

Glossary of Terms

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Alimony - Payments made to a separated or divorced spouse as required by a divorce decree or separation agreement. Also called Spousal Support or maintenance.

Alternate Dispute Resolution (ADR) - Ways of making decisions and resolving disputes, other than litigation (contested hearings); includes Collaborative Practice, mediation, parenting coordination, arbitration, and neutral evaluation.

Annulment - Like a divorce, an annulment is a court procedure that dissolves a marriage. But, unlike a divorce, an annulment treats the marriage as though it never happened. For some people, divorce carries a stigma, and they would prefer to have their marriage annulled. Others prefer an annulment because it may be easier to remarry in their church if they go through an annulment rather than a divorce. There are two types of annulment: civil annulment (by the state government) and religious annulment (by a church).

Most annulments take place after marriages of a very short duration -- a few weeks or months -- so there are usually no assets or debts to divide, or children for whom custody, visitation, and child support are a concern. When a long-term marriage is annulled, however, most states have provisions for dividing property and debts, as well as determining child custody, child visitation, child support, and alimony. Children of an annulled marriage are not considered illegitimate.

Case Management Conference – Usually the first appearance in court by the parties and their attorneys after a complaint and answer are filed. See Divorce Process: Advance Case Review

Causes of Divorce - There are many different and complex causes and reasons for divorce, each of them specific to that particular couple's marital relationship, their individual experiences and personal problems. None of them may seem "common" to the people going through a divorce, of course, but many of the reasons recur enough to warrant the term. Research done on the causes of divorce reveals that:

- Lack of communication is one of the leading causes of divorce. A marriage is on the rocks when the lines of communication fail. You can't have an effective relationship if either one of you won't discuss your feelings, can't talk about your mutual or personal issues, will keep your resentments simmering under wraps, and expect your partner to guess what the whole problem is about.
- Divorces often happen because people rarely discuss their expectations in detail prior to marriage, are less willing to work on their marriages afterwards, and would like quick solutions rather than having to resolve issues. People have gotten divorced for trivial reasons like snoring.
- People who come from divorced homes are more likely to get divorced than people who come from happily married households. Divorce seems less like a big deal if you have seen your parents go through with it.
- People who get married between the ages of 23-27 are more likely to stay together than people who get married in their teens.
- People who cohabit before marriage have higher rates of divorce than people who didn't cohabit before marriage.
- In many cases, quite a few of the problems that cause divorce have existed in the couple's relationship long before they got married. The problems were either not acknowledged or were ignored in the fond hope that marriage might offer a miraculous panacea. And, guess what, it doesn't. Nobody can make you feel better about yourself and you can't change and save anybody. As someone wise once said, it takes two wholes to make a marriage, not two halves.

Child Custody - This refers to rights regarding a child. There are two different types of custody – legal custody and physical custody – and there are also different variations of custody - sole custody and joint custody. The most common form of custody is Joint Legal Custody. This is where the children live with one parent (residential custodian) while the other parent has visitation rights. With Joint Legal Custody, both parents make the decisions on behalf of the children concerning health, education, religion, and general welfare.

Child Specialist - An experienced, licensed therapist with specific education and training in the expected behaviors, stages, challenges and tasks of the development of a child. They work with the child (ren) to address specific emotional and practical day-to-day needs as they relate to the divorce process. The Child Representative also helps in designing the parenting plans that specifically address the defined needs of the child (ren) as they go through the restructuring of the family.

Child Support - A set amount of money paid by the non-custodial parent to help support their children after a divorce. The money is paid through a state agency to the custodial parent.

