

Attorneys push for a new way of handling divorce cases

By THERESA WINSLOW, Staff Writer

Breakin' up is always hard to do, but a movement is underway to make the divorce process a little more palatable and a lot less messy.

A group of local attorneys has joined with therapists and financial advisors to promote a concept called collaborative law.

Instead of heading to court for what could be a contentious legal battle, in collaborative law, a couple meets with their attorneys in private and works out their own settlement.

The attorneys work as legal advisors during the process instead of litigators preparing for a traditional court showdown. Counselors and finance experts can be called in as needed for assistance.

"This takes out the court battle and focuses on negotiation," said Annapolis attorney Nancy Weller.

"The families are going through enough pain, they don't need the adversarial model," added another Annapolis attorney, Jennifer Merrill.

Ms. Weller, Ms. Merrill and other supporters of collaborative law argue that it keeps the lines of communication open for clients, is more child-friendly since parents aren't assailing each other in court in front of their sons and daughters, and can avoid potential financial problems resulting from a court-ordered decree.

"It doesn't open a wound," said counselor Patricia Simpson of Chesapeake Beach. "It accesses a wound and treats it before it becomes inflamed."

Ms. Simpson said too many divorces result with families engaged in "tribal warfare" in court, with the children suffering the consequences. "(Collaborative law) will minimize that," she said. "Parents need to see their strengths as opposed to pointing out their weaknesses."

Ms. Simpson is a member of Anne Arundel County Collaborative Professionals, a group whose aim is to spread the word about collaborative law and move the concept out of its infancy. Ms. Weller and Ms. Merrill are also members. Currently, only a few local attorneys are trained in this method of resolving divorce cases, and not many couples even know it's an option. (There are also collaborative law groups in other parts of the state).

"The problem is twofold," said Baltimore attorney Michael Lay, a Severna Park resident who is helping to spearhead the local movement. "Professionals need to be trained and the general public needs to be educated."

Once more people know about collaborative law, he said, "more and more people will engage in the process."

County Circuit Court Judge Nancy Davis-Loomis, who handles a lot of family law cases, hopes this is indeed the case.

"I just don't see any negatives to the collaborative law concept," said Judge Davis-Loomis, who heads the state judiciary's family law committee. "It's a matter of trying to reach an agreement that's without the rancor that often accompanies a litigated family lawcase ... It's healthier to work toward a solution than to fight for a solution."

Mr. Lay said that in collaborative law, lawyers are performing the same duties for their clients, just in a slightly different way.

"The assistance doesn't change," he said. "It's a (just) a way to get to the heart of it maybe more effectively and quicker. Parties make their own decision here. They walk out knowing it's their choice, not a judge's imposed decision."

But Annapolis attorney Ted Staples, past president of the county bar association, said some cases "need to be tried" and the collaborative law process puts an attorney in danger of working for both sides instead of just for one client.

"Settlement conferences and mediation all have their places, but so do trials," he said.

About 15 percent of the Circuit Court's yearly case load consists solely of new divorces or re-opened divorce cases, said Tim Sheridan, civil case administrator and current bar president.

Under the collaborative law system, parties only head to court if the process fails. At this point, they're required to hire new attorneys, but Judge Davis-Loomis said they'll most likely be farther along in the divorce process than a couple just starting a traditional case.

For more information about Anne Arundel County Collaborative Professionals, contact Mr. Lay at 410-467-7200 ext. 15, or e-mail mLAY@motsayandlay.com.