

Column: New law gives thumbs up for amicable divorce process



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Clean, simple, not complicated and not messy are words Danielle Dvorak used when describing her 2009 divorce.

“It was quicker, cheaper and easier on so many levels – emotionally, mentally, spiritually and physically – than a lot of other horror stories I’ve heard,” she said.

If you’re wondering how on earth someone can talk about their divorce in such a positive way, Dvorak said she credits the divorce process she and her ex chose to use: collaborative divorce, which is an alternative to traditional litigation.

“There was a series of meetings with us and our attorneys and a financial professional and then we started negotiating and splitting things up,” said Dvorak, a yoga instructor and Reiki practitioner, who explained that her collaborative divorce took a mere five months. “The only time we went to court was at the end when we appeared in front of a judge for 10 minutes and signed the papers. That was it.”

Collaborative divorce has gained the attention of Illinois lawmakers, who recently passed the Illinois Collaborative Process Act, a law that sanctions this team-based approach to amicable divorces left outside the courtroom.

Theresa Beran Kulat is a collaborative family attorney and the president of the Collaborative Law Institute of Illinois, an organization of divorce professionals dedicated to training professionals in and raising awareness of the collaborative divorce process. Kulat said the new statute establishes the benchmarks for a true collaborative process, and will increase visibility, credibility and accessibility of collaborative divorce.

“The passage of this act creates standards that more divorce attorneys, mental health professionals and financial specialists are likely to adopt and make available as an option to their divorcing clients,” said Kulat, who has been practicing collaborative divorce for 15 years.

So, what exactly is collaborative divorce?

“In a collaborative process, the two divorcing people hire attorneys solely for the purpose of settling the case,” said Kulat, who personally went through a collaborative divorce several years ago. “Different professionals are then brought in, such as a neutral financial specialist, mental health professional and/or a child specialist. All of the professionals’ efforts are directed at supporting the family in solving the problems and creating agreements so that they can build new lives in the best way possible.”

Kulat said the advantage of collaborative divorce over litigation is that litigation often turns into blaming, looking back and arguing, whereas the collaborative process aims to be future and solution focused.

“In litigation, you can play the victim card,” Kulat said. “Your lawyer can be your champion and your ex can be the bad guy. In collaborative law, I’m not going to point fingers or play the blame game. We just want to find a solution that works for everyone. Wouldn’t you rather have a person with a Ph.D. in child development crafting your parenting plan versus a judge or the two lawyers?”

As far as the cost of a collaborative divorce, Kulat said it usually ends up costing less than a litigated divorce, but make no mistake, a collaborative divorce is still not cheap. She said the biggest benefit is you’re getting a much better value.

When asked who are good candidates for collaborative divorce, Kulat said those who will benefit from the process are those who value the relationship with their spouse and who want to remain civil or even improve their relationship.

“There are people who are so hurt that they want to see their spouses suffer. This situation is not a good fit for a collaborative divorce,” she said. “If one person is hiding or lying about money, they do not belong in the collaborative process. Both people have to want to work together, and victims need not apply.”

I know firsthand how difficult divorce can be, and I do think it’s pretty typical for men and women going through a divorce to play the victim. After all, they are most likely devastated, hurt, scared and angry, and they feel wronged in some way.

While I think it’s OK to engage in some self-pity and the victim-like mentality for a little while at the beginning of a divorce, at some point it needs to stop. We all know divorced people who after years or even decades are still acting like a victim. Any negative occurrence in their life always stems from their ex. In other words, anything that goes wrong in life is the ex’s fault.

On the other hand, divorced people who end up happy are the ones who ultimately find the strength and courage to come to peace with the past, accept what happened and work toward building a new and better life. They treat their divorce like a business transaction, taking into account the best interest of the children and the necessity for fair financial agreements.

I wish I had known about the collaborative process when I was getting divorced. It might have saved my ex and I a lot of time, money, stress and bad feelings. Because ultimately, in the collaborative process, those in the relationship are the ones crafting their divorce settlement and setting the stage for their future and the future of their children, as opposed to a judge making those decisions. So, how can you be bitter or angry about something you yourself decided? You can’t.

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