

**§ 3105.41. [Effective 3/22/2013] Definitions for sections 3105.41 to 3105.54**

As used in sections 3105.41 to 3105.54 of the Revised Code:

(A) "Collaborative family law communication" means any statement that occurs after the parties sign a collaborative family law participation agreement and before the collaborative family law process is concluded and that is made for the purpose of conducting, participating in, continuing, or reconvening a collaborative law process.

(B) "Collaborative family law participation agreement" means an agreement by persons to participate in a collaborative family law process.

(C) "Collaborative family law process" means a procedure intended to resolve a matter without intervention by a court in which parties sign a collaborative family law participation agreement and are represented by collaborative family lawyers.

(D) "Collaborative family lawyer" means a lawyer who represents a party in a collaborative family law process but does not include a lawyer who is a public official and who does not represent individuals other than public officials in their official capacities.

(E) "Collaborative matter" or "matter" means a dispute, transaction, claim, problem, or issue for resolution that arises under Title XXXI of the Revised Code and is described in a collaborative family law participation agreement. The term includes a dispute, claim, or issue in a proceeding.

(F) "Family or household member" has the same meaning as in section 3113.31 of the Revised Code.

(G) "Law firm" means an association of lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or other association, lawyers employed in a legal services organization, the legal department of a corporation or other organization, or the legal department of a government or governmental subdivision, agency, or instrumentality.

(H) "Nonparty participant" means a person, other than a party and the party's collaborative family lawyer, that the parties expressly designate in writing, in a collaborative family law participation agreement or an amendment to that agreement, to participate in a collaborative family law process.

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

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

(K) "Proceeding" means a judicial, administrative, arbitral, or other adjudicative process before a court, including related prehearing and posthearing motions, conferences, and discovery.

(L) "Public official" means an officer or employee of the state or any political subdivision of the state.

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

(N) "Related to a collaborative family law matter" or "related to a matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, claim, issue, or dispute as a matter.

(O) "Sign" means, with present intent to authenticate or adopt a record, to do either of the following:

(1) Execute or adopt a tangible symbol;

(2) Attach to or logically associate with the record an electronic symbol, sound, or process.

**§ 3105.42. [Effective 3/22/2013] Laws applicable to collaborative family law participation agreement**

(A) Sections 3105.41 to 3105.54 of the Revised Code apply to a collaborative family law participation agreement that meets the requirements of section 3105.43 of the Revised Code and is signed on or after the effective date of this section.

(B) A court may not order a party to participate in a collaborative family law process over that party's objection.

**§ 3105.43. [Effective 3/22/2013] Collaborative family law participation agreements; mandatory inclusions**

(A) A collaborative family law participation agreement must be in a record, be signed by the parties, and include all of the following:

(1) A statement of the parties' intent to resolve a matter through a collaborative family law process under sections 3105.41 to 3105.55 of the Revised Code;

(2) A description of the nature and scope of the matter;

(3) The identity of the collaborative family lawyer who represents each party in the collaborative family law process;

(4) A statement by each collaborative family lawyer confirming the lawyer's representation of a party in the collaborative family law process.

(B) Parties to a collaborative family law participation agreement may agree to include additional provisions not inconsistent with sections 3105.41 to 3105.54 of the Revised Code.

**§ 3105.44. [Effective 3/22/2013] Collaborative family law process**

(A) A collaborative family law process begins when the parties sign a collaborative family law participation agreement.

(B) A collaborative family law process is concluded by any of the following:

- (1) A negotiated resolution of the matter as evidenced by a signed record;
- (2) A negotiated resolution of a portion of the matter as evidenced by a signed record in which the parties agree that the remaining portions of the matter will not be resolved in the collaborative family law process;
- (3) Termination of the process under division (C) of this section.

