

Collaborative Divorce

Texas is leading the way in an important innovation in the law: Collaborative Divorce.

On my first day of college at Rice University, the Dean gathered the freshmen into the auditorium and declared, “Look to your left, and look to your right. One of you won’t be here on graduation day.” I’m sure most of you have a similar tale.

If we gathered an auditorium full of married couples, I believe a speaker could say something similar: “Look to your left, and look to your right. One of these couples will divorce.” A woeful statistic claims over 50% of all marriages end in divorce.

Having handled hundreds of divorces and related family matters in my legal career, I never wanted to have the experience first-hand, but several years ago, my 24-year marriage ended. We were amicable. Our respective attorneys handled the task professionally. Yet, even in an “amicable” divorce, the adversarial nature of the proceeding caused unnecessary pain and turmoil.

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I wish I had known about “collaborative divorce,” a relatively new trend that has reached full development in Texas. Our legislature has enacted the first collaborative divorce statute in the United States, and, thankfully, it is catching on.

Here’s how it works: each party has his or her own attorney and agrees that each will cooperate and follow a specific set of collaborative protocols throughout the proceeding. There are no Court hearings, and if the collaborative process breaks down, both attorneys must resign in favor of new representatives and partisan professionals who will begin the traditional adversarial proceeding.

Team Effort

Sharing of information about the marital estate takes place fully and voluntarily. A neutral financial advisor works jointly with both parties to craft a property division that fits each person’s interest. A neutral psychological counselor meets jointly and separately with both parties and their children to help work through the profound emotional issues that always accompany the end of a marriage—especially important when young children are involved.

Costs

The costs of this procedure are far less than a fully contested case, with Court hearings, depositions and other formal discovery, investigators, competing financial experts, and excessive attorney fees.

Confidential

Everything shared at Collaborative Divorce meetings remains confidential. None of the attorneys or professionals can or will testify regarding your proceedings. The details of your final agreement remain separate from the Decree. The final Decree that the Court signs, and becomes public record, only references the Agreement Incident to Divorce that stays confidential.

Future Relationships

Over 95% of collaborative divorce cases now settle without trial or any other Court intervention. Both parties and their children commence their new lives without the lingering bitter taste of an angry contested ordeal. Imagine how important that can be in the children's future, when their parents must come together later for graduations, marriages, and grandchildren. Even without children, we can avoid the loss of our "couple friends," who don't feel they have to make a choice.

Same Sex

Now, same-sex relationships are a fact of life, and they can come to a sad end just like any other relationship. Same-sex couples have adopted children, yet the Texas Family Code simply doesn't deal with property issues or custody and support in such cases. Collaborative procedures work especially well in this context, allowing the parties to create a workable resolution in the absence of statutory guidance.

Should difficulties arise for someone close on your "right" or "left," or for yourself, I urge you to consider the collaborative process. As a member of the Collaborative Law Institute of Texas, and recipient of Continuing Legal Education and multidisciplinary training in the process, I welcome the opportunity to discuss it and offer counsel.