



- 30 collaborative lawyer is associated;
- 31       ▶ requires parties to a collaborative law participation agreement to voluntarily
- 32 disclose relevant information during the collaborative law process without formal
- 33 discovery requests and update information previously disclosed that has materially
- 34 changed;
- 35       ▶ acknowledges that standards of professional responsibility and child abuse
- 36 reporting for lawyers and other professionals are not changed by their participation
- 37 in a collaborative law process;
- 38       ▶ requires that lawyers disclose and discuss the material risks and benefits of a
- 39 collaborative law process to help insure parties enter into collaborative law
- 40 participation agreements with informed consent;
- 41       ▶ creates an obligation on collaborative lawyers to screen clients for domestic
- 42 violence and, if present, to participate in a collaborative law process only if the
- 43 victim consents and the lawyer is reasonably confident that the victim will be safe;
- 44 and
- 45       ▶ authorizes parties to reach an agreement on the scope of confidentiality of their
- 46 collaborative law communications.

47 **Monies Appropriated in this Bill:**

48       None

49 **Other Special Clauses:**

50       None

51 **Utah Code Sections Affected:**

52 ENACTS:

53       **78B-19-101**, Utah Code Annotated 1953

54       **78B-19-102**, Utah Code Annotated 1953

55       **78B-19-103**, Utah Code Annotated 1953

56       **78B-19-104**, Utah Code Annotated 1953

57       **78B-19-105**, Utah Code Annotated 1953

- 58           **78B-19-106**, Utah Code Annotated 1953
- 59           **78B-19-107**, Utah Code Annotated 1953
- 60           **78B-19-108**, Utah Code Annotated 1953
- 61           **78B-19-109**, Utah Code Annotated 1953
- 62           **78B-19-110**, Utah Code Annotated 1953
- 63           **78B-19-111**, Utah Code Annotated 1953
- 64           **78B-19-112**, Utah Code Annotated 1953
- 65           **78B-19-113**, Utah Code Annotated 1953
- 66           **78B-19-114**, Utah Code Annotated 1953
- 67           **78B-19-115**, Utah Code Annotated 1953
- 68           **78B-19-116**, Utah Code Annotated 1953



70 *Be it enacted by the Legislature of the state of Utah:*

71           Section 1. Section **78B-19-101** is enacted to read:

72                           **CHAPTER 19. UTAH UNIFORM COLLABORATIVE LAW ACT**

73           **78B-19-101. Title.**

74           This chapter may be cited as the "Utah Uniform Collaborative Law Act."

75           Section 2. Section **78B-19-102** is enacted to read:

76           **78B-19-102. Definitions.**

77           In this chapter:

78           (1) "Collaborative law communication" means a statement, whether oral or in a record,

79 or verbal or nonverbal, that:

80           (a) is made to conduct, participate in, continue, or reconvene a collaborative law  
81 process; and

82           (b) occurs after the parties sign a collaborative law participation agreement and before  
83 the collaborative law process is concluded.

84           (2) "Collaborative law participation agreement" means an agreement by persons to  
85 participate in a collaborative law process.

86 (3) "Collaborative law process" means a procedure intended to resolve a collaborative  
87 matter without intervention by a tribunal in which persons:

88 (a) sign a collaborative law participation agreement; and

89 (b) are represented by collaborative lawyers.

90 (4) "Collaborative lawyer" means a lawyer who represents a party in a collaborative  
91 law process.

92 (5) "Collaborative matter" means a dispute, transaction, claim, problem, or issue for  
93 resolution described in a collaborative law participation agreement.

94 (6) "Law firm" means:

95 (a) lawyers who practice law together in a partnership, professional corporation, sole  
96 proprietorship, limited liability company, or association;

97 (b) lawyers employed in a legal services organization;

98 (c) the legal department of a corporation or other organization; or

99 (d) the legal department of a government or governmental subdivision, agency, or  
100 instrumentality.

101 (7) "Nonparty participant" means a person, other than a party and the party's  
102 collaborative lawyer, that participates in a collaborative law process.

103 (8) "Party" means a person that signs a collaborative law participation agreement and  
104 whose consent is necessary to resolve a collaborative matter.

105 (9) "Person" means an individual, corporation, business trust, estate, trust, partnership,  
106 limited liability company, association, joint venture, public corporation, government or  
107 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

108 (10) "Proceeding" means:

109 (a) a judicial, administrative, arbitral, or other adjudicative process before a tribunal,  
110 including related pre-hearing and post-hearing motions, conferences, and discovery; or

111 (b) a legislative hearing or similar process.

112 (11) "Prospective party" means a person that discusses with a prospective  
113 collaborative lawyer the possibility of signing a collaborative law participation agreement.

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

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

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

119 (a) to execute or adopt a tangible symbol; or

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

122 (15) "Tribunal" means:

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

126 (b) a legislative body conducting a hearing or similar process.

