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By: Goodman

H.B. No. 205

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

(c) A collaborative law agreement must include:

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

(2) provisions for suspending court intervention in the dispute while the parties are using collaborative law procedures;

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

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

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

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

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

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

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

- (1) set a hearing or trial in the case;
- (2) impose discovery deadlines;
- (3) require compliance with scheduling orders; or
- (4) dismiss the case.

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

- (1) a status report with the court not later than the 180th day after the date of the written agreement to use the procedures; and
- (2) a status report on or before the first anniversary of the date of the written agreement to use the procedures, accompanied by a motion for continuance that the court shall grant if the status report indicates the desire of the parties to continue to use collaborative law procedures.

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

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

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

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

- (1) on or after the effective date of this Act; or
- (2) before the effective date of this Act if the trial in the action has not begun before the effective date of this Act.

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