



LOUISIANA STATE LAW INSTITUTE
PAUL M. HEBERT LAW CENTER, ROOM W 127
1 EAST CAMPUS DRIVE
BATON ROUGE, LA 70803

OFFICE OF
THE DIRECTOR
(225) 578-0200
FAX: (225) 578-0211
EMAIL: LAWINSTITUTE@LSLI.ORG

May 6, 2024

Representative Phillip R. DeVillier
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804


Senator Cameron Henry
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: HOUSE CONCURRENT RESOLUTION NO. 42 OF THE 2022 REGULAR SESSION

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits its report to the legislature relative to the Uniform Collaborative Law Act.

Sincerely,


Guy Holdridge
Director

GH/pc

Enclosure

cc: Senator Jean-Paul Coussan

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.gov

Secretary of State, Ms. Nancy Landry
admin@sos.louisiana.gov

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

**REPORT IN RESPONSE TO HOUSE CONCURRENT
RESOLUTION NO. 42 OF THE 2022 REGULAR SESSION**

Relative to the Uniform Collaborative Law Act

Prepared for the
Louisiana Legislature on

May 6, 2024

Baton Rouge, Louisiana

LOUISIANA STATE LAW INSTITUTE MARRIAGE-PERSONS COMMITTEE

Dawn Amacker, Covington

Clinton Bowers, Shreveport

Andre´ Doguet, Lafayette

Lila Tritico Hogan, Hammond

Rebecca Hunter, Lake Charles

Philip Riegel, New Orleans

Vincent Saffiotti, Baton Rouge

J. Randall Trahan, Paul M. Hebert Law Center

Frank Tranchina, Covington

Sandra Varnado, Loyola Law School

Monica H. Wallace, Loyola Law School

Lisa Woodruff-White, Baton Rouge

* * * * *

Katherine S. Spaht, Chair

Andrea B. Carroll, Reporter

Jessica G. Braun, Staff Attorney

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

May 6, 2024

To: Representative Phillip R. DeVillier
Speaker of the House
P.O. Box 94062
Baton Rouge, Louisiana 70804-9062

Senator Cameron Henry
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

**REPORT TO THE LEGISLATURE IN RESPONSE TO HOUSE CONCURRENT
RESOLUTION NO. 42 OF THE 2022 REGULAR SESSION**

House Concurrent Resolution No. 42 of the 2022 Regular Session requested the Louisiana State Law Institute to study and make recommendations for the adoption of the Uniform Collaborative Law Act in Louisiana. In fulfillment of this request, the Law Institute assigned the resolution to its Marriage-Persons Committee, which operates under the direction of Professor Andrea B. Carroll as Reporter.

During its meetings on this topic, the Committee received feedback from attorneys and other licensed professionals currently practicing or participating in collaborative law processes regarding the benefits of this process and the need to establish a formal framework in Louisiana. The Committee also learned from the Uniform Law Commission that twenty-three states have adopted this tool to reduce conflict, and the process has also been shown to be less expensive than litigation. In addition, fifteen of these twenty-three states have limited the application of the process to family law matters and reiterated that its use is strictly voluntary and cannot be ordered over the objection of a party. The Committee recommends maintaining the language of the Uniform Act to the greatest extent possible even though it uses different terminology and may not mimic Louisiana's legislative drafting conventions.

The Law Institute submitted its recommendations to the Legislature to codify the Uniform Collaborative Law Act in Louisiana but to limit its application to family law matters, and these recommendations have been introduced as Senate Bill No. 188 of the 2024 Regular Session.