127 Section 3. Section **78B-19-103** is enacted to read:

128 **78B-19-103. Applicability.**

129 This chapter applies to a collaborative law participation agreement that meets the  
130 requirements of Section 78B-19-104 signed on or after May 11, 2010.

131 Section 4. Section **78B-19-104** is enacted to read:

132 **78B-19-104. Collaborative law participation agreement -- Requirements.**

133 (1) A collaborative law participation agreement must:

134 (a) be in a record;

135 (b) be signed by the parties;

136 (c) state the parties' intention to resolve a collaborative matter through a collaborative  
137 law process under this chapter;

138 (d) describe the nature and scope of the matter;

139 (e) identify the collaborative lawyer who represents each party in the process; and

140 (f) contain a statement by each collaborative lawyer confirming the lawyer's  
141 representation of a party in the collaborative law process.

142           (2) Parties may agree to include in a collaborative law participation agreement  
143 additional provisions not inconsistent with this chapter.

144           Section 5. Section **78B-19-105** is enacted to read:

145           **78B-19-105. Beginning and concluding a collaborative law process.**

146           (1) A collaborative law process begins when the parties sign a collaborative law  
147 participation agreement.

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

150           (3) A collaborative law process is concluded by a:

151           (a) resolution of a collaborative matter as evidenced by a signed record;

152           (b) resolution of a part of the collaborative matter, evidenced by a signed record, in  
153 which the parties agree that the remaining parts of the matter will not be resolved in the  
154 process; or

155           (c) termination of the process.

156           (4) A collaborative law process terminates:

157           (a) when a party gives notice to other parties in a record that the process is ended; or

158           (b) when a party:

159           (i) begins a proceeding related to a collaborative matter without the agreement of all  
160 parties; or

161           (ii) in a pending proceeding related to the matter:

162           (A) initiates a pleading, motion, order to show cause, or request for a conference with  
163 the tribunal;

164           (B) requests that the proceeding be put on the tribunal's calendar; or

165           (C) takes similar action requiring notice to be sent to the parties; or

166           (c) except as otherwise provided by Subsection (5), when a party discharges a  
167 collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

168           (5) A party's collaborative lawyer shall give prompt notice to all other parties of a  
169 discharge or withdrawal, in accordance with the Rules of Civil Procedure.

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

171 (7) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a  
172 collaborative law process continues, if not later than 30 days after the date that the notice of  
173 the discharge or withdrawal of a collaborative lawyer required by Subsection (4)(c) is sent to  
174 the parties:

175 (a) the unrepresented party engages a successor collaborative lawyer; and

176 (b) in a signed record:

177 (i) the parties consent to continue the process by reaffirming the collaborative law  
178 participation agreement;

179 (ii) the agreement is amended to identify the successor collaborative lawyer; and

180 (iii) the successor collaborative lawyer confirms the lawyer's representation of a party  
181 in the collaborative process.

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

185 (9) A collaborative law participation agreement may provide additional methods of  
186 concluding a collaborative law process.

187 Section 6. Section **78B-19-106** is enacted to read:

188 **78B-19-106. Proceedings pending before tribunal -- Status report.**

189 (1) Persons in a proceeding pending before a tribunal may sign a collaborative law  
190 participation agreement to seek to resolve a collaborative matter related to the proceeding.  
191 Parties shall file promptly with the tribunal a notice of the agreement after it is signed. Subject  
192 to Subsection (3) and Sections 78B-19-107 and 78B-19-108, the filing shall include a request  
193 for a stay of the proceeding.

194 (2) Parties shall file promptly with the tribunal notice in a record when a collaborative  
195 law process concludes and request the stay to be lifted. The notice may not specify any reason  
196 for termination of the process.

197 (3) A tribunal in which a proceeding is stayed under Subsection (1) may require

198 parties and collaborative lawyers to provide a status report on the collaborative law process  
199 and the proceeding. A status report may include only information on whether the process is  
200 ongoing or concluded. It may not include a report, assessment, evaluation, recommendation,  
201 finding, or other communication regarding a collaborative law process or collaborative law  
202 matter.

203 (4) A tribunal shall provide parties notice and an opportunity to be heard before  
204 dismissing a proceeding in which a notice of collaborative process is filed based on delay or  
205 failure to prosecute.

206 Section 7. Section **78B-19-107** is enacted to read:

207 **78B-19-107. Emergency orders.**

208 During a collaborative law process, a court may issue emergency orders, including  
209 protective orders in accordance with Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, or  
210 Part 2, Child Protective Orders, to protect the health, safety, welfare, or interest of a party or  
211 member of a party's household.

212 Section 8. Section **78B-19-108** is enacted to read:

213 **78B-19-108. Approval of agreement by tribunal.**

214 A court may approve an agreement resulting from a collaborative law process.

215 Section 9. Section **78B-19-109** is enacted to read:

216 **78B-19-109. Disclosure of information.**

217 Except as provided by law other than this chapter, during the collaborative law process,  
218 on the request of another party, a party shall make timely, full, candid, and informal disclosure  
219 of information related to the collaborative matter without formal discovery. A party also shall  
220 update promptly previously disclosed information that has materially changed. Parties may  
221 define the scope of disclosure during the collaborative law process.

