

1 **SENATE FLOOR VERSION**
2 April 8, 2025

3 ENGROSSED HOUSE
4 BILL NO. 2117

By: Kannady of the House

5 and
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7

Howard of the Senate

An Act relating to civil procedure; enacting the Uniform Collaborative Law Act; defining terms; providing for applicability of act; specifying requirements of collaborative law participation agreements; providing for beginning and ending of collaborative law process; requiring notice; providing for termination with or without cause; providing for continuation of collaborative law process under certain conditions; providing for procedures before certain tribunals; prescribing procedures; providing for status report; providing for issuance of emergency orders; authorizing approval of certain agreements; providing procedures related to disqualification of attorneys; providing for representation without fees; providing standard for income qualifications; providing for disqualification of attorneys representing governmental entities; providing for disclosure of information related to collaborative matters; providing for inapplicability of act to certain professional standards; imposing duties on attorney with respect to collaborative law participation agreements; requiring certain inquiry related to coercive or violent relationships; prescribing procedures; providing for confidentiality; providing for privilege with respect to collaborative law communications; providing for waiver of privilege; limiting scope of privilege; providing for authority of tribunal in case of noncompliance; providing for uniform application; providing for effect of act with respect to other laws; providing for codification; and providing an effective date.

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2 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

3 SECTION 1. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3301 of Title 12, unless there
5 is created a duplication in numbering, reads as follows:

6 SHORT TITLE. This act may be cited as the Uniform Collaborative
7 Law Act.

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3302 of Title 12, unless there
10 is created a duplication in numbering, reads as follows:

11 DEFINITIONS.

12 As used in this act:

13 1. "Collaborative law communication" means a statement, whether
14 oral or in a record, or verbal or nonverbal, that:

- 15 a. is made to conduct, participate in, continue, or
16 reconvene a collaborative law process, and
17 b. occurs after the parties sign a collaborative law
18 participation agreement and before the collaborative
19 law process is concluded;

20 2. "Collaborative law participation agreement" means an
21 agreement by persons to participate in a collaborative law process;

22 3. "Collaborative law process" means a procedure intended to
23 resolve a collaborative matter without intervention by a tribunal in
24 which persons:

1 a. sign a collaborative law participation agreement, and

2 b. are represented by collaborative lawyers;

3 4. "Collaborative lawyer" means a lawyer who represents a party

4 in a collaborative law process;

5 5. "Collaborative matter" means a dispute, transaction, claim,

6 problem, or issue for resolution, including a dispute, claim, or

7 issue in a proceeding, which is described in a collaborative law

8 participation agreement;

9 6. "Law firm" means:

10 a. lawyers who practice law together in a partnership,

11 professional corporation, sole proprietorship, limited

12 liability company, or association, and

13 b. lawyers employed in a legal services organization, or

14 the legal department of a corporation or other

15 organization, or the legal department of a government

16 or governmental subdivision, agency, or

17 instrumentality;

18 7. "Nonparty participant" means a person, other than a party

19 and the party's collaborative lawyer, that participates in a

20 collaborative law process;

21 8. "Party" means a person that signs a collaborative law

22 participation agreement and whose consent is necessary to resolve a

23 collaborative matter;

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1 9. "Person" means an individual, corporation, business trust,
2 estate, trust, partnership, limited liability company, association,
3 joint venture, public corporation, government or governmental
4 subdivision, agency, or instrumentality, or any other legal or
5 commercial entity;

6 10. "Proceeding" means:

- 7 a. a judicial, administrative, arbitral, or other
8 adjudicative process before a tribunal, including
9 related prehearing and post-hearing motions,
10 conferences, and discovery, or
11 b. a legislative hearing or similar process;

12 11. "Prospective party" means a person that discusses with a
13 prospective collaborative lawyer the possibility of signing a
14 collaborative law participation agreement;

