tribunal makes the findings specified in subsection (a), and the interests of justice  
335 14

336 require, the tribunal may:

337 (1) enforce an agreement evidenced by a record resulting from the process in which the  
338 parties participated;

339 (2) apply the disqualification provisions of Section 6, 9, 10, and 11; or

340 (3) apply the evidentiary privilege of Section 17.

341 **SECTION 21. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**  
342 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the  
343 federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section  
344 7001, et seq., but does not modify, limit, or supersede Section 101 (c) of that act, 15  
345 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in  
346 Section 103(b) of that act, 15 U.S.C. Section 7003(b).

347 **SECTION 22. SEVERABILITY CLAUSE.** If any provision of this [act] or its  
348 application to any person or circumstance is held invalid, the invalidity does not affect  
349 other provisions or applications of this [act] which can be given effect without the invalid  
350 provision or application, and to this end the provisions of this [act] are severable.

351 *Legislative Note: Include this section only if the state lacks a general severability statute*  
352 *or a decision by the highest court of this state stating a general rule of severability.*

353 **SECTION 23. EFFECTIVE DATE.** This [act] takes effect.....

354 *Legislative Note: States should choose an effective date for the act that allows*  
355 *substantial time for notice to the bar and the public of its provisions and for the training*  
356 *of collaborative lawyers.*

357 **Rationale for Proposal:**

358 Divorce: Is a legal process; Is an emotional process; Is about the parents; Is about the  
359 children; Is about money; Is about property, assets and debts.

360  
361 The traditional methods of divorce are pro se [do it yourself]; mediation [mediator cannot  
362 give legal advice or provide individual advocacy]; traditional divorce [attorneys are  
363 individual advocates with the possibility of bringing in a judge to make the final  
364 decisions]. Collaborative Family Law is a contractually based alternative dispute  
365 resolution process in which parties negotiate a resolution of their matter rather than  
366 having a ruling imposed upon them by a court or arbitrator.

367  
368 The objectives of Collaborative Family Law are to change the context for negotiation  
369 itself and provide a strong incentive for early, collaborative, negotiated settlement  
370 without resorting to litigation. The distinctive feature is that the parties agree in advance

371 that their lawyers will all be disqualified from further representing parties if the  
372 Collaborative Law process ends without agreement. The parties retain Collaborative  
373 lawyers for the limited purpose of acting as advocates and counselors during the  
374 Collaborative Law Process. Each party has the right to terminate the Collaborative Law  
375 process at any time without cause and without giving a reason, thus requiring all parties  
376 to engage new counsel.

377  
378 The ground rules for Collaborative Law are set forth in a written agreement  
379 (“Collaborative Law Participation Agreement”). The parties send a powerful signal to  
380 each other that they truly intend to work together to resolve their differences amicably  
381 through settlement. The parties make an economic and emotional commitment towards  
382 settlement by signing a Collaborative Law Participation Agreement. The goal of these  
383 commitments to settlement is to encourage parties and their lawyers to focus on problem  
384 solving rather than positional negotiations.

385  
386 Collaborative lawyering draws from the tradition of the lawyer as counselor, and the  
387 rapid growth and development of alternative dispute resolution. Abraham Lincoln, a great  
388 trial lawyer in Illinois before his election as President, advised young lawyers in 1850 in  
389 his *Notes for a Law Lecture*:

390  
391 “Discourage litigation. Persuade your neighbors to compromise whenever you  
392 can. Point out to them how the nominal winner is often a real loser—in fees,  
393 expenses and waste of time. As a peacemaker, the lawyer has a superior  
394 opportunity of being a good man. There will still be business enough.” ABRAHAM  
395 LINCOLN, LIFE AND WRITINGS OF ABRAHAM LINCOLN 329 (Philip V. D. Stern ed.,  
396 1940).

397  
398  
399 Collaborative law is thus part of a broader movement to adopt the civil justice system to  
400 the needs of the public. The goal of passing a Collaborative Family Law statute is to help  
401 Collaborative Law take its place as a recognized and viable option for dispute resolution.  
402 Making Collaborative Law more broadly and uniformly available will give parties  
403 another choice of dispute resolution options to meet their needs.

404  
405 The final draft of the Uniform Collaborative Law Act (“UCLA”) was unanimously  
406 approved by Commissioners from each state in the U.S., representing many different  
407 areas of expertise in the law. Past projects of the Uniform Law Commission (“ULC”)  
408 include the Uniform Commercial Code, the Uniform Child Custody Jurisdiction Act and  
409 the Uniform Child Custody Jurisdiction and Enforcement Act, as well as the Uniform  
410 Mediation Act, all of which have been adopted in Ohio. The UCLA, as approved by the  
411 ULC, applies to “all civil matters”.

412  
413 In Ohio, the Collaborative Law process has seen its greatest growth and development in  
414 divorce and family law disputes. Dissolution and reorganization of intimate relationships  
415 can generate intense anger, stress and anxiety, emotions which can be exacerbated by  
416 adversary litigation. The emotional and economic futures of children and parents, who

417 often have limited resources, are at stake in family and divorce disputes. The well being  
418 of many parents and children may be better protected and satisfied by collaborative  
419 planning for the future with expert help. The needs of children are particularly implicated  
420 in divorce cases, as children exposed to high levels of inter-parental conflict are at a  
421 higher risk for developing a range of emotional and behavioral problems, both during  
422 childhood and later in life. The lower the conflict level between parents, the more the  
423 child benefits and the more regularly child support is paid. The Family Law sub-  
424 committee has approved a proposed statute that is limited to “family law matters” as  
425 provided for in Title 31 of the Revised Code. This is a difference from the UCLA.  
426

427 The statute, as proposed, sets forth the minimum requirements for Participation  
428 Agreements. The beginning of the process is identified and the statute also requires that a  
429 prospective party be informed of the events that will terminate the process and the effect  
430 of the disqualification requirement. The statute provides for emergency orders to protect  
431 the health, safety, welfare or interests of a party or family or household member as well  
432 as the interests of low income parties. The statute will help ensure that all prospective  
433 clients will make an informed decision about the material benefits and risks of the  
434 process as compared to the material benefits and risks of other reasonably available  
435 processes, such as litigation, arbitration, or mediation. Further, passage of the statute will  
436 provide consistency regarding enforceability of Collaborative Law Agreements,  
437 confidentiality of communications in the process, an automatic stay of court proceedings  
438 and the privilege against disclosure should the process not result in settlement. The  
439 statute’s philosophy of minimal standardized regulation enables parties and their  
440 Collaborative lawyers to design a Collaborative Law process that best satisfies their  
441 needs and economic circumstances.  
442

443 The act will thus increase the likelihood that disputes will be resolved earlier in their  
444 life cycle, at less economic and emotional cost. Society benefits when conflicts are  
445 resolved earlier and with greater party satisfaction. Earlier settlements can reduce the  
446 disruption that a dispute can cause in the lives of those affected by the dispute.  
447 Earlier settlement also diminishes the unnecessary expenditure of personal and  
448 institutional resources [by lessening the burden of the courts] for conflict resolution,  
449 and promotes a more civil society.