

New Divorce Options for the New Year

January 9, 2012

In our last article, we examined one alternative to the traditional divorce process: *Pre-Divorce Mediation*. Today we take a look at a few other options worth your consideration if you face divorce in the future. Before beginning however, please remember that these alternatives are not appropriate for every case and local court rules may modify or restrict what is available in your county. With that in mind, below is a brief description of some of the most popular alternatives to the traditional divorce process.

Uncontested Divorce. We touched on this alternative in the previous article. Uncontested Divorce is a streamlined version of the divorce process. It is available to some spouses so long as they agree on all settlement terms and there are no issues that require the court's intervention. These issues can include division of assets, division of debts, alimony, child custody, visitation, and child support. In an Uncontested Divorce, an attorney will draft all of the required paperwork, including the settlement agreement, and file it with the court. Often, the judge will let the attorney finalize the divorce process through the mail. If this is allowed, neither spouse has to appear in court. However, this rule can vary depending on your county and judge. If the judge requires a court appearance, the hearing is usually very brief. An Uncontested Divorce can be completed much faster than a traditional divorce with only a fraction of the legal costs. The largest drawback to Uncontested Divorce is its limited availability. It is only available to spouses who completely agree on the terms of the divorce from the beginning.

Pre-Divorce Mediation. Pre-Divorce Mediation was the subject of the previous article and will therefore not be discussed in detail here. However, I feel it would remiss of me not to mention it given today's subject. Pre-Divorce Mediation is an option available to spouses who wish to file an Uncontested Divorce, but cannot agree on some issues. The spouses meet with a mediator who helps them resolve their differences. If agreement can be reached, the spouses may then file an Uncontested Divorce.

Collaborative Divorce. Collaborative Divorce is an attempt to retain a structure similar to the divorce process while replacing the adversarial aspects with cooperation. In a Collaborative Divorce, each spouse retains a specially trained collaborative attorney whose primary function is to settle the case out of court. While the attorneys advocate for their respective clients and their interests, they each commit to work together and provide everything the spouses need to ensure the disputed issues are resolved in a way that is fair and beneficial to everyone. The spouses and their attorneys can utilize several experts including financial analysts, parenting coordinators, and mediators. What makes Collaborative Divorce especially unique is that in the event the case cannot settle, both spouses agree that they will seek new attorneys. The collaborative attorneys will not litigate the case. In a traditional divorce, even the most cooperative and negotiation oriented attorney has a duty to prepare to "win" the case at trial. By removing even the possibility of trial

from the attorneys, they are allowed to devote their time and energy exclusively to negotiating an out-of-court resolution.

Do It Yourself Divorce. Also referred to as Limited Representation Divorce, Do It Yourself Divorce (DIYD) attempts to empower spouses to handle the divorce process themselves while providing knowledge and guidance from an experienced divorce attorney. The DIYD process usually begins with an educational workshop or meeting. A divorce attorney walks everyone through the typical divorce process, explaining each step and the general legal requirements spouses need to know. The attorney will answer questions but, because no attorney-client relationship is created by the workshop, he or she may not provide specific legal advice. The workshop attendants can then take their new knowledge and file for divorce on their own. If they are uncomfortable tackling the process completely on their own but cannot afford an attorney, they may hire the DIYD attorney to help them with specific aspects of the divorce. For example, they may want an attorney to draft the child support worksheets or parenting plan because these documents have specific legal requirements. The attorney does not represent the client in the traditional sense, but the spouse does gain the benefit of professionally drafted paperwork. The spouse also saves a great deal of money by only paying for the specific service requested from the attorney.

Mediate to Stay Married. Mediate to Stay Married is not an alternative divorce process but is instead an alternative to divorce all together. It is exactly what the name implies. Spouses experiencing marital difficulties meet with an experienced mediator who works with them to identify, negotiate, and resolve problems so as to avoid divorce altogether. This process is not marriage counseling. No therapy is provided. The session is limited to mediated negotiation. The mediator works with each spouse to identify points of contention, clarify interests and positions, facilitate effective communication, and develop a mediated agreement that addresses each spouse's concerns.

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