15 12. "Record" means information that is inscribed on a tangible
16 medium or that is stored in an electronic or other medium and is
17 retrievable in perceivable form;

18 13. "Related to a collaborative matter" means involving the
19 same parties, transaction or occurrence, nucleus of operative fact,
20 dispute, claim, or issue as the collaborative matter;

21 14. "Sign" means, with present intent to authenticate or adopt
22 a record:

- 23 a. to execute or adopt a tangible symbol, or
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b. to attach to or logically associate with the record an electronic symbol, sound, or process; and

15. "Tribunal" means:

- a. a court, arbitrator, administrative agency, or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter, or
- b. a legislative body conducting a hearing or similar process.

SECTION 3. NEW LAW A new section of law to be codified
the Oklahoma Statutes as Section 3303 of Title 12, unless there
created a duplication in numbering, reads as follows:

APPLICABILITY.

This act applies to a collaborative law participation agreement that meets the requirements of Section 4 of this act signed on or after the effective date of this act.

18 SECTION 4. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3304 of Title 12, unless there
20 is created a duplication in numbering, reads as follows:

COLLABORATIVE LAW PARTICIPATION AGREEMENT: REQUIREMENTS.

A. A collaborative law participation agreement must:

1. Be in a record;

2. Be signed by the parties;

1 3. State the parties' intention to resolve a collaborative
2 matter through a collaborative law process under this act;
3 4. Describe the nature and scope of the matter;
4 5. Identify the collaborative lawyer who represents each party
5 in the process; and
6 6. Contain a statement by each collaborative lawyer confirming
7 the lawyer's representation of a party in the collaborative law
8 process.

9 B. Parties may agree to include in a collaborative law
10 participation agreement additional provisions not inconsistent with
11 this act.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3305 of Title 12, unless there
14 is created a duplication in numbering, reads as follows:

15 BEGINNING AND CONCLUDING COLLABORATIVE LAW PROCESS.

16 A. A collaborative law process begins when the parties sign a
17 collaborative law participation agreement.

18 B. A tribunal may not order a party to participate in a
19 collaborative law process over that party's objection.

20 C. A collaborative law process is concluded by a:

21 1. Resolution of a collaborative matter as evidenced by a
22 signed record;

1 2. Resolution of a part of the collaborative matter, evidenced
2 by a signed record, in which the parties agree that the remaining
3 parts of the matter will not be resolved in the process; or

4 3. Termination of the process.

5 D. A collaborative law process terminates:

6 1. When a party gives notice to other parties in a record that
7 the process is ended;

8 2. When a party:

9 a. begins a proceeding related to a collaborative matter
10 without the agreement of all parties, or

11 b. in a pending proceeding related to the matter:

12 (1) initiates a pleading, motion, order to show
13 cause, or request for a conference with the
14 tribunal,

15 (2) requests that the proceeding be put on the
16 tribunal's active calendar, or

17 (3) takes similar action requiring notice to be sent
18 to the parties; or

19 3. Except as otherwise provided by subsection G of this

20 section, when a party discharges a collaborative lawyer or a
21 collaborative lawyer withdraws from further representation of a
22 party.

23 E. A party's collaborative lawyer shall give prompt notice to
24 all other parties in a record of a discharge or withdrawal.

1 F. A party may terminate a collaborative law process with or
2 without cause.

3 G. Notwithstanding the discharge or withdrawal of a
4 collaborative lawyer, a collaborative law process continues, if not
5 later than thirty (30) days after the date that the notice of the
6 discharge or withdrawal of a collaborative lawyer required by
7 subsection E of this section is sent to the parties:

8 1. The unrepresented party engages a successor collaborative
9 lawyer; and

10 2. In a signed record:

11 a. the parties consent to continue the process by
12 reaffirming the collaborative law participation
13 agreement,

14 b. the agreement is amended to identify the successor
15 collaborative lawyer, and

16 c. the successor collaborative lawyer confirms the
17 lawyer's representation of a party in the
18 collaborative process.

