

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0842.01 Jerry Barry x4341

HOUSE BILL 20-1291

HOUSE SPONSORSHIP

Tipper,

SENATE SPONSORSHIP

Gardner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE "UNIFORM COLLABORATIVE LAW ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill enacts the "Uniform Collaborative Law Act" (act). The bill authorizes a collaborative law process whereby disputes are resolved without intervention by a court or other tribunal. It specifies:

- ! Requirements for a collaborative law participation agreement including that both sides be represented and advised by collaborative law lawyers; and
- ! That communications made during the collaborative law process are confidential and may not be used in later

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

proceedings except in specified situations.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 24 to title
3 13 as follows:

4 **ARTICLE 24**

5 **Uniform Collaborative Law Act**

6 **13-24-101. Short title.** THIS ARTICLE 24 MAY BE CITED AS THE
7 "UNIFORM COLLABORATIVE LAW ACT".

8 **13-24-102. Definitions.** IN THIS ARTICLE 24:

9 (1) "COLLABORATIVE LAW COMMUNICATION" MEANS A
10 STATEMENT, WHETHER ORAL OR IN A RECORD, OR VERBAL OR NONVERBAL,
11 THAT:

12 (a) IS MADE TO CONDUCT, PARTICIPATE IN, CONTINUE, OR
13 RECONVENE A COLLABORATIVE LAW PROCESS; AND

14 (b) OCCURS AFTER THE PARTIES SIGN A COLLABORATIVE LAW
15 PARTICIPATION AGREEMENT AND BEFORE THE COLLABORATIVE LAW
16 PROCESS IS TERMINATED OR CONCLUDED.

17 (2) "COLLABORATIVE LAW PARTICIPATION AGREEMENT" MEANS AN
18 AGREEMENT BY PERSONS TO PARTICIPATE IN A COLLABORATIVE LAW
19 PROCESS.

20 (3) "COLLABORATIVE LAW PROCESS" MEANS A PROCEDURE
21 INTENDED TO RESOLVE A COLLABORATIVE MATTER, WITHOUT
22 INTERVENTION BY A TRIBUNAL, IN WHICH PERSONS:

23 (a) SIGN A COLLABORATIVE LAW PARTICIPATION AGREEMENT; AND

24 (b) ARE REPRESENTED BY COLLABORATIVE LAWYERS.

25 (4) "COLLABORATIVE LAWYER" MEANS A LAWYER WHO

1 REPRESENTS A PARTY IN A COLLABORATIVE LAW PROCESS.

2 (5) "COLLABORATIVE MATTER" MEANS A DISPUTE, TRANSACTION,
3 CLAIM, PROBLEM, NEGOTIATION, OR ISSUE FOR RESOLUTION, INCLUDING A
4 DISPUTE, CLAIM, OR ISSUE IN A PROCEEDING, WHICH IS DESCRIBED IN A
5 COLLABORATIVE LAW PARTICIPATION AGREEMENT.

6 (6) "LAW FIRM" MEANS:

7 (a) LAWYERS WHO PRACTICE LAW TOGETHER IN A PARTNERSHIP,
8 PROFESSIONAL CORPORATION, SOLE PROPRIETORSHIP, LIMITED LIABILITY
9 COMPANY, OR ASSOCIATION; AND

10 (b) LAWYERS EMPLOYED IN A LEGAL SERVICES ORGANIZATION, OR
11 THE LEGAL DEPARTMENT OF A CORPORATION OR OTHER ORGANIZATION, OR
12 THE LEGAL DEPARTMENT OF A GOVERNMENT OR GOVERNMENTAL
13 SUBDIVISION, AGENCY, OR INSTRUMENTALITY.

14 (7) "NONPARTY PARTICIPANT" MEANS A PERSON, OTHER THAN A
15 PARTY AND THE PARTY'S COLLABORATIVE LAWYER, THAT PARTICIPATES
16 IN A COLLABORATIVE LAW PROCESS.

17 (8) "PARTY" MEANS A PERSON THAT SIGNS A COLLABORATIVE LAW
18 PARTICIPATION AGREEMENT AND WHOSE CONSENT IS NECESSARY TO
19 RESOLVE A COLLABORATIVE MATTER.

20 (9) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS
21 TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY,
22 ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR
23 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY
24 OTHER LEGAL OR COMMERCIAL ENTITY.

25 (10) "PROCEEDING" MEANS:

26 (a) A JUDICIAL, ADMINISTRATIVE, ARBITRAL, OR OTHER
27 ADJUDICATIVE PROCESS BEFORE A TRIBUNAL, INCLUDING RELATED

1 PREHEARING AND POST-HEARING MOTIONS, CONFERENCES, AND
2 DISCOVERY; OR

3 (b) A LEGISLATIVE HEARING OR SIMILAR PROCESS.