222 Section 10. Section **78B-19-110** is enacted to read:

223 **78B-19-110. Standards of professional responsibility and mandatory reporting**  
224 **not affected.**

225 This chapter does not affect:



226 (1) the professional responsibility obligations and standards applicable to a lawyer or  
227 other licensed professional; or

228 (2) the obligation of a person to report abuse or neglect, abandonment, or exploitation  
229 of a child or adult under the law of this state.

230 Section 11. Section **78B-19-111** is enacted to read:

231 **78B-19-111. Appropriateness of collaborative law process.**

232 Before a prospective party signs a collaborative law participation agreement, a  
233 prospective collaborative lawyer shall:

234 (1) assess with the prospective party factors the lawyer reasonably believes relate to  
235 whether a collaborative law process is appropriate for the prospective party's matter;

236 (2) provide the prospective party with information that the lawyer reasonably believes  
237 is sufficient for the party to make an informed decision about the material benefits and risks of  
238 a collaborative law process as compared to the material benefits and risks of other reasonably  
239 available alternatives for resolving the proposed collaborative matter, such as litigation,  
240 mediation, arbitration, or expert evaluation; and

241 (3) advise the prospective party that:

242 (a) after signing an agreement if a party initiates a proceeding or seeks tribunal  
243 intervention in a pending proceeding related to the collaborative matter, the collaborative law  
244 process terminates;

245 (b) participation in a collaborative law process is voluntary and any party has the right  
246 to terminate unilaterally a collaborative law process with or without cause; and

247 (c) the collaborative lawyer and any lawyer in a law firm with which the collaborative  
248 lawyer is associated may not appear before a tribunal to represent a party in a proceeding  
249 related to the collaborative matter, except as authorized by the Rules of Professional Conduct.

250 Section 12. Section **78B-19-112** is enacted to read:

251 **78B-19-112. Coercive or violent relationship.**

252 (1) Before a prospective party signs a collaborative law participation agreement, a  
253 prospective collaborative lawyer shall make reasonable inquiry whether the prospective party

254 has a history of a coercive or violent relationship with another prospective party.

255 (2) Throughout a collaborative law process, a collaborative lawyer reasonably and  
256 continuously shall assess whether the party the collaborative lawyer represents has a history of  
257 a coercive or violent relationship with another party.

258 (3) If a collaborative lawyer reasonably believes that the party the lawyer represents or  
259 the prospective party who consults the lawyer has a history of a coercive or violent relationship  
260 with another party or prospective party, the lawyer may not begin or continue a collaborative  
261 law process unless:

262 (a) the party or the prospective party requests to begin or to continue a process; and

263 (b) the collaborative lawyer reasonably believes that the safety of the party or  
264 prospective party can be protected adequately during a process.

265 Section 13. Section **78B-19-113** is enacted to read:

266 **78B-19-113. Confidentiality of collaborative law communication.**

267 A collaborative law communication is confidential to the extent agreed by the parties  
268 in a signed record or as provided by law of this state other than this chapter.

269 Section 14. Section **78B-19-114** is enacted to read:

270 **78B-19-114. Authority of tribunal in case of noncompliance.**

271 (1) If an agreement fails to meet the requirements of Section 78B-19-104, or a lawyer  
272 fails to comply with Section 78B-19-111 or 78B-19-112, a tribunal may nonetheless find that  
273 the parties intended to enter into a collaborative law participation agreement if they:

274 (a) signed a record indicating an intention to enter into a collaborative law  
275 participation agreement; and

276 (b) reasonably believed they were participating in a collaborative law process.

277 (2) If a court makes the findings specified in Subsection (1), and the interests of  
278 justice require, the court may:

279 (a) enforce an agreement evidenced by a record resulting from the process in which  
280 the parties participated;

281 (b) apply the disqualification provisions of Sections 78B-19-105 and 78B-19-106; and

282           (c) apply the privileges in the Utah Rules of Evidence.

283           Section 15. Section **78B-19-115** is enacted to read:

284           **78B-19-115. Uniformity of application and construction.**

285           In applying and construing this uniform act, consideration shall be given to the need to  
286 promote uniformity of the law with respect to its subject matter among states that enact it.

287           Section 16. Section **78B-19-116** is enacted to read:

288           **78B-19-116. Relation to Electronic Signatures in Global and National Commerce**

289 **Act.**

290           This chapter modifies, limits, and supersedes the federal Electronic Signatures in  
291 Global and National Commerce Act, 15 U.S.C.A. Sec. 7001 et seq. (2009), but does not  
292 modify, limit, or supersede Section 101(c) of that act, 15 U.S.C.A. Sec. 7001(c), or authorize  
293 electronic delivery of any of the notices described in Sec. 103(b) of that act, 15 U.S.C.A. Sec.  
294 7003(b).