19 H. A collaborative law process does not conclude if, with the
20 consent of the parties, a party requests a tribunal to approve a
21 resolution of the collaborative matter or any part thereof as
22 evidenced by a signed record.

23 I. A collaborative law participation agreement may provide
24 additional methods of concluding a collaborative law process.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3306 of Title 12, unless there
3 is created a duplication in numbering, reads as follows:

4 PROCEEDINGS PENDING BEFORE TRIBUNAL; STATUS REPORT.

5 A. Persons in a proceeding pending before a tribunal may sign a
6 collaborative law participation agreement to seek to resolve a
7 collaborative matter related to the proceeding. The parties shall
8 file promptly with the tribunal a notice of the agreement after it
9 is signed. Subject to subsection C of this section and Sections 7
10 and 8 of this act, the filing operates as an application for a stay
11 of the proceeding.

12 B. The parties shall file promptly with the tribunal notice in
13 a record when a collaborative law process concludes. The stay of
14 the proceeding under subsection A of this section is lifted when the
15 notice is filed. The notice may not specify any reason for
16 termination of the process.

17 C. A tribunal in which a proceeding is stayed under subsection
18 A of this section may require the parties and collaborative lawyers
19 to provide a status report on the collaborative law process and the
20 proceeding. A status report may include only information on whether
21 the process is ongoing or concluded. It may not include a report,
22 assessment, evaluation, recommendation, finding, or other
23 communication regarding a collaborative law process or collaborative
24 law matter.

1 D. A tribunal may not consider a communication made in
2 violation of subsection C of this section.

3 E. A tribunal shall provide parties notice and an opportunity
4 to be heard before dismissing a proceeding in which a notice of
5 collaborative process is filed based on delay or failure to
6 prosecute.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3307 of Title 12, unless there
9 is created a duplication in numbering, reads as follows:

10 EMERGENCY ORDER. During a collaborative law process, a tribunal
11 may issue emergency orders to protect the health, safety, welfare,
12 or interest of a party or family or household member authorized to
13 seek a protective order pursuant to the Protection from Domestic
14 Abuse Act.

15 SECTION 8. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3308 of Title 12, unless there
17 is created a duplication in numbering, reads as follows:

18 APPROVAL OF AGREEMENT BY TRIBUNAL. A tribunal may approve an
19 agreement resulting from a collaborative law process.

20 SECTION 9. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3309 of Title 12, unless there
22 is created a duplication in numbering, reads as follows:

23 DISQUALIFICATION OF COLLABORATIVE LAWYER AND LAWYERS IN
24 ASSOCIATED LAW FIRM.

1 A. Except as otherwise provided in subsection C of this
2 section, a collaborative lawyer is disqualified from appearing
3 before a tribunal to represent a party in a proceeding related to
4 the collaborative matter.

5 B. Except as otherwise provided in subsection C of this section
6 and Sections 10 and 11 of this act, a lawyer in a law firm with
7 which the collaborative lawyer is associated is disqualified from
8 appearing before a tribunal to represent a party in a proceeding
9 related to the collaborative matter if the collaborative lawyer is
10 disqualified from doing so under subsection A of this section.

11 C. A collaborative lawyer or a lawyer in a law firm with which
12 the collaborative lawyer is associated may represent a party:

13 1. To ask a tribunal to approve an agreement resulting from the
14 collaborative law process; or

15 2. To seek or defend an emergency order to protect the health,
16 safety, welfare, or interest of a party, or a family or household
17 member authorized to seek a protective order pursuant to the
18 Protection from Domestic Abuse Act, if a successor lawyer is not
19 immediately available to represent that person.