4 (11) "PROSPECTIVE PARTY" MEANS A PERSON THAT DISCUSSES
5 WITH A PROSPECTIVE COLLABORATIVE LAWYER THE POSSIBILITY OF
6 SIGNING A COLLABORATIVE LAW PARTICIPATION AGREEMENT.

7 (12) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
8 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
9 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

10 (13) "RELATED TO A COLLABORATIVE MATTER" MEANS INVOLVING
11 THE SAME PARTIES, TRANSACTION OR OCCURRENCE, NUCLEUS OF
12 OPERATIVE FACT, DISPUTE, CLAIM, OR ISSUE AS THE COLLABORATIVE
13 MATTER.

14 (14) "SIGN" MEANS WITH PRESENT INTENT TO AUTHENTICATE OR
15 ADOPT A RECORD:

16 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

17 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD
18 AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

19 (15) "TRIBUNAL" MEANS:

20 (a) A COURT, ARBITRATOR, ADMINISTRATIVE AGENCY, OR OTHER
21 BODY ACTING IN AN ADJUDICATIVE CAPACITY WHICH, AFTER
22 PRESENTATION OF EVIDENCE OR LEGAL ARGUMENT, HAS JURISDICTION TO
23 RENDER A DECISION AFFECTING A PARTY'S INTERESTS IN A MATTER; OR

24 (b) A LEGISLATIVE BODY CONDUCTING A HEARING OR SIMILAR
25 PROCESS.

26 **13-24-103. Applicability.** THIS ARTICLE 24 APPLIES TO A
27 COLLABORATIVE LAW PARTICIPATION AGREEMENT THAT MEETS THE

1 REQUIREMENTS OF SECTION 13-24-104 SIGNED ON OR AFTER THE
2 EFFECTIVE DATE OF THIS ARTICLE 24.

3 **13-24-104. Collaborative law participation agreement -**
4 **requirements.** (1) A COLLABORATIVE LAW PARTICIPATION AGREEMENT
5 MUST:

6 (a) BE IN A RECORD;

7 (b) BE SIGNED BY THE PARTIES;

8 (c) STATE THE PARTIES' INTENTION TO RESOLVE A COLLABORATIVE
9 MATTER THROUGH A COLLABORATIVE LAW PROCESS UNDER THIS ARTICLE
10 24 AS ENACTED IN COLORADO AND INFORMED CONSENT CONCERNING THE
11 CONSEQUENCES OF THE DISQUALIFICATION PROCESS;

12 (d) DESCRIBE THE NATURE AND SCOPE OF THE MATTER;

13 (e) IDENTIFY THE COLLABORATIVE LAWYER WHO REPRESENTS
14 EACH PARTY IN THE PROCESS; AND

15 (f) CONTAIN A STATEMENT BY EACH COLLABORATIVE LAWYER
16 CONFIRMING THE LAWYER'S REPRESENTATION OF A PARTY IN THE
17 COLLABORATIVE LAW PROCESS.

18 (2) PARTIES MAY AGREE TO INCLUDE IN A COLLABORATIVE LAW
19 PARTICIPATION AGREEMENT ADDITIONAL PROVISIONS NOT INCONSISTENT
20 WITH THIS ARTICLE 24.

21 **13-24-105. Beginning and concluding collaborative law**
22 **process.** (1) A COLLABORATIVE LAW PROCESS BEGINS WHEN THE PARTIES
23 SIGN A COLLABORATIVE LAW PARTICIPATION AGREEMENT.

24 (2) A TRIBUNAL MAY NOT ORDER A PARTY TO PARTICIPATE IN A
25 COLLABORATIVE LAW PROCESS OVER THAT PARTY'S OBJECTION.

26 (3) A COLLABORATIVE LAW PROCESS IS CONCLUDED BY A:

27 (a) RESOLUTION OF A COLLABORATIVE MATTER AS EVIDENCED BY

1 A SIGNED RECORD;

2 (b) RESOLUTION OF A PART OF THE COLLABORATIVE MATTER,
3 EVIDENCED BY A SIGNED RECORD, IN WHICH THE PARTIES AGREE THAT THE
4 REMAINING PARTS OF THE MATTER WILL NOT BE RESOLVED IN THE
5 PROCESS; OR

6 (c) TERMINATION OF THE PROCESS.

