

ALABAMA RULES OF PRIVILEGE IN COLLABORATIVE LAW PRACTICE

Rule 1.

Definitions.

The Alabama Legislature adopted the Alabama Uniform Collaborative Law Act, § 6-6-26 et seq., Ala. Code 1975 ("the Act"), effective January 1, 2014. The Act and these Rules apply to "collaborative matters," as that term is defined in § 6-6-26.01(5), Ala. Code 1975. "Collaborative matters" include disputes, claims, and issues arising "under the family or domestic-relations law of this state." § 6-6-26.01(5). The Act does not address the sections/rules regarding privilege that are included in the Uniform Collaborative Law Act/Rules. These Rules adopt, with some changes, Sections/Rules 17, 18, and 19 of the Uniform Collaborative Law Act/Rules regarding privilege in collaborative matters. The definitions in the Act, currently in § 6-6-26.01, Ala. Code 1975, and as may be amended, are hereby incorporated by reference into these Rules. The first time a term defined in § 6-6-26.01 is used in these Rules, it will be designated by quotation marks.

[Adopted 2-9- 2015.]

Alabama Committee Comment

When the Alabama Legislature adopted the Act, it intentionally omitted from the Act those sections/rules in the Uniform Collaborative Law Act/Rules dealing with privilege in collaborative law matters. The Alabama Comment to §§ 6-6-26.16, -26.17, and -26.18, states: "Alabama chose to omit th[ese] section[s], deciding that the subject matter could best be governed by the Rules of Court." These Rules implement those omitted sections.

The incorporation by reference of the definitions from the Act into these Rules obviates the need for repeating them in the Rules. Moreover, the incorporation will ensure that any future changes in the statutory definitions will have the effect of simultaneously changing the definition in the Rules. This will avoid the potential for a gap period in which any change in a statutory definition might create an unintended conflict with a definition in the Rules if the Rules were not simultaneously amended to reflect the statutory change.

Note from the reporter of decisions: The order adopting the Alabama Rules of Privilege in Collaborative Law Practice, including the Alabama Committee Comments, effective February 9, 2015, is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.