(C) A collaborative family law process terminates when any of the following occurs:

- (1) A party gives notice in a record that the collaborative family law process is ended.
- (2) A party does either of the following:
  - (a) Begins a proceeding related to the collaborative family law matter without the agreement of all parties;
  - (b) In a pending proceeding related to the collaborative family law matter, does any of the following:
    - (i) Initiates a pleading, motion, order to show cause, or request for a conference with the court;
    - (ii) Requests that the proceeding be put on the court's docket;
    - (iii) Takes similar action requiring notice to be sent to the parties;
    - (iv) Except as otherwise provided by division (E)(2) of this section, discharges a collaborative family lawyer.
- (3) A collaborative family lawyer withdraws from further representation of a party.
- (4) Termination occurs in any other way provided for in the collaborative family law participation agreement.

(D) A party may terminate a collaborative family law process with or without cause. A notice of termination need not specify a reason for terminating the process.

(E)(1) A collaborative family lawyer who is discharged or who withdraws shall give prompt notice in a record of the discharge or withdrawal to all other parties.

(2) Notwithstanding the discharge or withdrawal of a collaborative family lawyer, a collaborative family law process continues if the unrepresented party engages a successor collaborative family lawyer, and, in a signed record, all parties consent to continue the process by reaffirming the collaborative family law participation agreement, the collaborative family law participation agreement is amended to identify the successor collaborative family lawyer, and the successor collaborative family lawyer confirms the lawyer's representation of a party in the collaborative family law process.

(F) A collaborative family law process does not terminate if, with the consent of all parties, a party requests a court to approve a negotiated resolution of the matter or any portion of the matter as evidenced by a signed record.

**§ 3105.45. [Effective 3/22/2013] Representation by collaborative family lawyer**

(A) Except as otherwise provided in division (C) of this section, a collaborative family lawyer may not appear before a court to represent a party in a proceeding related to the collaborative family law matter. A collaborative family lawyer representing a party that is a government or governmental subdivision, agency, or instrumentality is subject to disqualification under this division.

(B) Except as otherwise provided in division (C) of this section, a lawyer in a law firm with which the collaborative family lawyer is associated may not appear before a court to represent a party in a proceeding related to the collaborative family law matter if the collaborative family lawyer is disqualified from doing so under division (A) of this section.

(C) A collaborative family lawyer or a lawyer in a law firm with which the collaborative family lawyer is associated may represent a party for the following purposes:

(1) To ask a court to approve an agreement resulting from the collaborative family law process;

(2) To seek or defend an emergency order to protect the health, safety, welfare, or interests of a party or of a family or household member of a party if a successor lawyer is not immediately available to represent the party or family or household member of the party. If a successor lawyer is not immediately available to represent the party or family or household member of the party, divisions (A) and (B) of this section do not apply until a successor lawyer assumes representation of the party or family or household member of the party or reasonable measures are taken to protect the health, safety, welfare, or interests of the party or family or household member of the party.

**§ 3105.46. [Effective 3/22/2013] Informal disclosure of information**

During the collaborative family law process, at the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery and shall update promptly information that has materially changed. Parties may define the scope of disclosure, except as otherwise provided by law.

**§ 3105.47. [Effective 3/22/2013] Applicability of professional responsibility provisions**

Sections 3105.41 to 3105.54 of the Revised Code do not affect the professional responsibility obligations and standards applicable to a lawyer or other licensed professional or the statutory obligation of a person to report abuse or neglect of a child or adult.

**§ 3105.48. [Effective 3/22/2013] Confidentiality of communications**

A collaborative family law communication is confidential to the extent agreed by the parties in a signed record or as provided by the law of this state.

**§ 3105.49. [Effective 3/22/2013] Privileged communications**

(A) Subject to sections 3105.50 and 3105.51 of the Revised Code, a collaborative family law communication is privileged under division (B) of this section, is not subject to discovery, and is not admissible in evidence.

(B) In a proceeding, the following privileges apply:

(1) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative family law communication.

(2) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative family law communication of the nonparty participant.

(C) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a collaborative family law process.

**§ 3105.50. [Effective 3/22/2013] Waiver of privileges**

(A) A privilege under section 3105.49 of the Revised Code may be waived in a record or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

(B) A person that discloses or makes a representation about a collaborative family law communication that prejudices another person in a proceeding may not assert a privilege under section 3105.49 of the Revised Code relating to that communication.