7 (4) A COLLABORATIVE LAW PROCESS TERMINATES:

8 (a) WHEN A PARTY GIVES NOTICE TO OTHER PARTIES IN A RECORD
9 THAT THE PROCESS IS ENDED;

10 (b) WHEN A PARTY:

11 (I) BEGINS A PROCEEDING RELATED TO A COLLABORATIVE MATTER
12 WITHOUT THE AGREEMENT OF ALL PARTIES; OR

13 (II) IN A PENDING PROCEEDING RELATED TO THE MATTER:

14 (A) INITIATES A PLEADING, MOTION, ORDER TO SHOW CAUSE, OR
15 REQUEST FOR A CONFERENCE WITH THE TRIBUNAL;

16 (B) REQUESTS THAT THE PROCEEDING BE PUT ON THE TRIBUNAL'S
17 ACTIVE CALENDAR; OR

18 (C) TAKES SIMILAR ACTION REQUIRING NOTICE TO BE SENT TO THE
19 PARTIES; OR

20 (c) EXCEPT AS OTHERWISE PROVIDED BY SUBSECTION (7) OF THIS
21 SECTION, WHEN A PARTY DISCHARGES A COLLABORATIVE LAWYER OR A
22 COLLABORATIVE LAWYER WITHDRAWS FROM FURTHER REPRESENTATION
23 OF A PARTY.

24 (5) A PARTY'S COLLABORATIVE LAWYER SHALL GIVE PROMPT
25 NOTICE TO ALL OTHER PARTIES IN A RECORD OF A DISCHARGE OR
26 WITHDRAWAL.

27 (6) A PARTY MAY TERMINATE A COLLABORATIVE LAW PROCESS

1 WITH OR WITHOUT CAUSE.

2 (7) NOTWITHSTANDING THE DISCHARGE OR WITHDRAWAL OF A
3 COLLABORATIVE LAWYER, A COLLABORATIVE LAW PROCESS CONTINUES
4 IF, NOT LATER THAN THIRTY DAYS AFTER THE DATE THAT THE NOTICE OF
5 THE DISCHARGE OR WITHDRAWAL OF A COLLABORATIVE LAWYER
6 REQUIRED BY SUBSECTION (5) OF THIS SECTION IS SENT TO THE PARTIES:

7 (a) THE UNREPRESENTED PARTY ENGAGES A SUCCESSOR
8 COLLABORATIVE LAWYER; AND

9 (b) IN A SIGNED RECORD:

10 (I) THE PARTIES CONSENT TO CONTINUE THE PROCESS BY
11 REAFFIRMING THE COLLABORATIVE LAW PARTICIPATION AGREEMENT;

12 (II) THE AGREEMENT IS AMENDED TO IDENTIFY THE SUCCESSOR
13 COLLABORATIVE LAWYER; AND

14 (III) THE SUCCESSOR COLLABORATIVE LAWYER CONFIRMS THE
15 LAWYER'S REPRESENTATION OF A PARTY IN THE COLLABORATIVE PROCESS.

16 (8) A COLLABORATIVE LAW PROCESS DOES NOT CONCLUDE IF, WITH
17 THE CONSENT OF THE PARTIES, A PARTY REQUESTS A TRIBUNAL TO
18 APPROVE A RESOLUTION OF THE COLLABORATIVE MATTER OR ANY PART
19 THEREOF AS EVIDENCED BY A SIGNED RECORD.

20 (9) A COLLABORATIVE LAW PARTICIPATION AGREEMENT MAY
21 PROVIDE ADDITIONAL METHODS OF CONCLUDING A COLLABORATIVE LAW
22 PROCESS.

23 **13-24-106. Proceedings pending before tribunal - status**
24 **report.** (1) PERSONS IN A PROCEEDING PENDING BEFORE A TRIBUNAL MAY
25 SIGN A COLLABORATIVE LAW PARTICIPATION AGREEMENT TO SEEK TO
26 RESOLVE A COLLABORATIVE MATTER RELATED TO THE PROCEEDING. THE
27 PARTIES SHALL FILE PROMPTLY WITH THE TRIBUNAL A NOTICE OF THE

1 COLLABORATIVE LAW PARTICIPATION AGREEMENT AFTER IT IS SIGNED.
2 SUBJECT TO SUBSECTION (3) OF THIS SECTION AND SECTIONS 13-24-107
3 AND 13-24-108 AND THE PARTIES AND THE COLLABORATIVE LAWYERS
4 INFORM THE COURT THAT THE PARTIES ARE ENGAGING IN GOOD FAITH IN
5 THE COLLABORATIVE LAW PROCESS, ANY PENDING PROCEEDING IN THE
6 ACTION FILED BY THE PARTIES SHALL BE CONTINUED TO A DATE CERTAIN.

7 (2) THE PARTIES SHALL FILE PROMPTLY WITH THE TRIBUNAL
8 NOTICE IN A RECORD WHEN A COLLABORATIVE LAW PROCESS CONCLUDES.
9 THE STAY OF THE PROCEEDING UNDER SUBSECTION (1) OF THIS SECTION IS
10 LIFTED WHEN THE NOTICE IS FILED. THE NOTICE MAY NOT SPECIFY ANY
11 REASON FOR TERMINATION OF THE PROCESS.

