

Program aims for peaceful divorces

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Few words in modern parlance carry uglier connotations than "divorce."

Yearslong court battles. Fights over division of property. Never-ending custody disputes that put children at the center of a tug of war.

A small group of Roanoke lawyers, all too familiar with the potential nastiness of divorce, are determined to spread the word that there's a less destructive way to navigate this already painful process.

The "collaborative law" method involves hiring lawyers to act as counselors rather than courtroom gladiators. Collaborative law often involves a team approach, in which psychologists and financial planners work with husbands and wives and their attorneys to minimize the damage that divorce can do to families.

Cheryl Watson Smith, the lawyer who for four years has pushed the hardest to bring collaborative law to the Roanoke Valley, organized a training session that was held last week for lawyers, mental health professionals and financial planners. It was the first session of its kind in Roanoke.

"I think it's a great approach," said Roanoke financial advisor Lee Brooks during a break in Thursday's training session. "I think it's respectful of the people involved."

Based on his first impression, he said collaborative divorce appeared to be less stressful, more cost effective and more likely to produce a fair settlement.

"This is the kind of practice that I went to law school for," said Diana Perkinson, one of eight Roanoke lawyers trained to practice collaborative law.

"I work a lot with families that are going through divorce," said Michael Chiglinsky, who serves as president of the Blue Ridge Academy of Clinical Psychologists. "Our current adversarial process is destructive in many situations to the very people it's supposed to serve, especially the children."

He hopes that collaborative law will allow families to work out important issues reasonably. "I think that this is a step in the right direction," he said.

In this novel approach to divorce, a husband and wife each hire their own lawyer, but not to pit them against each other in court. Instead, the couple and their lawyers meet together privately to negotiate a settlement.

To ensure a fair agreement, collaborative law requires full disclosure of all assets by both sides. If negotiations break down and the case heads to court, the collaborative lawyers on both sides must withdraw completely from the case.

Similar rules apply to other members of the team. For example, a financial adviser hired as part of a collaborative team would work with information from both husband and wife and would

sign an agreement to never work for either party individually in the future in order to avoid any conflict of interest.

Even the language is different. The lawyers refer to one another as "counterpart counsel" rather than "opposing counsel." Custody agreements become "parenting plans" and alimony, "income sharing."

While a collaborative divorce doesn't come cheap -- attorneys charge the same rates they do for litigation, and other professionals such as the financial planners also bill separately -- its advocates argue that it takes less time and thus ultimately costs less than a contested court battle.

A handful of recent high-profile cases have brought some attention to the growing movement. Billionaire Roy Disney chose a collaborative divorce in 2006, and comedian Robin Williams has begun a collaborative divorce proceeding.

Yet collaborative law also has stirred some controversy. In February 2007, the ethics committee of the Colorado Bar Association issued an opinion that collaborative law is unethical, arguing that if someone decides not to go through with the process, it effectively gives that person the power to fire his or her spouse's attorney.

However, six months later, the American Bar Association weighed in with an opinion that collaborative law is ethically sound.

The ruling soothed the worries many other states might have had, Richmond lawyer Kimberly Fauss said.

The movement has become widespread in states such as California, Texas, Minnesota, Ohio and New York.

"Then you've got places like Virginia that are just sort of trying it on," Fauss said.

Though she's only had a handful of cases so far, Watson Smith remains confident that collaborative law will gradually take off in Roanoke as it has in Lynchburg, Charlottesville and Richmond.

Last week's training, which brought local financial and mental health professionals into the collaborative law fold, should ease the process.

Fauss, who attended the Roanoke training session, said she now only handles collaborative law cases.

"It's a big leap to do that because you're not doing litigation," she said.

Fauss asserted that collaborative law improves the quality of life for both the families who use it and the lawyers who practice it.

"You are not out to destroy anybody. You have a higher quality of life," she said. "The leaders of this movement are people in the second halves of their careers who are saying, 'I'm not doing it this way anymore.' "

https://roanoke.com/webmin/news/program-aims-for-peaceful-divorces/article_f8cc7e63-6c87-584a-8312-31b001209304.htm