

Collaborative divorce an option for many couples

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When a couple decides to divorce, the process is typically an emotionally wrenching, expensive and painful experience for them - and often for their children.

The most intimate aspects of family life and the divorce's ultimate resolution are placed in the hands of other people, usually strangers to the couple. When it is all over, the couple may feel that the outcome is deeply unsatisfactory, and it may take years for resentments to fade. Divorce does not have to be like this.

Legal professionals are offering a new approach, known as collaborative law, to address the special circumstances of each individual in a separating family. The collaborative law movement has taken root across the United States and Canada and is rapidly expanding.

At the outset of the divorce, before any legal papers are filed in court, a couple can choose to use this approach, which focuses on helping the divorcing partners and their children reach an agreed upon and optimal outcome - without the time, expense and emotional devastation of litigation. The goal of a collaborative divorce is to arrive at a solution that achieves the best results for all of the parties involved.

We have worked in a collaborative law process to represent couples such as Sarah and Paul. After hearing about collaborative law, Sarah and Paul decided to hire collaborative lawyers to represent them in resolving their divorce.

When Sarah and Paul started the process, their marriage had been deteriorating for several years. They had difficulty meeting their monthly expenses, and they had been unable to halt loud yelling matches in front of their son and daughter. Tensions between them were high.

They tried marriage counseling without success. They also received a great deal of well-intentioned advice from family and friends, which tended to increase their conflict. Both parties experienced difficulties, including depression and anxiety, not unusual for a family going through divorce.

The collaborative process offered them respectful resolution of their dispute, leading to a "win-win" result.

When Sarah and Paul met with their collaborative lawyers, the lawyers offered them a team of jointly hired experts to support and guide them through the divorce.

They met every other week with a child specialist, who helped them explain the divorce to their children and helped them develop a parenting plan that will allow each of them to have significant time with their children in a manner appropriate for the children's developmental needs.

The child specialist got to know the parents and helped them anticipate future challenges. When they disagree in the future, they will have better ways to resolve disagreements, and they will not have to resort to filing court documents.

Sarah and Paul also met with a collaborative financial adviser who worked with their current incomes and expenses to help them find a way to be able to live in separate homes and still meet their projected expenses. The adviser examined their assets, debts and income to develop a plan for the children's college expenses, for each party's retirement and for other financial decisions they may have to make in the future.

Sarah and Paul had different ideas of how they want their futures to look, but the financial adviser was able to work with them on a plan that divided their property and expenses to meet their individual goals. In the collaborative law case of Sarah and Paul, after two meetings with the collaborative attorneys and separate meetings with their financial adviser, the parties were able to devise a creative way to resolve their

financial issues. Temporary needs can be addressed in the collaborative process without waiting for a judge to make an order.

Had Sarah and Paul decided to go to court to resolve their differences and their difficulty communicating with one another, the picture would look much bleaker. Inherent in the adversarial court process is a scenario in which a judge, who has never met the children and has rarely spent more than a few minutes with the parties, may have to issue orders on child custody, living arrangements and property division.

Couples feel even more polarized by the court experience, less able to move on in their separate lives and much less able to parent together. Distrust increases, and often both parties incur large legal expenses. Both parties may feel that they lost something important.

By working together, with support, Sarah and Paul built on what trust is left from their marriage. Using that trust, they acknowledge that they have a future where they can parent their children together while living apart.

Collaborative law offers families in Massachusetts who are interested in social justice, equity and a less painful and expensive process a resolution that is cooperatively determined by the parties. The process is by its nature respectful and can address the array of emotional and other issues that are often outside of the court's control.

Attorneys Jenny Daniell and Julia Rueschemeyer practice collaborative family law in Amherst. They have written this article collaboratively for the Western Massachusetts Collaborative Practice Group. To learn more about collaborative law, visit the Web site of the Massachusetts Collaborative Law Council at [www.maclc.org](http://www.maclc.org)