



## WHY STATES SHOULD ADOPT THE UNIFORM COLLABORATIVE LAW RULES/ACT

The **Uniform Collaborative Law Rules/Act (UCLR/A)** was promulgated by the Uniform Law Commission in 2009, and amended in 2010. It provides a necessary, comprehensive statute to address the growing practice of collaborative law, providing consistency in place of the existing patchwork of laws governing the practice. Collaborative law is a voluntary, client-driven form of alternative dispute resolution practiced in all 50 states. It has been widely used in family law cases, and is beginning to be used in other types of cases, such as insurance disputes or disputes between members of closely held businesses. Its increased use as a dispute resolution mechanism requires there be clear standards, and consistent treatment between the states. The UCLR/A standardizes the most important features of the collaborative law process, protecting consumers, preventing lawyers from engaging in unethical practices, and creating rules governing the disclosure of information and evidentiary privilege. The Uniform Collaborative Law Rules/Act should be adopted for the following reasons:

- **Consistency** – The UCLR/A provides consistency from state to state regarding the enforceability of collaborative law agreements. This consistency is important for parties who may choose collaborative law as a process by which to resolve interstate disputes.
- **Minimum Requirements for Agreements** – The UCLR/A establishes minimum requirements for collaborative law participation agreements. They must include written agreements that state the parties' intention to resolve their dispute through the collaborative process, a description of the matter, and designate collaborative lawyers.
- **Process Beginning/End** – The UCLR/A gives specific instruction on when and how the collaborative law process begins and concludes.
- **Clear Disqualification Requirement** – The UCLR/A codifies the disqualification requirement for collaborative lawyers if the collaborative process concludes. The disqualification requirement is a fundamental characteristic of the collaborative process.
- **Modified Disqualification Rules** – The UCLR/A modifies the disqualification rule for lawyers representing low income clients or government parties. Specifically, the Act allows legal aid offices, firms providing pro bono services, and law school clinics to continue to represent low income clients even if the collaborative process fails. By modifying the disqualification rule, the Rules/Act assures that low income and government parties have access to this form of dispute resolution without detrimentally affecting their future ability to obtain legal services.
- **Screening Requirements** – The UCLR/A directs lawyers to advise clients about alternatives for dispute resolution (such as litigation, arbitration, and mediation), mandates that the lawyers screen for instances of domestic violence or other coercive behavior, and orders the lawyer to assess with the prospective client whether a collaborative law process is appropriate for the case.

- **Privileged Communications** – The UCLR/A creates a privilege for communications that occur during the collaborative law process that would otherwise not be available, or would vary when a dispute crosses state lines.