20 D. If paragraph 2 of subsection C of this section applies, a
21 collaborative lawyer, or lawyer in a law firm with which the
22 collaborative lawyer is associated, may represent a party or family
23 or household member only until the person is represented by a

1 successor lawyer or reasonable measures are taken to protect the
2 health, safety, welfare, or interest of the person.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3310 of Title 12, unless there
5 is created a duplication in numbering, reads as follows:

6 LOW INCOME PARTIES.

7 A. The disqualification of subsection A of Section 9 of this
8 act applies to a collaborative lawyer representing a party with or
9 without fee.

10 B. After a collaborative law process concludes, another lawyer
11 in a law firm with which a collaborative lawyer disqualified under
12 subsection A of Section 9 of this act is associated may represent a
13 party without fee in the collaborative matter or a matter related to
14 the collaborative matter if:

15 1. The party has an annual income that qualifies the party for
16 free legal representation under the criteria established by the law
17 firm for free legal representation;

18 2. The collaborative law participation agreement so provides;
19 and

20 3. The collaborative lawyer is isolated from any participation
21 in the collaborative matter or a matter related to the collaborative
22 matter through procedures within the law firm which are reasonably
23 calculated to isolate the collaborative lawyer from such
24 participation.

1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3311 of Title 12, unless there
3 is created a duplication in numbering, reads as follows:

4 GOVERNMENTAL ENTITY AS PARTY.

5 A. The disqualification of subsection A of Section 9 of this
6 act applies to a collaborative lawyer representing a party that is a
7 government or governmental subdivision, agency, or instrumentality.

8 B. After a collaborative law process concludes, another lawyer
9 in a law firm with which the collaborative lawyer is associated may
10 represent a government or governmental subdivision, agency, or
11 instrumentality in the collaborative matter or a matter related to
12 the collaborative matter if:

13 1. The collaborative law participation agreement so provides;
14 and

15 2. The collaborative lawyer is isolated from any participation
16 in the collaborative matter or a matter related to the collaborative
17 matter through procedures within the law firm which are reasonably
18 calculated to isolate the collaborative lawyer from such
19 participation.

20 SECTION 12. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3312 of Title 12, unless there
22 is created a duplication in numbering, reads as follows:

23 DISCLOSURE OF INFORMATION. Except as provided by law other than
24 this act, during the collaborative law process, on the request of

1 another party, a party shall make timely, full, candid, and informal
2 disclosure of information related to the collaborative matter
3 without formal discovery. A party also shall update promptly
4 previously disclosed information that has materially changed. The
5 parties may define the scope of disclosure during the collaborative
6 law process.

7 SECTION 13. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3313 of Title 12, unless there
9 is created a duplication in numbering, reads as follows:

10 STANDARDS OF PROFESSIONAL RESPONSIBILITY AND MANDATORY REPORTING
11 NOT AFFECTED. This act does not affect:

12 1. The professional responsibility obligations and standards
13 applicable to a lawyer or other licensed professional; or
14 2. The obligation of a person to report abuse or neglect,
15 abandonment, or exploitation of a child or adult under the law of
16 this state.

17 SECTION 14. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3314 of Title 12, unless there
19 is created a duplication in numbering, reads as follows:

20 APPROPRIATENESS OF COLLABORATIVE LAW PROCESS. Before a
21 prospective party signs a collaborative law participation agreement,
22 a prospective collaborative lawyer shall:

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1 1. Assess with the prospective party factors the lawyer
2 reasonably believes relate to whether a collaborative law process is
3 appropriate for the prospective party's matter;

4 2. Provide the prospective party with information that the
5 lawyer reasonably believes is sufficient for the party to make an
6 informed decision about the material benefits and risks of a
7 collaborative law process as compared to the material benefits and
8 risks of other reasonably available alternatives for resolving the
9 proposed collaborative matter, such as litigation, mediation,
10 arbitration, or expert evaluation; and

11 3. Advise the prospective party that:

12 a. after signing an agreement if a party initiates a
13 proceeding or seeks tribunal intervention in a pending
14 proceeding related to the collaborative matter, the
15 collaborative law process terminates,

16 b. participation in a collaborative law process is
17 voluntary and any party has the right to terminate
18 unilaterally a collaborative law process with or
19 without cause, and

20 c. the collaborative lawyer and any lawyer in a law firm
21 with which the collaborative lawyer is associated may
22 not appear before a tribunal to represent a party in a
23 proceeding related to the collaborative matter, except
24 as authorized by subsection C of Section 9 of this

1 act, subsection B of Section 10 of this act, or
2 subsection B of Section 11 of this act.

