



Behavior & Development |

A DIFFERENT DIVORCE

Divorce is almost always tough on kids, but separations that allow families to avoid the courtroom are helping to ease the tension. Los Angeles-based lawyer Wendy Landes, who guides couples through mediated and collaborative divorces and serves as chair of southern California's Alternate Dispute Resolution Standing Committee of the State Bar-Family Law Section, explains these increasingly popular forms of divorce.

Q: Why are more people choosing to divorce outside the courtroom?

A: Traditional legal representation and the adversarial court system exacerbate the financial and emotional difficulties of any divorce. And court divorces are extremely expensive. In many states the minimum cost to simply get a lawyer on retainer is around \$10,000 per party. Finally, children are often negatively affected by the stress and hostility of a litigated divorce.

Q: How are collaborative and mediated divorces different?

A: Mediation is when a neutral facilitator helps a couple reach an agreement on all issues necessary to get a legally binding divorce. In some states, almost anyone can mediate a divorce, but to make it legally binding, an attorney must prepare the papers for the court. Collaborative law is new as of the past decade. Both parties

are represented by family law attorneys specially trained to work with both parties to reach an agreement outside of court. Advisers such as accountants and child mental-health professionals can be jointly retained in both mediation and collaborative divorces, so these methods are often less expensive than traditional litigation.

Q: What is the benefit to children in these types of divorce cases?

A: When parents remain civil during a divorce, kids are much less stressed. In out-of-court processes, lawyers help the parties identify long-term needs and interests, which almost always leads to the continued welfare of children. Plus, couples are able to involve a mental health professional who can co-mediate or meet separately with the couple or the children. In the beginning of one divorce I mediated, a husband and wife with four young children were both adamant that they have their kids 100% of the time. Their reasons were so dear—"I have to tuck them in every night," "I can't not have my little boy watch me shave in the morning." With the help of a child development expert, we achieved an arrangement that kept both parents in almost daily contact with both of their children, whereas litigation might have led to an expensive and time-consuming custody battle.

Q: You were once a litigator. What makes this work more rewarding?

A: The people I work with now are able to move on with their lives more quickly because there's less animosity, and some even experience a gain in self-esteem by successfully working things out. Like many people in my profession, I commend my clients on the courage they exhibit in selecting an out-of-court divorce, because it shows a genuine commitment to family, a putting aside of differences. And these are not hollow victories. People are doing something incredibly

difficult for a higher purpose.  To find a lawyer with training in collaborative law or mediation, go to acrnnet.org or collaborativepractice.com.

—Kelley Heyworth



DIVORCE EXPERT WENDY LANDES