

Session 120 - (2013-2014)

H 3715 General Bill, By J.E. Smith

Summary: Collaborative Law Act

A BILL TO AMEND THE CODE OF LAWS, OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 87 TO TITLE 15 TO ENACT THE "COLLABORATIVE LAW ACT" SO AS TO PROVIDE FOR THE ALTERNATIVE DISPUTE RESOLUTION PROCESS OF COLLABORATIVE LAW IN WHICH PARTIES TO A LEGAL DISPUTE SEEK TO NEGOTIATE A RESOLUTION OF THE MATTER WITHOUT APPEARING BEFORE, OR THE INTERVENTION OF, A TRIBUNAL; TO PROVIDE THAT THE COLLABORATIVE LAW PROCESS IS VOLUNTARY AND THAT EACH PARTY IN THE PROCESS MUST BE REPRESENTED BY A COLLABORATIVELY TRAINED LAWYER WHOSE SOLE PURPOSE IS TO NEGOTIATE AN AGREEMENT; TO PROVIDE THAT A COLLABORATIVE LAWYER IS PROHIBITED FROM REPRESENTING A PARTY IN ANY OTHER CAPACITY BEFORE A TRIBUNAL ON THE MATTER IN DISPUTE AND TO PROVIDE LIMITED EXCEPTIONS; TO ESTABLISH THE REQUIREMENTS OF A COLLABORATIVE LAW PARTICIPATION AGREEMENT; TO PROVIDE HOW A COLLABORATIVE LAW PROCESS IS INITIATED AND TERMINATED OR CONCLUDED; TO AUTHORIZE TRIBUNALS TO APPROVE AN AGREEMENT RESULTING FROM A COLLABORATIVE LAW PROCESS; TO REQUIRE PARTIES TO VOLUNTARILY DISCLOSE INFORMATION DURING THE PROCESS WITHOUT FORMAL DISCOVERY; TO PROVIDE THAT STANDARDS OF PROFESSIONAL RESPONSIBILITY AND CHILD AND ADULT ABUSE REPORTING LAWS APPLY; TO REQUIRE A COLLABORATIVE LAWYER TO ADVISE CLIENTS OF THE RISKS AND BENEFITS OF THE PROCESS AS COMPARED TO OTHER DISPUTE RESOLUTION PROCESSES; TO REQUIRE A COLLABORATIVE LAWYER TO SCREEN CLIENTS FOR DOMESTIC ABUSE TO DETERMINE IF THIS PROCESS WOULD BE APPROPRIATE; TO AUTHORIZE PARTIES TO ESTABLISH THE SCOPE OF CONFIDENTIALITY FOR INFORMATION DISCLOSED DURING THE PROCESS; TO CREATE EVIDENTIARY PRIVILEGES FOR COLLABORATIVE LAW COMMUNICATIONS AND EXCEPTIONS TO THESE PRIVILEGES; TO AUTHORIZE TRIBUNALS TO ENFORCE COLLABORATIVE LAW AGREEMENTS, ALTHOUGH A COLLABORATIVE LAWYER FAILED TO COMPLY WITH CERTAIN PROCESS REQUIREMENTS; AND TO PROVIDE THAT THIS CHAPTER MODIFIES CERTAIN FEDERAL ELECTRONIC SIGNATURE STATUTORY PROVISIONS.

02/28/13 House Introduced and read first time (House Journal-page 29)

02/28/13 House Referred to Committee on Judiciary (House Journal-page 29)