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Collaborative Lawyers take sting out of divorce

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Anyone who has gone through or witnessed a divorce will probably tell you that the associated scenarios can be depressing and destructive, riddled with accusations and name calling as the battle of "he said, she said" plays out--often in a courtroom full of witnesses.

Luckily, there's a more peaceful alternative for couples on the rocks: The Collaborative Lawyers of Arlington and Mansfield.

Collaborative law groups offer a litigation-free, family-friendly option for divorcing couples, both parents and non-parents, which significantly minimizes court appearances and focuses on resolution, not assigning blame.

The collaborative divorce is anchored by a signed agreement between the spouses that indicates their intention to engage in honest and civil behavior, even when disagreements arise. Each spouse is represented by a collaboratively-trained attorney, and sessions are often moderated by a counselor who is also available to work with divorcing parents on an individual basis. A neutral financial planner may be called in to value assets and make recommendations about final arrangements.

The Arlington-Mansfield group includes about two dozen attorneys, mental health and financial professionals, a roster that mirrors that of collaborative law groups nationwide.

"In collaborative law, we are comprehensively working to keep the fate of the family within the family," said Bradley Craig, a social worker who is one of the local group's members.

"That way, clients get to make decisions about what happens to them and their children, not someone with a black robe and a gavel," he said.

According to the Collaborative Law Institute of Texas, the collaborative law approach to a divorce is "for couples who want a civilized, respectful end to their marriage for the sake of all family members."

Among the benefits of collaborative divorce touted by the website are the power to divide assets without diminishing or destroying them, increased opportunities to restructure families after divorce and increased privacy and flexibility when compared to traditional litigation routes.

"People have the wrong concept about what happens at court," said Karen Cushman, an Arlington family attorney who is one of the group's founding members.

Cushman described some couples' approach to divorce as a "scorched earth" policy.

"They think they are going to feel better if they get to have their day in court," she said. "But you sit on the stand and testify against your spouse, and there's going to be a gallery full of strangers listening to your family's dirty laundry.

"It's embarrassing and hurtful, and those wounds never heal," she said.

Cushman said that the "voice" people think they are going to get in court is a misconception fueled by TV courtroom dramas.

"Judges have tons of cases that come through every day and they will be the first to say 'I don't know you, I don't know your kids and I don't know the nuances of your case,'" Cushman said. "They will say that it's best if the spouses can make decisions. A lot of times judges make decisions that no one is happy with."

Although collaborative divorces aren't automatically less expensive than their litigation counterparts, Cushman said that they typically resolve themselves faster, and that money is spent on finding solutions, rather than on phone calls, paper transactions and down time at courthouses.

"In litigation, (lawyers) can go to a courthouse and wait four or five hours and never see a judge and have to go back," she said. "Or you go through a long discovery process about one spouse's business and a lot of paper is shuffled back and forth, and I don't think you learn very much. Clients pay for all of that."

Collaborative divorces, according to Cushman and Craig, put couples in the driver's seat. Rather than using the Texas Family code as a starting point of reference, the collaborative team members use the divorcing couple's goals and desires to structure agreements, which can often results in non-typical but effective financial arrangements and visitation schedules.

"We ask people 'what are your goals for parenting' rather than 'what should the visitation schedule be,'" Craig said. "And often we find that despite the fact that there is so much tension between these people, they often have the same goals."

"When things get off track in the meeting, we can step back and say 'let's look at these goals again' to help people calm down," he said. "It's interest-based negotiations, where you start off with common ground."

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