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Posted on: Thursday, April 12, 2007

Collaborative divorce unhitches couples without hitch

By Barbara Yost
Arizona Republic

When Naomi Garcia sought a divorce in late 2005, a friend recommended lawyer Deborah Pratte, who specializes in a process called collaborative divorce.

The idea promised a less contentious approach to dissolving a marriage.

Garcia and her husband had been married for 17 years and wanted to spare their 8-year-old daughter the pain of a rancorous split.

HOW TO PROCEED

Here are the steps a couple might take in a collaborative divorce:

Each party chooses a divorce lawyer trained in collaboration.

The lawyers contact each other to evaluate whether the divorce can be handled collaboratively.

The parties meet and sign a contract that says they will not litigate. If they decide to go to court later, their lawyers are disqualified from representing them, and they begin the process anew.

Meetings are scheduled to exchange relevant information about finances and children.

The parties choose a team that could include divorce coaches such as mental-health professionals, a neutral financial adviser and a child advocate. They might meet later with these team members.

The lawyers draw up the divorce documents. The parties sign them,

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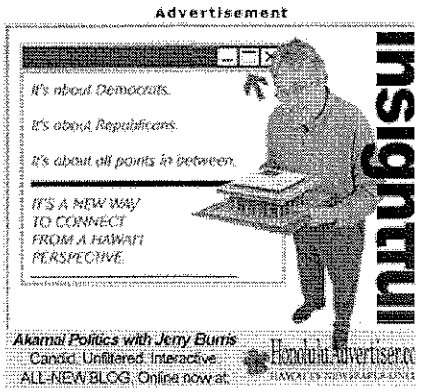

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"We were extremely concerned about not creating a negative experience for her," Garcia says. As a social worker in Tucson, Ariz., the woman had seen the wounds that warring parents inflict on their children.

"I saw divorce as part of the evil," she says.

Garcia and her husband wanted their divorce to be amicable. Within two months, most of the process had been completed, and the two remained on good terms.

Amicable divorce need not be an oxymoron when couples put their differences aside and use collaborative law to end a marriage. This style of divorce, created by a Minnesota lawyer in 1990, is spreading across the country.

The goal is to spare couples and their families the pain and expense of the knock-down, drag-out fights that can be part of a litigated divorce.

"It came about because (lawyers and clients) got weary of the fight," says Phoenix family lawyer David Horowitz, who handles many collaborative cases.

Collaborative divorce can be less costly than a divorce that drags through the courts. The Garcias paid just $2,500 each.

In 1990, Stuart Webb of Minneapolis came up with the idea of divorce lawyers working together in a conference room for the benefit of their clients, rather than as adversaries in a courtroom.

Around that time, Nancy Ross, a family therapist in Cupertino, Calif., was frustrated over watching the progress she had made with divorcing couples unravel when lawyers got involved. Ross met family psychologist Peggy Thompson of Orinda, Calif., a

and the papers are filed with the court.

Source: Gretchen Walther, Albuquerque collaborative divorce lawyer and spokeswoman for the American Bar Association

LEARN MORE

www.collaborativepractice.com, International Academy of Collaborative Professionals, which allows you to search for members in your area.

www.collaborativedivorcebook.com, about the book "Collaborative Divorce" by Pauline Tesler and Peggy Thompson.

custody evaluator in the court system who shared Ross' concerns, and they began to develop a new model of divorce, patterned after Webb's ideas.

"Peggy was disenchanted by the effects (of rancorous divorce) on kids," says Ross, who conducts collaborative-divorce training sessions for lawyers and other professionals.

Overseeing the field is the International Academy of Collaborative Professionals, based in Novato, Calif. It has more than 2,500 members in eight countries. Professionals interested in becoming certified attend a three-day training workshop.

No figures are available on what percentage of lawyers practice collaborative divorce.

The team approach to divorce brings together lawyers, mental-health professionals, financial advisers and sometimes child advocates. The team's role is to educate a couple about the process and financial options, offer counseling, then allow clients to decide the best way to arrange child custody and divide assets.

"There is so much stress in divorce," Phoenix lawyer Gloria Cales says. "People try to blame someone."

Collaborative teams such as those Cales works with don't play the blame game.

Gretchen M. Walther is a spokeswoman on collaborative law for the American Bar Association. The Albuquerque family law specialist says that even though more experts are involved, the cost can be lower if the divorce is settled quickly.

In her practice, she says a litigated divorce can take six months to two years; a collaborative split averages three to four months. She estimates that going the collaborative route costs a third less.

Finances can be one of the most contentious issues in a divorce. Even in community-property states, where assets acquired during a marriage are split 50-50, determining the value of those assets isn't easy.

In a collaborative divorce, someone such as Belinda Daniel is there to advise both parties.

"My role is as a financial neutral," says the certified divorce financial analyst from Tempe, Ariz. Daniel aids

in the disclosure of assets from both spouses.

Walther says collaboration isn't always the answer: It may not work in cases in which the spouses are too angry to talk or when domestic violence or child abuse is present.

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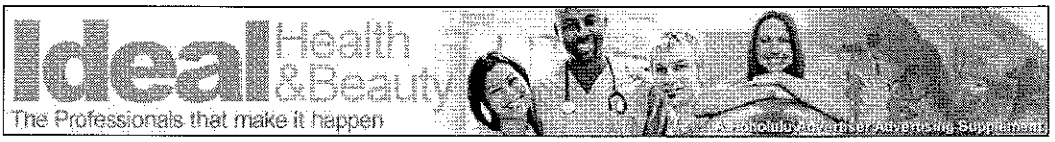

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