

By: Goodman

H.B. No. 205

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the resolution of certain disputes by collaborative law
3 procedures.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 154, Civil Practice and
6 Remedies Code, is amended by adding Section 154.028 to read as
7 follows:

8 Sec. 154.028. COLLABORATIVE LAW PROCEDURES. (a) On a
9 written agreement of the parties and their attorneys, a dispute may
10 be conducted under collaborative law procedures.

11 (b) Collaborative law is a voluntary procedure in which the
12 parties and their counsel agree in writing to use their best efforts
13 and make a good faith attempt to resolve their dispute on an agreed
14 basis without resorting to judicial intervention except to have the
15 court approve the settlement agreement, make the legal
16 pronouncements, and sign the orders required by law to effectuate
17 the agreement of the parties as the court determines appropriate.
18 The parties' counsel may not serve as litigation counsel except to
19 ask the court to approve the settlement agreement.

20 (c) A collaborative law agreement must include:

21 (1) provisions for full and candid exchange of
22 information between the parties and their attorneys as necessary to
23 make a proper evaluation of the case;

24 (2) provisions for suspending court intervention in

1 the dispute while the parties are using collaborative law
2 procedures;

3 (3) provisions for hiring experts, as jointly agreed,
4 to be used in the procedure;

5 (4) provisions for withdrawal of all counsel involved
6 in the collaborative law procedure if the collaborative law
7 procedure does not result in settlement of the dispute; and

8 (5) other provisions as agreed to by the parties
9 consistent with a good faith effort to collaboratively settle the
10 matter.

11 (d) Notwithstanding Rule 11, Texas Rules of Civil
12 Procedure, or another rule or law, a party is entitled to judgment
13 on a collaborative law settlement agreement if the agreement:

14 (1) provides, in a prominently displayed statement
15 that is boldfaced, capitalized, or underlined, that the agreement
16 is not subject to revocation; and

17 (2) is signed by each party to the agreement and the
18 attorney of each party.

19 (e) Subject to Subsection (g), a court that is notified 30
20 days before trial that the parties are using collaborative law
21 procedures to attempt to settle a dispute may not, until a party
22 notifies the court that the collaborative law procedures did not
23 result in a settlement:

24 (1) set a hearing or trial in the case;

25 (2) impose discovery deadlines;

26 (3) require compliance with scheduling orders; or

27 (4) dismiss the case.

1 (f) The parties shall notify the court if the collaborative
2 law procedures result in a settlement. If a settlement has not been
3 reached, the parties shall file:

4 (1) a status report with the court not later than the
5 180th day after the date of the written agreement to use the
6 procedures; and

7 (2) a status report on or before the first anniversary
8 of the date of the written agreement to use the procedures,
9 accompanied by a motion for continuance that the court shall grant
10 if the status report indicates the desire of the parties to continue
11 to use collaborative law procedures.

12 (g) If the collaborative law procedures do not result in a
13 settlement on or before the second anniversary of the date that the
14 suit was filed, the court may set the suit for trial on the regular
15 docket.

16 SECTION 2. Section 154.073, Civil Practice and Remedies
17 Code, is amended by adding Subsection (h) to read as follows:

18 (h) This section applies to a collaborative law matter under
19 Section 6.603 or 153.0072, Family Code.

20 SECTION 3. This Act applies only to an action commenced:

21 (1) on or after the effective date of this Act; or

22 (2) before the effective date of this Act if the trial
23 in the action has not begun before the effective date of this Act.

24 SECTION 4. This Act takes effect September 1, 2005.