Child Visitation - Child visitation, often pursuant to a parenting plan, can take a variety of forms or schedules; two of the most common are reasonable visitation, which leaves it up to the parents to specify dates and times, and scheduled visitation, which is a fixed schedule. Visitation arrangements normally include some if not all of the following basic

provisions:

- Alternate weekend visitation with the non-custodial parent, including "three-day holidays"
- Mid-week visitation with the non-custodial parent
- Sharing of the child during periods of school recess - winter, spring and summer (often split 50-50)
- New Year's Eve, Easter, Rosh Hashanah, Yom Kippur, Thanksgiving, and Christmas are the kinds of holidays spent with one parent one year, the other parent the next
- Mother's Day is spent with the mother, Father's Day with the father
- Parents alternate years on the child's birthday
- Open and frequent telephone contact by the parent who does not have physical custody of the child
- Exchange of a few days of visitation here and there, as mutually agreed, without the need for a modification of the court order

Emergency situations would potentially require the other parent to take temporary physical custody of the child.

Civil Annulment - Grounds for civil annulment vary slightly from state to state. Generally, an annulment requires that at least one of the following reasons exists:

- Misrepresentation or fraud. For example, if a spouse lied about her capacity to have children, that she had reached the age of consent, or that she was not married to someone else, an annulment could be granted.
- Concealment. For example, if a spouse concealed an addiction to alcohol or drugs, a felony conviction, children from a prior relationship, a sexually transmitted disease, or impotency, an annulment might be granted.
- Refusal or inability to consummate the marriage. Refusal or inability of a spouse to have sexual intercourse with the other spouse can be grounds for an annulment.
- Misunderstanding. For example, if one person wanted children and the other did not, an annulment might be granted.

Collaborative Attorney - An individual trained in the practice of Collaborative Law to aid couples in the dissolution (divorce) process. The Attorney addresses the legal issues that a couple faces in seeking a divorce. Through problem-solving negotiations that do not include adversarial techniques or tactics, the attorney advises clients concerning applicable law and its effect on them and helps them draft agreements in the spirit of cooperation.

Collaborative Divorce – See Collaborative Practice; Collaborative Law. Collaborative Divorce is based on Collaborative Practice principles and the commitment to resolve all disputes out of court. The Collaborative Divorce Team may include other professionals in addition to attorneys, such as coaches, child specialists and financial specialists.

Collaborative Divorce Professionals - See Collaborative Attorney; Financial Counselor; Financial Planner/Financial Advisor/Estate Planner; Child Specialist; Divorce Coach; Marriage and Family Therapist.

Collaborative Family Law – See Collaborative Law. Family Law is the area of law that deals with separation, divorce, child custody, and division of marital assets.

Collaborative Law – Collaborative Law describes the legal component of Collaborative Practice, made up of the spouses or parties and their attorneys. It consists of two clients and their respective attorneys working together toward the sole goal of reaching an efficient, fair, comprehensive settlement of all issues. All negotiations take place in “four-way” settlement meetings that both clients and both lawyers attend. The lawyers cannot go to court or threaten to go to court. Settlement is the only agenda. If either client goes to court, both collaborative lawyers are disqualified from further participation. Each client has built-in legal advice and advocacy during negotiations, and each lawyer's job includes guiding the client toward reasonable resolutions. The legal advice is an integral part of the process, but all the decisions are made by the clients. The lawyers generally prepare and process all papers required for the divorce.

Collaborative Mediation - Collaborative mediation is a style of mediation where two or more people are encouraged to work toward resolution in a transparent and peaceful manner. The goal is to support the parties to unfold the issues and create fair agreements that will stand the test of time.

Collaborative Practice - An out of court process for resolving disputes respectfully. A non-adversarial approach, it utilizes specially-trained lawyers, and sometimes other professionals, to help the spouses negotiate a mutually acceptable settlement without using the court to decide any issues. In Collaborative Practice, core elements form the parties's contractual commitments, which are to:

- Negotiate a mutually acceptable settlement without having courts decide issues.
- Maintain open communication and information sharing.
- Create shared solutions acknowledging the highest priorities of all.