**§ 3105.51. [Effective 3/22/2013] Communications not subject to privilege**

(A) There is no privilege under section 3105.49 of the Revised Code for a collaborative family law communication that is any of the following:

(1) Available to the public under section 149.43 of the Revised Code or made during a session of a collaborative family law process that is open, or is required by law to be open, to the public;

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

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

(4) In an agreement resulting from the collaborative family law process, evidenced by a record signed by all parties to the agreement.

(B) The privileges under section 3105.49 of the Revised Code for a collaborative family law communication do not apply to the extent that a communication is either of the following:

(1) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative family law process;

(2) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child, unless a children's or protective service agency or an adult protective services agency is a party to or otherwise participates in the collaborative family law process.

(C) There is no privilege under section 3105.49 of the Revised Code if the communication is sought in connection with or offered in any criminal proceeding involving a felony, a delinquent child proceeding based on what would be a felony if committed by an adult, or a proceeding initiated by the state or a child protection agency in which it is alleged that a child is an abused, neglected, or dependent child.

(D) There is no privilege under section 3105.49 of the Revised Code if a court finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative family law communication is sought or offered in a criminal action or in a proceeding seeking rescission or reformation of a contract arising out of the collaborative family law process or in which a defense to avoid liability on the contract is asserted.

(E) If a collaborative family law communication is subject to an exception under division (B), (C), or (D) of this section, only the portion of the communication necessary for the application of the exception may be disclosed or admitted.

(F) Disclosure or admission of evidence excepted from the privilege under division (B), (C), or (D) of this section does not render the evidence or any other collaborative family law communication discoverable or admissible for any other purpose.

(G) The privileges under section 3105.49 of the Revised Code do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative family law process is not privileged. This division does not apply to a collaborative family law communication made by a person that did not receive actual notice of the agreement before the communication was made.

**§ 3105.52. [Effective 3/22/2013] Effect of finding of intent to make an agreement**

Even though a collaborative family law participation agreement fails to meet the requirements of section 3105.43 of the Revised Code, a court may find that the parties intended to enter into a collaborative family law participation agreement if the parties signed a record indicating an intention to enter into a collaborative family law participation agreement and the parties reasonably believed they were participating in a collaborative family law process. If a court makes such a finding, sections 3105.41 to 3105.54 of the Revised Code apply to the same extent as if the parties had entered into a valid collaborative family law participation agreement.

**§ 3105.53. [Effective 3/22/2013] Electronic signatures**

Sections 3105.41 to 3105.54 of the Revised Code modify, limit, and supersede the "Electronic Signatures in Global and National Commerce Act," 114 Stat. 464, 15 U.S.C. 7001, et seq., but do not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

**§ 3105.54.** [Effective 3/22/2013] **Short title**

Sections 3105.41 to 3105.54 of the Revised Code may be cited as the "**Ohio collaborative family law act.**"

**§ 3105.64.** [Effective 3/22/2013] **Time of court appearance after filing petition**

(A) Except as provided in division (B) or (C) of this section, not less than thirty nor more than ninety days after the filing of a petition for dissolution of marriage, both spouses shall appear before the court, and each spouse shall acknowledge under oath that that spouse voluntarily entered into the separation agreement appended to the petition, that that spouse is satisfied with its terms, and that that spouse seeks dissolution of the marriage.

(B) If an action for divorce is converted to an action for dissolution of marriage pursuant to section 3105.08 of the Revised Code and if the conversion occurs more than thirty days after the filing of the original petition in the divorce action, the appearance and acknowledgement requirements of division (A) of this section may be satisfied at the time of the conversion or at a time that is not more than ninety days after the conversion.

**(C) If a petition for dissolution is filed after the spouses have successfully completed a collaborative family law process pursuant to sections 3105.41 to 3105.54 of the Revised Code, the appearance and acknowledgement requirements of division (A) of this section may be satisfied at any time that is not more than ninety days after the filing of the petition.**