12 (3) A TRIBUNAL IN WHICH A PROCEEDING IS STAYED UNDER
13 SUBSECTION (1) OF THIS SECTION MAY REQUIRE THE PARTIES AND
14 COLLABORATIVE LAWYERS TO PROVIDE A STATUS REPORT ON THE
15 COLLABORATIVE LAW PROCESS AND THE PROCEEDING. A STATUS REPORT
16 MAY INCLUDE ONLY INFORMATION ON WHETHER THE PROCESS IS ONGOING
17 OR CONCLUDED. IT MAY NOT INCLUDE A REPORT, ASSESSMENT,
18 EVALUATION, RECOMMENDATION, FINDING, OR OTHER COMMUNICATION
19 REGARDING A COLLABORATIVE LAW PROCESS OR COLLABORATIVE LAW
20 MATTER.

21 (4) A TRIBUNAL MAY NOT CONSIDER A COMMUNICATION MADE IN
22 VIOLATION OF SUBSECTION (3) OF THIS SECTION.

23 (5) A TRIBUNAL SHALL PROVIDE PARTIES NOTICE AND AN
24 OPPORTUNITY TO BE HEARD BEFORE DISMISSING A PROCEEDING IN WHICH
25 A NOTICE OF COLLABORATIVE PROCESS IS FILED BASED ON DELAY OR
26 FAILURE TO PROSECUTE.

27 **13-24-107. Emergency order.** DURING A COLLABORATIVE LAW

1 PROCESS, A TRIBUNAL MAY ISSUE EMERGENCY ORDERS TO PROTECT THE
2 HEALTH, SAFETY, WELFARE, OR INTEREST OF A PARTY OR A MINOR CHILD
3 OF EITHER OF THE PARTIES.

4 **13-24-108. Approval of agreement by tribunal.** A TRIBUNAL
5 MAY APPROVE AN AGREEMENT RESULTING FROM A COLLABORATIVE LAW
6 PROCESS.

7 **13-24-109. Disqualification of collaborative lawyer and**
8 **lawyers in associated law firm.** (1) EXCEPT AS OTHERWISE PROVIDED
9 IN SUBSECTION (3) OF THIS SECTION, A COLLABORATIVE LAWYER IS
10 DISQUALIFIED FROM APPEARING BEFORE A TRIBUNAL TO REPRESENT A
11 PARTY IN A PROCEEDING RELATED TO THE COLLABORATIVE MATTER.

12 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
13 SECTION AND SECTIONS 13-24-110 AND 13-24-111, A LAWYER IN A LAW
14 FIRM WITH WHICH THE COLLABORATIVE LAWYER IS ASSOCIATED IS
15 DISQUALIFIED FROM APPEARING BEFORE A TRIBUNAL TO REPRESENT A
16 PARTY IN A PROCEEDING RELATED TO THE COLLABORATIVE MATTER IF THE
17 COLLABORATIVE LAWYER IS DISQUALIFIED FROM DOING SO UNDER
18 SUBSECTION (1) OF THIS SECTION.

19 (3) A COLLABORATIVE LAWYER OR A LAWYER IN A LAW FIRM WITH
20 WHICH THE COLLABORATIVE LAWYER IS ASSOCIATED MAY REPRESENT A
21 PARTY:

22 (a) TO ASK A TRIBUNAL TO APPROVE AN AGREEMENT RESULTING
23 FROM THE COLLABORATIVE LAW PROCESS; OR

24 (b) TO SEEK OR DEFEND AN EMERGENCY ORDER TO PROTECT THE
25 HEALTH, SAFETY, WELFARE, OR INTEREST OF A PARTY, OR A MINOR CHILD
26 OF EITHER OF THE PARTIES AS DEFINED IN SECTION 13-14-101 (2.2) IF A
27 SUCCESSOR LAWYER IS NOT IMMEDIATELY AVAILABLE TO REPRESENT THAT

1 PERSON.

2 (4) IF SUBSECTION (3)(b) OF THIS SECTION APPLIES, A
3 COLLABORATIVE LAWYER, OR LAWYER IN A LAW FIRM WITH WHICH THE
4 COLLABORATIVE LAWYER IS ASSOCIATED, MAY REPRESENT A PARTY OR
5 MINOR CHILD OF EITHER OF THE PARTIES AS DEFINED IN SECTION 13-14-101
6 (2.2) FOR A LIMITED TIME ONLY UNTIL THE PERSON OR MINOR CHILD IS
7 REPRESENTED BY A SUCCESSOR LAWYER OR REASONABLE MEASURES ARE
8 TAKEN TO PROTECT THE HEALTH, SAFETY, WELFARE, OR INTEREST OF THE
9 PERSON.

