

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH80250-LU-25 (02/26)

Short Title: Collaborative Law Procedures/Family Law.

(Public)

Sponsors: Representative Hackney.

Referred to:

A BILL TO BE ENTITLED

AN ACT ESTABLISHING COLLABORATIVE LAW PROCEDURES UNDER
CHAPTER 50 OF THE GENERAL STATUTES WHEREBY PARTIES SEEKING
A DIVORCE AND THEIR ATTORNEYS MAY SETTLE THEIR DISPUTES BY
WRITTEN AGREEMENT WITH LIMITED JUDICIAL INTERVENTION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 50 of the General Statutes is amended by adding a
new Article to read:

"Article 4.

"Collaborative Law Proceedings.

"§ 50-65. Collaborative law; definition.

(a) As an alternative to judicial disposition of issues arising in a civil action under this Chapter, except for a claim for absolute divorce, on a written agreement of the parties and their attorneys, a civil action may be conducted under collaborative law procedure.

(b) Collaborative law is a procedure in which parties who are separated and are seeking a divorce and their counsel agree, in writing, to use their best efforts and make a good faith attempt to resolve their disputes arising from the marital relationship on an agreed basis without resorting to judicial intervention, except to have the court approve the settlement agreement, make the legal pronouncements, and sign the orders required by law to effectuate the agreement of the parties as the court deems appropriate. The parties' counsel shall not serve as litigation counsel, except to ask the court to approve the settlement agreement.

"§ 50-66. Agreement requirements.

A collaborative law agreement must include provisions for all of the following:

- (1) Full and candid exchange of information between the parties and their attorneys as necessary to make a proper evaluation of the case.

- 1 (2) Suspending court intervention in the dispute while the parties are using
2 collaborative law procedures.
- 3 (3) Hiring experts, as jointly agreed, to be used in the procedure.
- 4 (4) Withdrawal of all counsel involved in the collaborative law procedure
5 if the collaborative law procedure does not result in settlement of the
6 dispute.
- 7 (5) Other provisions as agreed to by the parties consistent with a good
8 faith effort to collaboratively settle the matter.

9 **"§ 50-67. Judgment on collaborative law agreement.**

10 Notwithstanding any other rule or law, a party is entitled to judgment on a
11 collaborative law settlement agreement if the agreement:

- 12 (1) Provides, in a prominently displayed statement that is boldfaced,
13 capitalized, or underlined, that the agreement is not subject to
14 revocation.
- 15 (2) Is signed by each party to the agreement and the attorney of each
16 party.

17 **"§ 50-68. Acts prohibited by court.**

18 Subject to G.S. 50-70, unless a party notifies the court that the collaborative law
19 procedures did not result in a settlement, a court that is notified 30 days before trial that
20 the parties are using collaborative law procedures to attempt to settle a dispute shall not:

- 21 (1) Set a hearing or trial in the case.
- 22 (2) Impose discovery deadlines.
- 23 (3) Require compliance with scheduling orders.
- 24 (4) Dismiss the case.

25 **"§ 50-69. Notice to court of settlement.**

26 The parties shall notify the court if the collaborative law procedures result in a
27 settlement. However, if the collaborative law procedures do not result in a settlement,
28 the parties shall file the following:

- 29 (1) A status report with the court not later than 180 days after the date of
30 the written agreement to use the procedures. The court shall establish
31 what information shall be included in the status report.
- 32 (2) A status report within one year from the date of the written agreement
33 to use the procedures, accompanied by a motion for continuance that
34 the court shall grant if the status report indicates the desire of the
35 parties to continue to use collaborative law procedures.

36 **"§ 50-70. Disposition by court; failure to reach settlement.**

37 If the collaborative law procedures do not result in a settlement within two years
38 from the date the collaborative law procedures were initiated, upon notice to the court
39 by the parties of their failure to reach a settlement, the court may do either of the
40 following:

- 41 (1) Set the civil action for trial on the regular docket.
- 42 (2) Dismiss the civil action without prejudice."

43 **SECTION 2.** This act becomes effective October 1, 2003.