Collaborative Practice can also apply to disputes involving employment law, probate law, construction law, real property law, and other civil law where continuing relationships exist after the conflict has been resolved. In Collaborative Practice, the lawyers and parties sign an agreement aligning everyone's interests in resolution. It specifically states that the

Collaborative attorneys and other professional team members are disqualified from participating in litigation if the Collaborative process ends without reaching an agreement.

Collaborative Process - The Collaborative Process uses informal discussions and conferences attended by both parties and their attorneys (four-way meetings) to settle all issues. The Collaborative Process relies on an atmosphere of honesty, cooperation, integrity, and professionalism. It requires that both parties, with the assistance of their attorneys, provide all pertinent documents and information relating to the issues to be settled, and that they work together toward a shared resolution. In the event that experts are necessary, it encourages the use of jointly retained neutral experts.

Collaborative Team - A Collaborative team is the combination of professionals that the couple chooses to work with to resolve their dispute. It can be simply the couple and their Collaborative lawyers. In addition to Collaborative lawyers, the couple can choose to include a neutral financial professional (financial counselor), a divorce coach, a child specialist, or other specialists they believe would be helpful. The "Collaborative team" guides and supports the couple as problem-solvers, not as adversaries. **Contested Divorce** - A contested divorce is one in which the husband and wife cannot come to an agreement on one or several issues related to the termination of their marriage. Where the partners cannot come to an agreement, even with the aid of their respective counsels, the couple must then take their issue(s) to a court to be decided.

Conventional Divorce - In a conventional divorce, parties rely upon the court system and judges to resolve their disputes. Unfortunately, in a conventional divorce spouses often come to view each other as adversaries, and the divorce may be a battleground. The resulting conflicts take an immense toll on emotions—especially the children's.

Coach - See Divorce Coach.

Custody - see Child Custody

Custody Agreement - The purpose of the custody agreement is to reach an understanding on how to raise and care for the child with both parents sharing in the responsibilities and maintaining involvement in the day-to-day life of the child. For the custody agreement to work it is essential that both parents be flexible. Every attempt should be made to encourage and respect the relationship of the child and the other parent. Parents should keep in mind that they are getting the divorce; they are not divorcing their children. If parents can't come to an agreement on custody, then they will need to be prepared for a custody battle.

Custody Battle - A custody battle puts the child(ren) right smack in the middle of the spouses' battle. Spouses must consider why they are fighting for custody: is it fighting for custody or fighting so that the other spouse doesn't have custody? Is it in the best interest of the child(ren)? If proceeding in a custody battle or dispute, here's what to expect when the court intervenes:

- The court will take into consideration the best interest of the child when making the decision.
- If the court feels that neither parent is acting in the best interest of the child a guardian ad litem may be appointed to help in making decisions on the behalf of the child.
- Depending on the age of the children, their wishes may or may not be taken into consideration. Some states strongly take into consideration the wishes of the children depending on their age; some states do not consider the child's wishes at all, without regard to age.
- Unless the situation is so obvious that one parent should have custodial rights over the other (such as in drug abuse or physical abuse) a court-ordered independent evaluation will probably be ordered. The evaluation is usually done by a court-appointed mental health professional such as a psychologist or a social worker. A thorough evaluation can include the following: interviews with all the parties involved (individually and possibly with the parent and child together); psychological testing of both parents and the child; review of school records and or conversations with teachers; review of medical records and developmental history; review of legal records, such as the papers filed regarding the divorce, any possible domestic disputes and any criminal records of either party involved. Be prepared for the evaluation to take at least four to six weeks if not longer. Be prepared for a time-consuming and costly battle.

Custody Dispute - See Custody Battle.

Dissolution - Meaning "to end" or "dissolve". Often used interchangeably with the word "divorce"; as in "dissolution of marriage". See Divorce.