10 **13-24-110. (Reserved)**

11 **13-24-111. Governmental entity as party.** (1) THE
12 DISQUALIFICATION OF SECTION 13-24-109 (1) APPLIES TO A
13 COLLABORATIVE LAWYER REPRESENTING A PARTY THAT IS A GOVERNMENT
14 OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY.

15 (2) AFTER A COLLABORATIVE LAW PROCESS CONCLUDES, ANOTHER
16 LAWYER IN A LAW FIRM WITH WHICH THE COLLABORATIVE LAWYER IS
17 ASSOCIATED MAY REPRESENT A GOVERNMENT OR GOVERNMENTAL
18 SUBDIVISION, AGENCY, OR INSTRUMENTALITY IN THE COLLABORATIVE
19 MATTER OR A MATTER RELATED TO THE COLLABORATIVE MATTER IF:

20 (a) THE COLLABORATIVE LAW PARTICIPATION AGREEMENT SO
21 PROVIDES; AND

22 (b) THE COLLABORATIVE LAWYER IS ISOLATED FROM ANY
23 PARTICIPATION IN THE COLLABORATIVE MATTER OR A MATTER RELATED
24 TO THE COLLABORATIVE MATTER THROUGH PROCEDURES WITHIN THE LAW
25 FIRM WHICH ARE REASONABLY CALCULATED TO ISOLATE THE
26 COLLABORATIVE LAWYER FROM SUCH PARTICIPATION.

27 **13-24-112. Disclosure of information.** EXCEPT AS PROVIDED BY

1 LAW OTHER THAN THIS ARTICLE 24, DURING THE COLLABORATIVE LAW
2 PROCESS, ON THE REQUEST OF ONE PARTY MADE TO THE OTHER PARTY, A
3 PARTY SHALL MAKE TIMELY, FULL, CANDID, AND INFORMAL DISCLOSURE
4 OF INFORMATION RELATED TO THE COLLABORATIVE MATTER WITHOUT
5 FORMAL DISCOVERY. A PARTY ALSO SHALL UPDATE PROMPTLY
6 PREVIOUSLY DISCLOSED INFORMATION THAT HAS MATERIALLY CHANGED.
7 THE PARTIES MAY DEFINE THE SCOPE OF DISCLOSURE DURING THE
8 COLLABORATIVE LAW PROCESS; HOWEVER, AT A MINIMUM, THE
9 DISCLOSURE SHALL INCLUDE THE DOCUMENTS REQUIRED TO BE DISCLOSED
10 PURSUANT TO RULE 16.2 (e)(2) OF THE COLORADO RULES OF CIVIL
11 PROCEDURE.

12 **13-24-113. Standards of professional responsibility and**
13 **mandatory reporting not affected.** (1) THIS ARTICLE 24 DOES NOT
14 AFFECT:

15 (a) THE PROFESSIONAL RESPONSIBILITY OBLIGATIONS AND
16 STANDARDS APPLICABLE TO A LAWYER OR OTHER LICENSED
17 PROFESSIONAL; OR

18 (b) THE OBLIGATION OF A PERSON TO REPORT ABUSE OR NEGLECT,
19 ABANDONMENT, OR EXPLOITATION OF A CHILD OR ADULT UNDER THE LAW
20 OF THIS STATE.

21 **13-24-114. Appropriateness of collaborative law process -**
22 **informed consent.** (1) BEFORE A PROSPECTIVE PARTY SIGNS A
23 COLLABORATIVE LAW PARTICIPATION AGREEMENT, A PROSPECTIVE
24 COLLABORATIVE LAWYER SHALL:

25 (a) ASSESS WITH THE PROSPECTIVE PARTY FACTORS THE LAWYER
26 REASONABLY BELIEVES RELATE TO WHETHER A COLLABORATIVE LAW
27 PROCESS IS APPROPRIATE FOR THE PROSPECTIVE PARTY'S MATTER;

1 (b) PROVIDE THE PROSPECTIVE PARTY WITH INFORMATION THAT
2 THE LAWYER REASONABLY BELIEVES IS SUFFICIENT FOR THE PARTY TO
3 MAKE AN INFORMED DECISION ABOUT THE MATERIAL BENEFITS AND RISKS
4 OF A COLLABORATIVE LAW PROCESS AS COMPARED TO THE MATERIAL
5 BENEFITS AND RISKS OF OTHER REASONABLY AVAILABLE ALTERNATIVES
6 FOR RESOLVING THE PROPOSED COLLABORATIVE MATTER, SUCH AS
7 LITIGATION, MEDIATION, ARBITRATION, OR EXPERT EVALUATION, AND
8 OTHER ALTERNATIVE DISPUTE RESOLUTION OPTIONS; AND

9 (c) ADVISE THE PROSPECTIVE PARTY IN WRITING:

