

**LOUISIANA STATE LAW INSTITUTE
MARRIAGE-PERSONS COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE
TO HCR NO. 42 OF THE 2022 REGULAR SESSION**

Relative to the Uniform Collaborative Law Act

Prepared for the
Louisiana Legislature on

March 8, 2023

Baton Rouge, Louisiana

LOUISIANA STATE LAW INSTITUTE MARRIAGE-PERSONS COMMITTEE

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Katherine S. Spaht, Chair

Andrea B. Carroll, Reporter

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2022 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 42

BY REPRESENTATIVE COUSSAN

A CONCURRENT RESOLUTION

To authorize and direct the Louisiana State Law Institute to study and make specific recommendations for revisions to Louisiana laws in order for the legislature to adopt the Uniform Collaborative Law Act.

WHEREAS, the core commitments of a collaborative divorce are to negotiate a mutually acceptable resolution without having courts decide issues, maintain open communication and complete information sharing, and create shared solutions acknowledging the highest priorities of all; and

WHEREAS, collaborative family law strives to communicate respectfully and constructively between the parties to resolve legal issues promptly and economically; and

WHEREAS, through the collaborative divorce both spouses are represented by individually selected collaboratively trained counsel; and

WHEREAS, prior to commencing the collaborative process, all participants, including lawyers and clients, formally contract to work together to resolve all legal issues and both lawyers pledge not to litigate the case or treat the case in an adversarial manner; and

WHEREAS, collaborative law attorneys utilize a multi-disciplinary network of professionals to provide expertise and advice on issues relevant to the ultimate resolution; and

WHEREAS, collaborative law attorneys guide their clients to find creative solutions to problems with the assistance of neutral experts and with full consideration of the legal ramifications of agreements reached; and

WHEREAS, collaborative law attorneys remain committed to assisting clients in reaching agreements and overcoming impasses; and

WHEREAS, collaborative law attorneys do not prepare or file any document with the court except by agreement of all concerned; and

WHEREAS, a neutral financial professional can offer advice to the parties on how to ensure that the family derives the maximum benefit from the financial resources available; and

WHEREAS, a neutral facilitator or mental health professional can offer guidance, education, and the facilitation of discussions during the dissolution of the marriage, including providing a connection between the legal process and the parties' emotional process and enhance communication to reduce misunderstanding between the parties; and

WHEREAS, collaborative law professionals conduct meetings without the parties in order to promote improved communication and cooperation and nourish an environment that fosters analysis and reasoning to help generate options and create a positive context for resolution while giving both spouses control over the outcome; and

WHEREAS, the parties in a collaborative divorce shall participate in good faith to reach a negotiated agreement that focuses on the future while respecting their individual interests and concerns and the parties shall make full and fair disclosure of all facts pertinent to their legal matter to their attorney and to one another; and

WHEREAS, collaborative law attorneys are specially trained in the collaborative law process and committed to uphold standards of conduct and follow the guidelines of practice established by the International Academy of Collaborative Professionals; and

WHEREAS, the Uniform Collaborative Law Act was adopted in 2009 by the Uniform Law Commission and is therefore available to the individual states to enact as law; and

WHEREAS, twenty-three states, including our neighboring states of Texas, Florida, and Alabama, have adopted collaborative law as it applies in family law matters; and

WHEREAS, a guide for the Collaborative Participation Agreement for use under the Uniform Collaborative Law Act has been issued by the International Academy of Collaborative Professionals; and

WHEREAS, utilization of collaborative family law would relieve judges of the responsibility to find and appoint outside experts to facilitate certain divorce proceedings, especially in evaluations required in custody or visitation proceedings pursuant to R.S. 9:331 and the appointment of independent mental health experts to assist in determining the best interest of the child pursuant to R.S. 9:355.15; and

WHEREAS, adoption of the Uniform Collaborative Law Act would be beneficial to the citizens of this state.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct the Louisiana State Law Institute to study and make recommendations, if any, of specific revisions to state law to implement the Uniform Collaborative Law Act and other supporting legislation.

BE IT FURTHER RESOLVED that a copy of this Concurrent Resolution be transmitted to the director of the Louisiana State Law Institute and that the Louisiana State Law Institute report its findings and recommendations to the Legislature of Louisiana on or before April 28, 2023.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit one print copy and one electronic copy of any report produced pursuant to this Resolution to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

March 8, 2023

To: Representative Clay Schexnayder
Speaker of the House
P.O. Box 94062
Baton Rouge, Louisiana 70804

Senator Patrick Page Cortez
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO HCR NO. 42 OF THE 2022 REGULAR SESSION**

House Concurrent Resolution No. 42 of the 2022 Regular Session authorizes and directs the Louisiana State Law Institute to study and make recommendations for the adoption of the Uniform Collaborative Law Act. In response to this request, the Law Institute assigned the project to its Marriage-Persons Committee, which operates under the direction of Professor Andrea B. Carroll as Reporter and is comprised of judges, lawyers, and law professors with expertise in this area of the law.

The Marriage-Persons Committee has reviewed materials explaining the collaborative divorce process and its benefits and found that twenty-three states have adopted this tool to reduce conflict and save litigants money. Use of the procedure cannot be ordered over the objection of a party, so the Committee has begun to make adjustments to the Uniform Act to best fit Louisiana law with particular focus on community property, domestic abuse, and discovery.

The Committee anticipates that a final report and recommendations for revisions to the law will be submitted to the Legislature for introduction during the 2024 Regular Session, after the Committee's proposals have been reviewed and approved by the Law Institute's Council.