

'Friendly' divorce movement gains ground

Looking to reduce the cost and emotional toll, more couples try 'collaborative' law to keep breakups out of court.

By [Kris Axtman](#) | Staff writer of The Christian Science Monitor

HOUSTON - After eight years of marriage, Joe and his wife decided to divorce.

The couple wanted the split to be as amicable and quick as possible, but their intertwined lives - which include two young children - had made it difficult.

They soon settled on joint custody of the kids, but their financial discussions were more contentious. That's when the couple decided to try a new form of divorce, using "collaborative law."

It essentially says that both parties, with the help of lawyers, psychiatrists, and accountants, agree to work toward the best solution for all involved. And because they never step foot in court, proponents of the concept say it reduces the emotional costs on everyone.

"Divorce is not a pleasant situation to begin with," says Joe, a Houston lawyer who preferred to use his first name only. "But collaborative law made the process as smooth as it could have been."

Now a new study in Texas shows that the process is saving time and money as well. Instead of a typical 18-month, \$14,000 process through litigation, a collaborative divorce takes an average of 18 weeks and \$9,000 to complete, according to recently released data by the Collaborative Law Institute of Texas.

Collaborative divorce is part of a growing legal movement, known as holistic or transformative law. It moves from an adversarial approach to a more healing or counseling approach to the practice of law - and practitioners and clients alike say they are much more satisfied at the end of the day.

The concept is especially important when it comes to divorce, which affects about one million children a year. In most cases, divorcing parents need to continue their relationship beyond the bounds of marriage. "If a couple has children, the legal end of a marriage is really just the beginning of a new relationship," says Peggy Thompson, codirector of Collaborative Divorce in Orinda, Calif., and a family psychologist.

To many family lawyers and therapists, traditional adversarial models of law do not fit divorce cases, which originally wound up in the courts because women were considered property. In collaborative divorces, a team of lawyers, accountants, and psychiatrists work with both clients' best interests at heart, sharing information freely. Instead of dueling experts, the couple pays for a single, neutral expert to help with financial or mental-health

issues.

One couple's experience

Joe, for instance, says he and his wife hired an accountant to look at their assets and recommend a fair solution. Both were satisfied with the result, and they signed the final divorce papers this week after just four months.

"Collaborative law provides a safe structure where people can negotiate without threat of court, without fear of being cross-examined or have anything they say used against them," says Norma Trusch, president of the International Academy of Collaborative Professionals. She has been practicing family law in Houston for 27 years and says she nearly ended her career in frustration until she heard about collaborative law three years ago. "All I ever heard from children was, 'Please make my parents stop fighting,' " she says.

Though she can make substantially more money litigating, Ms. Trusch is changing her entire practice to collaborative law. She says she knew it was right when, "for the first time ever, I was hugged by the client on the other side."

The main disadvantage, however, is that if the parties can't reach a negotiated solution, they must fire their collaborative lawyers and hire litigators.

That will have meant wasted time and money, says Thomas Oldham, a professor at the University of Houston, who focuses on family law and marital property rights.

He touches on collaborative law in several of his classes and says the advantages seem to outweigh the disadvantages. "A number of very good lawyers are quite excited about it," he says.

Origins of a divorce movement

Collaborative law was developed in 1990 by a Minneapolis family lawyer, Stuart Webb, who was burned out from handling divorces in court. Since that time, 4,500 lawyers across the country have been trained in the process, a number that has been roughly doubling each year as demand for the service rises.

In 2001, Texas became the first state to adapt its divorce law to accommodate the practice through legislation. In Louisiana, a family-court judge is using a \$200,000 grant to promote the concept to both lawyers and clients.

W. Ross Foote led the campaign in Rapides Parish, La. After trying for 12 years to bring "dignity" back to family court, the district judge finally stumbled across collaborative divorce two years ago and has been trumpeting the idea ever since.

One recent example of its success: An Alexandria, La., couple called their collaborative lawyer to cancel an appointment, saying that they had stayed up all night talking (communication is a large part of the collaborative process) and decided to give their marriage another chance.

Fewer divorces

In fact, the number of couples who stay together after going through the collaborative process is about 10 percent nationwide - a much larger number than those who use the courts, studies show.

"If 10 percent of the people are reconciling through collaborative law, then the legal system is costing us 10 percent of divorces unnecessarily," says Judge Foote. "The problem with the court route is, there is no exit ramp. Once you start, you can't stop. People get more and more bitter and say worse and worse things."

Taking divorce out of the courts, he says, is key to creating healthy relationships after the split. "The difference is, collaborative law is client-centered instead of court-centered," he says. "We call it divorce with dignity."