10 (I) THAT AFTER SIGNING AN AGREEMENT IF A PARTY INITIATES A
11 PROCEEDING OR SEEKS TRIBUNAL INTERVENTION IN A PENDING
12 PROCEEDING RELATED TO THE COLLABORATIVE MATTER, THE
13 COLLABORATIVE LAW PROCESS TERMINATES;

14 (II) THAT PARTICIPATION IN A COLLABORATIVE LAW PROCESS IS
15 VOLUNTARY AND ANY PARTY HAS THE RIGHT TO TERMINATE
16 UNILATERALLY A COLLABORATIVE LAW PROCESS WITH OR WITHOUT
17 CAUSE;

18 (III) THAT THE COLLABORATIVE LAWYER AND ANY LAWYER IN A
19 LAW FIRM WITH WHICH THE COLLABORATIVE LAWYER IS ASSOCIATED MAY
20 NOT APPEAR BEFORE A TRIBUNAL TO REPRESENT A PARTY IN A
21 PROCEEDING RELATED TO THE COLLABORATIVE MATTER, EXCEPT AS
22 AUTHORIZED BY SECTION 13-24-109; AND

23 (IV) OF THE PRIVILEGED NATURE OF COLLABORATIVE
24 COMMUNICATIONS AS REFLECTED IN THIS ARTICLE 24.

25 **13-24-115. Coercive or violent relationship.** (1) BEFORE A
26 PROSPECTIVE PARTY SIGNS A COLLABORATIVE LAW PARTICIPATION
27 AGREEMENT, A PROSPECTIVE COLLABORATIVE LAWYER SHALL MAKE

1 REASONABLE INQUIRY INTO WHETHER THE PROSPECTIVE PARTY HAS A
2 HISTORY OF A COERCIVE OR VIOLENT RELATIONSHIP WITH ANOTHER
3 PROSPECTIVE PARTY.

4 (2) THROUGHOUT A COLLABORATIVE LAW PROCESS, A
5 COLLABORATIVE LAWYER REASONABLY AND CONTINUOUSLY SHALL
6 ASSESS WHETHER THE PARTY THE COLLABORATIVE LAWYER REPRESENTS
7 HAS A HISTORY OF A COERCIVE OR VIOLENT RELATIONSHIP WITH ANOTHER
8 PARTY.

9 (3) IF A COLLABORATIVE LAWYER REASONABLY BELIEVES THAT
10 THE PARTY THE LAWYER REPRESENTS OR THE PROSPECTIVE PARTY WHO
11 CONSULTS THE LAWYER HAS A HISTORY OF A COERCIVE OR VIOLENT
12 RELATIONSHIP WITH ANOTHER PARTY OR PROSPECTIVE PARTY, THE
13 LAWYER MAY NOT BEGIN OR CONTINUE A COLLABORATIVE LAW PROCESS
14 UNLESS:

15 (a) THE PARTY OR THE PROSPECTIVE PARTY REQUESTS BEGINNING
16 OR CONTINUING A PROCESS; AND

17 (b) THE COLLABORATIVE LAWYER REASONABLY BELIEVES THAT
18 THE SAFETY OF THE PARTY OR PROSPECTIVE PARTY CAN BE PROTECTED
19 ADEQUATELY DURING A PROCESS.

20 **13-24-116. Confidentiality of collaborative law**
21 **communication.** A COLLABORATIVE LAW COMMUNICATION IS
22 CONFIDENTIAL TO THE EXTENT AGREED BY THE PARTIES IN A SIGNED
23 RECORD OR AS PROVIDED BY LAW OF THIS STATE AND THE PROVISIONS OF
24 THIS ARTICLE 24. NOTHING HEREIN MODIFIES THE CONFIDENTIALITY
25 PROVISIONS CONTAINED IN PART 3 OF ARTICLE 22 OF THIS TITLE 13.

26 **13-24-117. Privilege against disclosure for collaborative law**
27 **communication - admissibility - discovery.** (1) SUBJECT TO SECTIONS

1 13-24-118 AND 13-24-119, A COLLABORATIVE LAW COMMUNICATION IS
2 PRIVILEGED UNDER SUBSECTION (2) OF THIS SECTION, IS NOT SUBJECT TO
3 DISCOVERY, AND IS NOT ADMISSIBLE IN EVIDENCE IN ANY PROCEEDING
4 EXCEPT AS AGREED BY THE PARTIES IN A SIGNED PARTICIPATION
5 AGREEMENT OR LATER AGREEMENT SIGNED BY BOTH PARTIES AND EXCEPT
6 AS NOTED IN THIS ARTICLE 24.