3 SECTION 15. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3315 of Title 12, unless there
5 is created a duplication in numbering, reads as follows:

6 COERCIVE OR VIOLENT RELATIONSHIP.

7 A. Before a prospective party signs a collaborative law
8 participation agreement, a prospective collaborative lawyer shall
9 make reasonable inquiry whether the prospective party has a history
10 of a coercive or violent relationship with another prospective
11 party.

12 B. Throughout a collaborative law process, a collaborative
13 lawyer reasonably and continuously shall assess whether the party
14 the collaborative lawyer represents has a history of a coercive or
15 violent relationship with another party.

16 C. If a collaborative lawyer reasonably believes that the party
17 the lawyer represents or the prospective party who consults the
18 lawyer has a history of a coercive or violent relationship with
19 another party or prospective party, the lawyer may not begin or
20 continue a collaborative law process unless:

21 1. The party or the prospective party requests beginning or
22 continuing a process; and

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1 2. The collaborative lawyer reasonably believes that the safety
2 of the party or prospective party can be protected adequately during
3 a process.

4 SECTION 16. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3316 of Title 12, unless there
6 is created a duplication in numbering, reads as follows:

7 CONFIDENTIALITY OF COLLABORATIVE LAW COMMUNICATION.

8 A collaborative law communication is confidential to the extent
9 agreed by the parties in a signed record or as provided by law of
10 this state other than this act.

11 SECTION 17. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3317 of Title 12, unless there
13 is created a duplication in numbering, reads as follows:

14 PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW
15 COMMUNICATION; ADMISSIBILITY; DISCOVERY.

16 A. Subject to Sections 18 and 19 of this act, a collaborative
17 law communication is privileged under subsection B of this section,
18 is not subject to discovery, and is not admissible in evidence.

19 B. In a proceeding, the following privileges apply:

20 1. A party may refuse to disclose, and may prevent any other
21 person from disclosing, a collaborative law communication; and

22 2. A nonparty participant may refuse to disclose, and may
23 prevent any other person from disclosing, a collaborative law
24 communication of the nonparty participant.

1 C. Evidence or information that is otherwise admissible or
2 subject to discovery does not become inadmissible or protected from
3 discovery solely because of its disclosure or use in a collaborative
4 law process.

5 SECTION 18. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3318 of Title 12, unless there
7 is created a duplication in numbering, reads as follows:

8 WAIVER AND PRECLUSION OF PRIVILEGE.

9 A. A privilege under Section 17 of this act may be waived in a
10 record or orally during a proceeding if it is expressly waived by
11 all parties and, in the case of the privilege of a nonparty
12 participant, it is also expressly waived by the nonparty
13 participant.

14 B. A person that makes a disclosure or representation about a
15 collaborative law communication which prejudices another person in a
16 proceeding may not assert a privilege under Section 17 of this act,
17 but this preclusion applies only to the extent necessary for the
18 person prejudiced to respond to the disclosure or representation.

19 SECTION 19. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3319 of Title 12, unless there
21 is created a duplication in numbering, reads as follows:

22 LIMITS OF PRIVILEGE.

23 A. There is no privilege under Section 17 of this act for a
24 collaborative law communication that is:

1 1. Available to the public under the Oklahoma Open Records Act
2 or made during a session of a collaborative law process that is
3 open, or is required by law to be open, to the public;

4 2. A threat or statement of a plan to inflict bodily injury or
5 commit a crime of violence;

6 3. Intentionally used to plan a crime, commit or attempt to
7 commit a crime, or conceal an ongoing crime or ongoing criminal
8 activity; or

9 4. In an agreement resulting from the collaborative law
10 process, evidenced by a record signed by all parties to the
11 agreement.