Divorce - Divorce is a legislatively created, judicially administered process that legally terminates a marriage no longer considered viable by one or both of the spouses. Divorce is also known as dissolution of marriage. Traditionally, divorce was fault-based. In other words, there was an "innocent or injured" party and a party that had done "wrong" with the "innocent" party being able to obtain relief or a divorce. This system was adversarial in nature. Even if both parties wanted a divorce, one party had to allege wrongdoing by the other. In the 1970s this system was reformed and a "no-fault" system was put in place.

Divorce Certificate – The divorce certificate contains basic information about the husband and wife, and the date and place the marriage ended.

Divorce Coach – A Divorce coach is a skilled professional, trained to manage a wide variety of emotions and issues that arise during divorce. Collaborative Divorce Coaches are all licensed mental health professionals (for example, psychologists, social workers, marriage and family therapists). Each Coach is experienced in the area of divorce and each Coach receives specialized training in Collaborative Divorce and the Collaborative process. Divorce coaching is not legal advice and not therapy. Divorce coaching is not about placing blame, finding fault or dealing with the past.

Divorce Counseling – See Divorce Support.

Divorce Court – See Family Court.

Divorce Decree – A court's formal order granting a termination of marriage. If a divorce case goes to trial and the judge issues a judgment, the judgment is confirmed when the decree is signed and dated by the judge and court clerk.

Divorce Filing – A divorce starts with state-specific divorce papers or forms. Each state has unique divorce laws, which means the filing procedure and the divorce paperwork will vary from state-to-state. Sometimes the difference is significant and other times it will only vary slightly. The divorce forms are typically formatted differently but also have unique titles, like a Divorce Complaint rather than a Petition for Divorce or a Judgment rather than a Decree. Sometimes a filing spouse is referred to as the Petitioner and other states it is the Plaintiff. If the spouses can agree on the terms of divorce, including grounds for divorce, division of marital property, etc. then they may be able to expedite the process by filing a formal settlement agreement with the court. If they cannot agree on some or all of the terms of the divorce, then they will have to file the appropriate documents with the court so that a hearing can be held to resolve the issues.

Divorce Law(s) - Divorce (or Dissolution of Marriage) is primarily governed by state-specific divorce laws. This means that what may be applicable in one state may not be in the next, so it is imperative to focus on the divorce laws for the state in which one is filing. Divorce laws may be very similar from one state to the next with regard to issues like spousal support, child custody, and property division, but issues like the filing procedures, document titles, child support, divorce grounds, and residency requirements can vary tremendously.

Divorce Lawyer – See Family Law Attorney

Divorce Litigation – Litigation is a legal term meaning 'carrying out a lawsuit.' The word 'litigation' comes from the Latin word 'litigatus' meaning 'to dispute, quarrel, strive'. In a divorce, litigation can be very destructive to the parties and their children. The advantages of Collaborative Practice over traditional divorce litigation include:

- Lower Cost: The collaborative process is generally less costly and time-consuming than litigation.
- Client Involvement: The clients are a vital part of the settlement team and have a greater sense of involvement in the decision making which affects their lives.
- Supportive Approach: Each client is supported by their lawyer and coach in a manner that still allows the attorneys to work collaboratively with one another in resolving issues.
- Less Stress: The process is much less fear and anxiety producing than utilizing Court proceedings or the threat of such proceedings. Everyone can focus on settlement without the imminent threat of "going to Court".
- Win-Win Climate: The Collaborative process creates a positive climate that produces a more satisfactory outcome for both parties. The possibility actually exists for participants to create a climate that facilitates "win-win" settlements.
- Speed: The speed of the collaborative process is governed by the parties rather than court calendars.
- Creativity: The collaborative process encourages creative solutions in resolving issues.

Clients in Charge: The non-adversarial nature of the collaborative process shifts decision making into the hands of the clients where it belongs, rather than into the hands of a third party (the court).

Divorce Order – Final order made by a court in a divorce case. On taking effect, a divorce order legally ends a marriage.