7 (2) IN A PROCEEDING, THE FOLLOWING PRIVILEGES APPLY:

8 (a) A PARTY MAY REFUSE TO DISCLOSE, AND MAY PREVENT ANY
9 OTHER PERSON FROM DISCLOSING, A COLLABORATIVE LAW
10 COMMUNICATION; AND

11 (b) A NONPARTY PARTICIPANT OR A COLLABORATIVE LAW
12 ATTORNEY MAY REFUSE TO DISCLOSE, AND MAY PREVENT ANY OTHER
13 PERSON FROM DISCLOSING, A COLLABORATIVE LAW COMMUNICATION
14 EXCEPT AS AGREED BY BOTH PARTIES IN WRITING.

15 (3) EVIDENCE OR INFORMATION, INCLUDING BUT NOT LIMITED TO
16 DISCLOSURES MADE PURSUANT TO RULE 16.2 OF THE COLORADO RULES OF
17 CIVIL PROCEDURE, AS AMENDED, THAT IS OTHERWISE ADMISSIBLE TO A
18 TRIBUNAL OR SUBJECT TO DISCOVERY DOES NOT BECOME INADMISSIBLE OR
19 PROTECTED FROM DISCOVERY SOLELY BECAUSE OF ITS DISCLOSURE OR USE
20 IN A COLLABORATIVE LAW PROCESS.

21 **13-24-118. Waiver and preclusion of privilege.** (1) A PRIVILEGE
22 UNDER SECTION 13-24-117 MAY BE WAIVED IN A RECORD OR ORALLY
23 DURING A PROCEEDING IF IT IS EXPRESSLY WAIVED BY ALL PARTIES AND,
24 IN THE CASE OF THE PRIVILEGE OF A NONPARTY PARTICIPANT, IT IS ALSO
25 EXPRESSLY WAIVED BY THE NONPARTY PARTICIPANT.

26 (2) A PERSON THAT MAKES A DISCLOSURE OR REPRESENTATION
27 ABOUT A COLLABORATIVE LAW COMMUNICATION WHICH PREJUDICES

1 ANOTHER PERSON IN A PROCEEDING MAY NOT ASSERT A PRIVILEGE UNDER
2 SECTION 13-24-117, BUT THIS PRECLUSION APPLIES ONLY TO THE EXTENT
3 NECESSARY FOR THE PERSON PREJUDICED TO RESPOND TO THE DISCLOSURE
4 OR REPRESENTATION.

5 **13-24-119. Limits of privilege.** (1) THERE IS NO PRIVILEGE
6 UNDER SECTION 13-24-117 FOR A COLLABORATIVE LAW COMMUNICATION
7 THAT IS:

8 (a) AVAILABLE TO THE PUBLIC UNDER ARTICLE 72 OF TITLE 24;

9 (b) A THREAT OR STATEMENT OF A PLAN TO INFLICT BODILY
10 INJURY OR COMMIT A CRIME OF VIOLENCE;

11 (c) INTENTIONALLY USED TO PLAN A CRIME, COMMIT OR ATTEMPT
12 TO COMMIT A CRIME, OR CONCEAL AN ONGOING CRIME OR ONGOING
13 CRIMINAL ACTIVITY; OR

14 (d) IN AN AGREEMENT RESULTING FROM THE COLLABORATIVE LAW
15 PROCESS, EVIDENCED BY A RECORD SIGNED BY ALL PARTIES TO THE
16 AGREEMENT.

17 (2) THE PRIVILEGES UNDER SECTION 13-24-117 FOR A
18 COLLABORATIVE LAW COMMUNICATION DO NOT APPLY TO THE EXTENT
19 THAT A COMMUNICATION IS:

20 (a) SOUGHT OR OFFERED TO PROVE OR DISPROVE A CLAIM OR
21 COMPLAINT OF PROFESSIONAL MISCONDUCT OR MALPRACTICE ARISING
22 FROM OR RELATED TO A COLLABORATIVE LAW PROCESS OR MATTER; OR

23 (b) SOUGHT OR OFFERED TO PROVE OR DISPROVE ABUSE, NEGLIGENCE,
24 ABANDONMENT, OR EXPLOITATION OF A CHILD OR ADULT.

25 (3) THERE IS NO PRIVILEGE UNDER SECTION 13-24-117 IF A
26 TRIBUNAL FINDS, AFTER A HEARING IN-CAMERA, THAT THE PARTY SEEKING
27 DISCOVERY OR THE PROPONENT OF THE EVIDENCE HAS SHOWN THE

1 EVIDENCE IS NOT OTHERWISE AVAILABLE, THE NEED FOR THE EVIDENCE
2 SUBSTANTIALLY OUTWEIGHS THE INTEREST IN PROTECTING
3 CONFIDENTIALITY, AND THE COLLABORATIVE LAW COMMUNICATION IS
4 SOUGHT OR OFFERED IN:

5 (a) A COURT PROCEEDING INVOLVING A FELONY OR MISDEMEANOR;
6 OR

7 (b) A PROCEEDING SEEKING RESCISSION OR REFORMATION OF A
8 CONTRACT ARISING OUT OF THE COLLABORATIVE LAW PROCESS OR IN
9 WHICH A DEFENSE TO AVOID LIABILITY ON THE CONTRACT IS ASSERTED.