12 B. The privileges under Section 17 of this act for a
13 collaborative law communication do not apply to the extent that a
14 communication is:

15 1. Sought or offered to prove or disprove a claim or complaint
16 of professional misconduct or malpractice arising from or related to
17 a collaborative law process; or

18 2. Sought or offered to prove or disprove abuse, neglect,
19 abandonment, or exploitation of a child or adult, unless the
20 Department of Human Services is a party to or otherwise participates
21 in the process.

22 C. There is no privilege under Section 17 of this act if a
23 tribunal finds, after a hearing in camera, that the party seeking
24 discovery or the proponent of the evidence has shown the evidence is

1 not otherwise available, the need for the evidence substantially
2 outweighs the interest in protecting confidentiality, and the
3 collaborative law communication is sought or offered in:

4 1. A court proceeding involving a felony or misdemeanor; or

5 2. A proceeding seeking rescission or reformation of a contract
6 arising out of the collaborative law process or in which a defense
7 to avoid liability on the contract is asserted.

8 D. If a collaborative law communication is subject to an
9 exception under subsection B or C of this section, only the part of
10 the communication necessary for the application of the exception may
11 be disclosed or admitted.

12 E. Disclosure or admission of evidence excepted from the
13 privilege under subsection B or C of this section does not make the
14 evidence or any other collaborative law communication discoverable
15 or admissible for any other purpose.

16 F. The privileges under Section 17 of this act do not apply if
17 the parties agree in advance in a signed record, or if a record of a
18 proceeding reflects agreement by the parties, that all or part of a
19 collaborative law process is not privileged. This subsection does
20 not apply to a collaborative law communication made by a person that
21 did not receive actual notice of the agreement before the
22 communication was made.

1 SECTION 20. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3320 of Title 12, unless there
3 is created a duplication in numbering, reads as follows:

4 AUTHORITY OF TRIBUNAL IN CASE OF NONCOMPLIANCE.

5 A. If an agreement fails to meet the requirements of Section 4
6 of this act, or a lawyer fails to comply with Section 14 or 15 of
7 this act, a tribunal may nonetheless find that the parties intended
8 to enter into a collaborative law participation agreement if they:

- 9 1. Signed a record indicating an intention to enter into a
10 collaborative law participation agreement; and
11 2. Reasonably believed they were participating in a
12 collaborative law process.

13 B. If a tribunal makes the findings specified in subsection A
14 of this section, and the interests of justice require, the tribunal
15 may:

- 16 1. Enforce an agreement evidenced by a record resulting from
17 the process in which the parties participated;
18 2. Apply the disqualification provisions of Sections 5, 6, 9,
19 10, and 11 of this act; and
20 3. Apply a privilege under Section 17 of this act.

21 SECTION 21. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3321 of Title 12, unless there
23 is created a duplication in numbering, reads as follows:

1 UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and
2 construing this uniform act, consideration must be given to the need
3 to promote uniformity of the law with respect to its subject matter
4 among states that enact it.

5 SECTION 22. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3322 of Title 12, unless there
7 is created a duplication in numbering, reads as follows:

8 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
9 COMMERCE ACT. This act modifies, limits, and supersedes the federal
10 Electronic Signatures in Global and National Commerce Act, 15
11 U.S.C., Section 7001, et seq., but does not modify, limit, or
12 supersede Section 101(c) of that act, 15 U.S.C., Section 7001(c), or
13 authorize electronic delivery of any of the notices described in
14 Section 103(b) of that act, 15 U.S.C., Section 7003(b).

15 SECTION 23. This act shall become effective January 1, 2026.
16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
April 8, 2025 - DO PASS