

Collaborative Law: A New Approach to Old Problems

The Maryland Administrative Office of the Courts is at the forefront of national efforts to educate and train the legal community about a growing movement that offers an alternative way to settle the acrimonious disputes that often characterize divorce proceedings. Collaborative law is one of several dispute resolution alternatives that are changing the ways in which attorneys practice matrimonial law.

In a collaborative divorce, both spouses hire attorneys who should be trained in the practice of collaborative law. The parties and attorneys sign an agreement that requires them to negotiate the divorce through a series of four-way meetings. The goal is for attorneys to assist the parties to resolve conflicts using cooperative strategies, rather than adversarial techniques and litigation. Other professionals, such as custody evaluators, appraisers, or accountants, may be brought into the collaborative process, but they are in principle neutral parties independently retained by each spouse.

Collaborative law involves binding agreements by both parties and their attorneys to disclose voluntarily all relevant information and to make good faith efforts. It prohibits the threat of litigation during the process. If the divorce cannot be settled through these meetings and one party seeks a court trial, both lawyers must withdraw, and the parties must hire new lawyers.

Advocates maintain that the collaborative process is usually less expensive and time-consuming than litigation, and, when the parties reach an agreement, it can be finalized within a shorter time period. Critics argue that the practice has limited appeal because many people in the midst of divorce want to maintain the possibility of going to court while negotiating settlements. "I just see that people here are more apt to want to use lawyers to the full extent possible when they hire them, and that means letting them go to court if necessary," says Alton L. Abramowitz, a Manhattan divorce lawyer who is chairman of the matrimonial committee of the Bar Association of the City of New York (not speaking in his capacity with the bar association).

The Maryland Administrative Office of the Courts (AOC) has launched several initiatives designed to train attorneys in collaborative law and to make the collaborative law process more widely available to middle- and low-income individuals. The AOC, in partnership with the Maryland State Bar Association, recently has held a practitioner's training in collaborative law. It is believed that this is the first time a state court system has sponsored this type of training. The three-day session has drawn more than 125 practitioners from across Maryland.

The training is part of a system-wide effort on the part of the Maryland Judiciary to make the legal and judicial communities more aware of alternatives to litigation. The AOC's Department of Family Administration is promoting mediation and other alternative dispute resolution programs throughout Maryland.

Connie Kratovil-Lavelle, Executive Director of the Department of Family Administration, spoke at length with the Full Court Press about her plans to train attorneys and evaluate programs on collaborative law in Maryland.