10 (4) IF A COLLABORATIVE LAW COMMUNICATION IS SUBJECT TO AN
11 EXCEPTION UNDER SUBSECTION (2) OR (3) OF THIS SECTION, ONLY THE
12 PART OF THE COMMUNICATION NECESSARY FOR THE APPLICATION OF THE
13 EXCEPTION MAY BE DISCLOSED OR ADMITTED.

14 (5) DISCLOSURE OR ADMISSION OF EVIDENCE EXCEPTED FROM THE
15 PRIVILEGE UNDER SUBSECTION (2) OR (3) OF THIS SECTION DOES NOT MAKE
16 THE EVIDENCE OR ANY OTHER COLLABORATIVE LAW COMMUNICATION
17 DISCOVERABLE OR ADMISSIBLE FOR ANY OTHER PURPOSE.

18 (6) THE PRIVILEGES UNDER SECTION 13-24-117 DO NOT APPLY IF
19 THE PARTIES AGREE IN ADVANCE IN A SIGNED RECORD, OR IF A RECORD OF
20 A PROCEEDING REFLECTS AGREEMENT BY THE PARTIES, THAT ALL OR PART
21 OF A COLLABORATIVE LAW PROCESS IS NOT PRIVILEGED. THIS SUBSECTION
22 (6) DOES NOT APPLY TO A COLLABORATIVE LAW COMMUNICATION MADE
23 BY A PERSON THAT DID NOT RECEIVE ACTUAL NOTICE OF THE AGREEMENT
24 BEFORE THE COMMUNICATION WAS MADE.

25 **13-24-120. Authority of tribunal in case of noncompliance.**

26 (1) IF AN AGREEMENT FAILS TO MEET THE REQUIREMENTS OF SECTION
27 13-24-104 OR A LAWYER FAILS TO COMPLY WITH SECTION 13-24-114 OR

1 13-24-115, A TRIBUNAL MAY NONETHELESS FIND THAT THE PARTIES
2 INTENDED TO ENTER INTO A COLLABORATIVE LAW PARTICIPATION
3 AGREEMENT IF THEY:

4 (a) SIGNED A RECORD INDICATING AN INTENTION TO ENTER INTO
5 A COLLABORATIVE LAW PARTICIPATION AGREEMENT; AND

6 (b) REASONABLY BELIEVED THEY WERE PARTICIPATING IN A
7 COLLABORATIVE LAW PROCESS.

8 (2) IF A TRIBUNAL MAKES THE FINDINGS SPECIFIED IN SUBSECTION
9 (1) OF THIS SECTION, AND THE INTERESTS OF JUSTICE REQUIRE, THE
10 TRIBUNAL MAY:

11 (a) ENFORCE AN AGREEMENT EVIDENCED BY A RECORD RESULTING
12 FROM THE PROCESS IN WHICH THE PARTIES PARTICIPATED;

13 (b) APPLY THE DISQUALIFICATION PROVISIONS OF SECTIONS
14 13-24-105, 13-24-106, 13-24-109, ■ AND 13-24-111; AND

15 (c) APPLY A PRIVILEGE UNDER SECTION 13-24-117.

16 **13-24-121. Uniformity of application and construction.** IN
17 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
18 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
19 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

20 **13-24-122. Relation to electronic signatures in global and**
21 **national commerce act.** THIS ARTICLE 24 MODIFIES, LIMITS, AND
22 SUPERSEDES THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND
23 NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001, ET SEQ., BUT DOES NOT
24 MODIFY, LIMIT, OR SUPERSEDE SECTION 101(c) OF THAT ACT, 15 U.S.C.
25 SEC. 7001(c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE
26 NOTICES DESCRIBED IN SECTION 103(b) OF THAT ACT, 15 U.S.C. SEC.
27 7003(b).

1 **13-24-123. Authority of supreme court.** NOTHING IN THIS
2 ARTICLE 24 IMPINGES UPON THE AUTHORITY OF THE COLORADO SUPREME
3 COURT TO REGULATE THE CONDUCT OF ATTORNEYS IN THIS STATE.

4 **SECTION 2. Act subject to petition - effective date.** This act
5 takes effect January 1, 2021; except that, if a referendum petition is filed
6 pursuant to section 1 (3) of article V of the state constitution against this
7 act or an item, section, or part of this act within the ninety-day period
8 after final adjournment of the general assembly, then the act, item,
9 section, or part will not take effect unless approved by the people at the
10 general election to be held in November 2020 and, in such case, will take
11 effect January 1, 2021, or on the date of the official declaration of the
12 vote thereon by the governor, whichever is later.