Divorce Procedures – See Divorce Process.

Divorce Process - The actual divorce process is controlled by the participants. Many people do not realize that not all divorces must end in a contested courtroom proceeding. Generally, once a couple has embarked on a contested divorce process, the types of proceedings from State to State are similar, but not identical. It is important for the couple to consult with a lawyer in the State where they reside about the specific process. The length of a case may depend on the state and county that the case is filed in. It often depends on how crowded the court docket may be and often may take a year or more. The Divorce Process may include the following stages: Jurisdiction, Summons & Petition, Answer & Counter Petition, Temporary Hearings, Mediation, Co-Parenting Classes, Advance Case Review, Discovery, Experts, Settlement, Settlement Conference/PreTrial, Trial.

Divorce Process: Jurisdiction - Before a divorce is filed, a determination must be made where the matter will be heard. Different states have different rules for bestowing jurisdiction. In many states, a party must have lived in that state for 180 days prior to filing. If there are two possible jurisdictions, it may benefit the party filing to serve the Divorce documents first to choose jurisdiction in their state. That is the primary benefit of serving and filing first. There is little benefit to serving and filing first other than to prepare in advance and to choose the jurisdiction.

Divorce Process: Summons - The Summons is a document announcing that a divorce or legal separation action is being commenced. In some states, that document also indicates that from that point forward neither party may dispose of marital assets, change insurance coverage or modify any other significant holdings except for the necessities of life.

Divorce Process: Petition - The Petition has two parts. The first part is a statement of facts which sets out basic facts such as the identities of the parties, whether they have children and what assets they may hold. The second part of the Petition seeks relief such as an award of custody, spousal maintenance or child support and a division of assets and debts. The Petition is often tailored to seek the maximum relief. It is a positioning paper that will often seek as much relief as the proponent could possibly seek.

Divorce Process: Answer & Counter Petition - In the divorce process, the opposing party has thirty (30) days in most states to submit an answer to the divorce petition. The Answer is very simply the opposing party's statement of facts and request for relief. Often the service of an Answer is waived. This is often done to save the parties the cost of an additional filing fee should the matter be settled. However, if a waiver or extension is not granted by the opposing party and an answer is not filed within thirty (30) Days, the original party may seek a default. A default means that the original moving party may request the relief requested in their petition without opposition. Late answers are often accepted since Courts prefer determining cases on their merits rather than by default.

Divorce Process: Temporary Hearing - A temporary hearing may also be called a Pendente Lite Hearing. Such hearings may be scheduled by either party by filing a Motion supported by an affidavit. Temporary/Pendente Lite hearings are designed to resolve issues while the divorce is pending such as who will have:

- Temporary custody
- Temporary support and/or maintenance
- Where the parties are going to reside pending the resolution of the case
- Protection from harassment and domestic violence
- Injunctions against financial improprieties
- Use of assets

Divorce Process: Mediation - Many courts require the parties to attempt to mediate their disputes before the matter is submitted to the Court. One exception to this rule may be where domestic abuse has occurred. Mediation may occur between the parties with attorneys present. Mediation means that the parties visit with a qualified neutral who will attempt to get them to resolve their differences. In mediation, the neutral is not an advocate and will not provide legal advice. Most discussions that occur in mediation are not admissible in Court under the public policy consideration that favors a free exchange of information between the parties to help them resolve their differences.

Divorce Process: Co-Parenting Classes - Many states have adopted a policy that requires parents to attend co-parenting classes where children are involved. The goal is to teach parents how to minimize the impact on children involved in a divorce. In most cases, the parents need not attend together. Some states also require that children of a certain age attend a class to teach them the skills to deal with divorcing parents.

Divorce Process: Advance Case Review - Many states have a hearing that is called an advance case review or early case resolution meeting or Case Management Conference. In such a hearing, the parties meet with the Judge assigned to the case or a referee to discuss the issues, or what discovery may be necessary. This is the parties' first chance to resolve the case or portion of the case.

