



## Ohio Revised Code

### Section 3105.51 Communications not subject to privilege.

Effective: March 22, 2013

Legislation: House Bill 461 - 129th General Assembly

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(A) There is no privilege under section 3105.49 of the Revised Code for a collaborative family law communication that is any of the following:

(1) Available to the public under section 149.43 of the Revised Code or made during a session of a collaborative family law process that is open, or is required by law to be open, to the public;

(2) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(3) Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity;

(4) In an agreement resulting from the collaborative family law process, evidenced by a record signed by all parties to the agreement.

(B) The privileges under section 3105.49 of the Revised Code for a collaborative family law communication do not apply to the extent that a communication is either of the following:

(1) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative family law process;

(2) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child, unless a children's or protective service agency or an adult protective services agency is a party to or otherwise participates in the collaborative family law process.

(C) There is no privilege under section 3105.49 of the Revised Code if the communication is sought in connection with or offered in any criminal proceeding involving a felony, a delinquent child proceeding based on what would be a felony if committed by an adult, or a proceeding initiated by the state or a child protection agency in which it is alleged that a child is an abused, neglected, or



dependent child.

(D) There is no privilege under section 3105.49 of the Revised Code if a court finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative family law communication is sought or offered in a criminal action or in a proceeding seeking rescission or reformation of a contract arising out of the collaborative family law process or in which a defense to avoid liability on the contract is asserted.

(E) If a collaborative family law communication is subject to an exception under division (B), (C), or (D) of this section, only the portion of the communication necessary for the application of the exception may be disclosed or admitted.

(F) Disclosure or admission of evidence excepted from the privilege under division (B), (C), or (D) of this section does not render the evidence or any other collaborative family law communication discoverable or admissible for any other purpose.

(G) The privileges under section 3105.49 of the Revised Code do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative family law process is not privileged. This division does not apply to a collaborative family law communication made by a person that did not receive actual notice of the agreement before the communication was made.