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Keeping your family on track during a divorce

What you need to know about collaborative divorce

BY BRIDGETTE SPRINGER

One out of two marriages will end in divorce, and they often involve children. I know this to be true as I start to see my own friends take this path in life.

And the Granite State is the easiest place to get unhitched in America, according to a November 2011 Bloomberg News report.

Yet while it may be easy to part ways legally here in the Granite State, doing so with grace and civility is another matter. With visions of courtroom drama and child custody battles, how does one get through a major life event such as the end of a marriage and do so while keeping the entire family intact?

I interviewed Kim Weibrecht, co-chair of the Collaborative Alliance of New Hampshire and a family attorney with offices in Dover and Portsmouth, to understand divorce options as they apply to New Hampshire and uncover how the breakdown of a relationship can happen with minimal impact on children.

She spoke passionately about collaborative law, which has become a global buzzword in divorce proceedings in recent years. The method, which has couples working toward a common settlement goal, has become a role model for couples seeking resolutions with less conflict.

What is Collaborative Divorce?

Defined by the International Academy of Collaborative Professionals, collaborative law is, "a voluntary dispute resolution process in which parties settle without resort to litigation." In other words, couples remain in control of the outcome, as they work with two attorneys, and oftentimes a mental health counselor and financial advisor, to guide them through the amicable division of properties and responsibilities.

The goal of collaborative divorce is to hope for the best outcome for the entire family.

"The kids are going to grow up, and both parents should be able to be together at the kids' graduations, marriages, and birth of their grandchildren. With a collaborative process in place, this tends to be the goal in which the parents want a positive outcome for the kids, and for themselves as well with the least amount of conflict," Weibrecht said.

Why choose Collaborative Divorce?

"During the intake process I ask my clients what type of divorce they want, and they are surprised to find out they actually have a choice," Weibrecht said. She firmly believes in the merits of collaborative law and stated, "Too often we think of the traditional divorce model being a 'Kramer vs. Kramer' type of setting, but what we have seen recently is a real shift in the courtroom not necessarily being the center of the process," she said. Collaborative law is intriguing because both parties

Additional resources:

Collaborative Law Alliance of
New Hampshire:
www.collaborativelawnh.org

International Academy of
Collaborative Professionals:
www.collaborativepractice.com

sign an agreement verifying they agree to work together to reach a settlement with the help of their attorneys and counselors.

In fact, according to Weibrecht, if couples are unable to reach an agreement, the attorneys will no longer be involved in their divorce proceedings.

What does Collaborative Divorce cost and how long is the process?

In ideal situations, every couple going through a divorce would have an attorney on their side; however that just isn't the case for some families who face cost restraints.

Divorce options:

- Couples try to reach agreement without the help of any professionals in their own "kitchen table" negotiations
- Mediation with varying levels of input from a lawyer during the process, including no legal input, which is not recommended. Mediation can occur as part of the court-mandated mediation program or it can occur outside of the court process before divorce is even filed with a private mediator
- Collaborative proceedings.

Collaborative Divorce is a client-driven process so the costs will reflect whether you choose to include additional counselors in the process. The average collaborative case is three to six months, compared to court based divorce, which often exceeds 12 months according to Weibrecht.

Pros and Cons:

Collaborative divorce is best suited for couples who have the same goals in mind. Weibrecht stressed it is not appropriate for situations in which there is domestic violence, substance abuse or mental health concerns. In addition, costs could increase for rare couples who are not successful settling their case through the collaborative process, since they will need to retain new attorneys to pursue their court-based divorce.

"I always tell people I am so sorry you are getting a divorce, but if it is inevitable, then thank goodness you are considering Collaborative Divorce because parents are going to be co-parents the rest of their lives even if they are divorced. Part of this divorce will be to write a co-parenting plan. Our court system thinks it is important that you do this. For the rest of their lives you will be celebrating milestones with them, and you want to be able to celebrate with them, and have goodwill between the two of you. How awful if the two of you can't sit in a room together."

In the end, Weibrecht stated the greatest predictor of kids having problems after divorce is how acrimonious a divorce was. Fortunately the process is becoming more widely available in New Hampshire. Providing this service to clients is becoming more common in a family attorney's tool belt, so be sure to inquire if your attorney provides this option up front.

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