Divorce Process: Discovery - Discovery refers to the "investigation" phase of the divorce process. It is primarily dedicated to identifying the contested issues, a determination of assets, income and debt of the parties. This exchange of information can be conducted informally with the parties agreeing to freely exchange the information or, formally, through the submission of formal documents that require answers under oath.

Divorce Process: Experts - Experts are often employed to determine certain facts. Those experts may be jointly agreed upon by the parties, which can save on the cost of having individual experts testify at trial. However, where that is not possible, each side may hire an expert to contest an issue and require their testimony at trial. Common experts include:

- custody evaluators
- financial planners to determine future economic circumstances
- business evaluators to value businesses
- real estate appraisers to value real estate
- personal property appraiser to value furnishings and other assets (generally an auctioneer experienced in home goods)

- vocational evaluator to determine earning capacity
- psychologists to testify to mental health issues

Divorce Process: Settlement – A divorce or legal separation case may be resolved at any time the parties come to an agreement on the issues. In such cases, the parties would sign a Marital Settlement Agreement or some other form of stipulation resolving their issues. This can occur right up to the point of trial.

Divorce Process: Settlement Conference/Pretrial - Settlement or pretrial conferences are scheduled by the Court. In such conferences, the Court may require each party to submit a pretrial statement of the case and issues. In such hearings, the Judge will meet with the lawyers and/or parties to discuss the issues and to make settlement recommendations.

Divorce Process: Trial - If the spouses are unable to settle the case, it will go to trial. Some states have a trial by jury. Other states have a trial by Judge. At trial each party tells their story to the judge. It is told through testimony, the testimony of other witnesses, and documents called exhibits. At trial, the moving party (usually called the petitioner or plaintiff) presents their case first. They call their witnesses who are subject to cross-examination by the opposing party. When the plaintiff or petitioner rests their case, the Respondent or Defendant presents their own case with witnesses and evidence, each subject to cross examination by the opposing party.

Divorce Recovery – Recovering from a divorce and the ending of a close relationship is not easy. There's an adjustment process after a divorce; and there are many resources available to help along the way. See Divorce Support

Divorce Rights - Divorce rights involve many aspects of the divorce process and can vary from state to state. Divorce rights primarily involve each party's right to divorce, to property distribution and child custody rights. Divorce rights have changed significantly throughout history and are still in flux today. Divorce rights are often best protected and maximized with the help of a trained professional family law attorney. These experts can help people discover what their divorce rights are based on their specific circumstances and the laws that govern divorce in their state of residence.

Divorce Support – Divorce is one of life's most difficult experiences. To find help and healing for the hurt of separation and divorce, there are many sources of support, including:

- The Collaborative Team guiding and supporting you through the divorce process
- Divorce support groups
- Divorce recovery groups
- Programs for children of separating or divorcing parents
- Websites dedicated to supporting divorcing couples and restructuring families through online forums and resources
- Divorce Counseling; Marriage and Family Therapy
- Clergy
- Close friends
- Articles, books, stories about and by divorcing/divorced couples

Divorce Therapist – See Marriage and Family Therapist.

Divorce Visitation - see Child Visitation.

Effects of Divorce - The effects of divorce can change virtually every aspect of people's lives, including where they live, with whom they live, their standard of living, their emotional happiness, their assets and liabilities, time spent with children and other family, and so much more. Some effects of divorce can be positive, such as ending an unhappy or even abusive relationship. Other effects of divorce can be detrimental to personal well-being.

Effects of Divorce on Children - Divorce affects children differently, depending on their gender, age and stage of development. Their world, their security and their stability seems to fall apart when their parents divorce. Following are universal responses that researchers have found among children of divorce.

