

WHAT DOES THE UCLA SAY?*

Va. Code §§ 20-168 – 20-187

*in plain English

The Big Take-Aways:

1. The confidentiality of Collaborative communications is now recognized by statute.

2. The Court now has the authority to enforce the disqualification requirement.

3. Initial and ongoing assessment for a history of family abuse is required.

Va. Code § 20-170

The parties must sign a Collaborative participation agreement that:

1. Identifies their Collaborative lawyers;
2. States the nature and scope of the matter; and
3. Confirms their intention to reach a resolution using the Collaborative process.

Va. Code § 20-172

If the parties are in the midst of litigation, they may apply for a stay of the proceedings by signing a Collaborative participation agreement and filing a notice of the same with the Court.

If the Court does not grant a stay, the parties must file a nonsuit before the Collaborative process can continue.

Va. Code § 20-179

Before a party signs a Collaborative participation agreement, his or her Collaborative lawyer must explain:

1. Why the lawyer believes the Collaborative process is appropriate for the party's particular case.
2. The benefits and risks of the Collaborative process as compared to the benefits and risks of other alternatives such as litigation, mediation, arbitration, expert evaluation, etc.
3. How the Collaborative process is terminated.
4. That the Collaborative lawyer and other lawyers in his/her firm are disqualified from representing the party in court if the Collaborative process is terminated without a full settlement of all issues in dispute.

Va. Code § 20-180

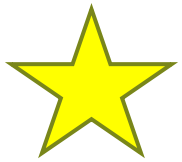
If there is a history of family abuse between the parties, they should not engage in the Collaborative law process *unless*:

1. The abused party requests beginning or continuing the process

AND

2. The Collaborative lawyer reasonably believes that the safety of the abused party can be protected during the process

Va. Code § 20-177



Upon request, parties in a Collaborative law process must disclose information related to the Collaborative matter.

Parties must promptly update any previously disclosed information that has materially changed.

Va. Code § 20-179

The Collaborative law process begins when the parties have both signed a Collaborative participation agreement.

The Collaborative law process ends when:

1. The parties have resolved all issues in dispute;
2. The parties have resolved some issues and agree that the remaining issues will be resolved outside of the Collaborative law process;
3. A party decides to terminate the process, with or without cause; OR
4. A party unilaterally initiates court proceedings against the other party or proceeds with court proceedings that were previously stayed

Va. Code § 20-181 – 20-184

Communications by the parties and professionals during the Collaborative process are confidential and not admissible in court, *except*:

1. Statements relating to a plan to inflict bodily harm or commit a crime are not privileged;
2. Statements offered to prove or disprove abuse or neglect of a child or adult are not privileged;
3. Statements offered to prove or disprove a claim of professional misconduct or malpractice related to the Collaborative process are not privileged; and
4. Information that is otherwise subject to discovery does not become inadmissible in a court proceeding solely because of its disclosure in the Collaborative process.

Va. Code § 20-171

Parties may discharge their Collaborative lawyers for any reason, and Collaborative lawyers may withdraw from their representation at any time.

If this occurs, the Collaborative law process may continue IF

A successor Collaborative lawyer is engaged within 30 days AND

The successor lawyer is named in the Participation Agreement and the parties re-affirm it.

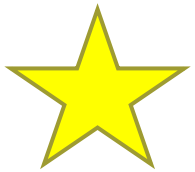
Va. Code 20-175

Once a Collaborative participation agreement has been signed, Collaborative lawyers—and other lawyers associated with their law firms—are disqualified from representing their clients in a court proceeding related to the Collaborative matter, *except*:

1. To seek incorporation of a Collaborative settlement agreement into a court order.

2. To ask a court to enter any order necessary to effectuate the terms of any agreement resulting from the Collaborative process;

3. To seek or defend an emergency order to protect the health, safety, welfare, or interest of a party or a party's family or household member; BUT…



Va. Code § 20-175 (continued)

A Collaborative lawyer can only represent a Collaborative party for an emergency order

IF

a successor lawyer is not immediately available to represent such person

AND ONLY UNTIL:

1. A successor lawyer is available

OR

2. Reasonable measures are taken to protect the health, safety, welfare, or interest of the person

Va. Code § 20-176

If a party is qualified for free legal representation under the criteria established by a Collaborative lawyer's firm, another lawyer associated with the firm may represent the party in subsequent litigation FOR FREE

IF:

1. The Collaborative participation agreement provides for such subsequent representation

AND

2. The Collaborative lawyer is isolated from any further participation in the matter as soon as the Collaborative process ends