Feelings:

- They worry that their parents don't love them anymore and they feel abandoned. They feel like the parent who left has divorced them too.
- They feel powerless and helpless because they can't get their parents back together. They can't speed up or slow down the process.
- They feel angry although they may not express their anger.
- They often feel they are at fault. They may believe something they did or said caused a parent to leave.
- They grieve. Divorce is a loss in the lives of children and parents. They experience a grieving process very similar to mourning a death.
- They experience conflicts of loyalty.

Behaviors:

- Acting out behavior ranges from very mild behavior, such as difficulty sleeping, to extremely destructive behavior, such as suicide, drug abuse, or violence.
- Other behaviors may include problems in school, nervous habits, repetitive physical behaviors, and regressive behaviors such as bed-wetting, fears, and use of comfort items. Children may become clingy and whiny and they may need greater understanding of their moods and behavior. They have a greater need to be nurtured.
- They may think they have to "take care" of their parents. Giving up one's childhood to care for emotionally troubled parents is a widespread characteristic in children of divorce.
- These behaviors are common for children experiencing divorce. There is a false assumption that children are "naturally resilient" and can "get through" a divorce with little or no impact on their lives. Instead, they need support systems and individuals to help during the transition.

Family Court - A legal court convened to decide matters and make orders in relation to family law, such as termination of marriage and custody of children.

Family Law - An area of the law that deals with family-related issues and domestic relations including, but not limited to:

- the nature of marriage, civil unions, and domestic partnerships;
- issues arising during marriage, including spousal abuse, legitimacy, adoption, surrogacy, child abuse, and child abduction
- the termination of the relationship and ancillary matters including divorce, annulment, property settlements, alimony, and parental responsibility orders (in the United States, child custody and visitation, child support awards).

Family Law Attorney – A lawyer practicing in the area of Family Law.

Financial Counselor - This professional acts as a neutral party who assists both spouses in gathering all the financial information about the couple or family in a supportive and nurturing environment. Each client is encouraged to assist in financial disclosure and documentation of the income, expenses, assets, and debts of the family. The essential shift is from a data focus to a system focus, whereby the financial counselor listens and then helps the clients understand the overall picture created by their particular family's financial situation. The knowledge gained by the clients through the data collection and documentation can aid each partner in achieving the financial settlement he/she desires.

Financial Planner/Financial Advisor/Estate Planner - Certified professionals who work in the field of accounting, insurance, or investments. They advise clients on how to invest their money to get the best return on their dollar based on their own tolerance for risk. They can facilitate retirement planning, long-term financial investment and life insurance needs.

Four-way Meeting(s) – The Collaborative Process is conducted through a series of four-way meetings with both parties and their Collaborative attorneys. The sessions are intended to produce an honest exchange of information and expression of needs and expectations. The well-being of any child(ren) is especially addressed. Mutual problem-solving by all the parties leads to the final divorce or marital settlement agreement. When additional professionals are added to the Collaborative Team, these sessions may become five-way or six-way meetings.

Grounds for Divorce - Some people don't want to wait out the period of separation required by their state's law for a no fault divorce. And in some states, a spouse who proves the other's fault may receive a greater share of the marital property or more alimony. The traditional fault grounds are:

- cruelty (inflicting unnecessary emotional or physical pain) -- this is the most frequently used ground
- adultery
- desertion for a specified length of time
- confinement in prison for a set number of years, and
- physical inability to engage in sexual intercourse, if it was not disclosed before marriage.

Guardian ad litem – Guardians ad litem are often appointed in divorce cases or in parenting time disputes to represent the interests of the minor children. The kinds of people appointed as a guardian ad litem vary by state, ranging from volunteers to social workers to attorneys to others with the appropriate qualifications. The two divorcing parents are usually responsible for paying the fees of the guardian ad litem, even though the guardian ad litem is not responsible to them at all. In some states, the county government pays the fee of that attorney. The guardian ad litem's only job is to represent the minor children's best interests.

How to File for Divorce - The following are all necessary in order to complete a no-fault divorce:

- Both spouses agree to end the marriage and comply with the requirements for a no-fault divorce.
- A Marital Settlement Agreement is completed. See Marital Settlement Agreement.
- A Financial Statement from both parties is completed
- The Petition or Complaint is completed along with the Consent, Appearance and Waiver form.
- Child Custody Jurisdiction Form
- Final Judgment or Decree
- All legal documents must be signed in front of a notary public. The documents must then be filed with the County

Clerk's office. The Court will then arrange for a court date.

- Both parties comply with the Separation Agreement; for example, with respect to division of all property, i.e. all titles and deeds are signed over to the appropriate party.
- The person who files the papers attends the court hearing. The judge may briefly question the person filing for divorce. The judge will then state his/her findings and advise you as to the final steps to be taken.

Interest-Based Negotiation ‐ Also called "interest-based bargaining" or "win-win bargaining," interest-based negotiation is a negotiation strategy in which parties collaborate to find a "win-win" solution to their dispute. This strategy focuses on developing mutually beneficial agreements based on the interests of the disputants. Interests include the needs, desires, concerns, and fears important to each side. Interest-based negotiation is important because it usually produces more satisfactory outcomes for the parties involved than does positional bargaining.

Joint Custody - Parents who don't live together have joint custody (also called shared custody) when they share the decision-making responsibilities for, and/or physical control and custody of, their children. Joint custody can exist if the parents are divorced, separated, or no longer cohabiting, or even if they never lived together. Joint custody may be:

- joint legal custody
- joint physical custody (where the children spend a significant portion of time with each parent), or
- joint legal and physical custody.

It is common for couples who share physical custody to also share legal custody, but not necessarily the other way around.

Legal Custody - refers to the right as a parent to make decisions about a child's health, well-being and education. A parent with legal custody can make decisions about schooling, religion, and medical care, for example. In many states, courts regularly award joint legal custody, which means that the decision making is shared by both parents.

Legal Document Assistant (LDA) ‐ See Paralegal.

Marital Settlement Agreement - A Marital Settlement Agreement is a written document that outlines the divorcing spouses' rights and agreements regarding property, support and children. All forms are signed by both spouses and witnessed by a notary public. The issues that must be resolved by the spouses and outlined in the Marital Settlement Agreement include:

- Division of assets and other property
- Repayment of debt and monies owed to creditors
- Alimony, child support, custody

In a no-fault divorce, the judge will not decide any of these issues for you. These issues are solved voluntarily between the spouses.

Marriage and Family Therapist - A licensed mental health professional (Marriage and Family Therapist, Psychologist or Social Worker) trained in the assessment and treatment of emotional, personality and or relationship difficulties. The therapist may function to help a person move through the transitions of the divorce process. A therapist can help individuals when they are facing emotions that may be overwhelming and interfering with day-to-day functioning. The therapist may also assist a client dealing with underlying core issues that are being triggered and surfacing due to being in the dissolution process.

Mediation - A method of resolving disputes, in which a trained, neutral person (the mediator) helps the parties work out the solution for themselves. The mediator cannot give either party legal advice or be an advocate for either side. If there are lawyers for each party, they may or may not be present at the mediation sessions, but if they are not present, then the parties can consult them between mediation sessions. When there's an agreement, the mediator may prepare a draft of the settlement terms for review and editing by both parties and their lawyers. If mediation doesn't result in a settlement, the parties may choose to use their counsel in litigation, if this is what they and their lawyers have agreed.

Mediator - A neutral, impartial person who is trained in negotiation, conflict resolution and communication skills. The mediator does not represent any party or take sides, nor does he/she act as an attorney, judge, coach or therapist. He/she explains the mediation process to the parties, and assists divorcing couples to clarify issues, concerns, interests, needs and values. The mediator brings in and works with various professionals as needs arise.

Military Divorce - Military divorce is defined as a divorce where one of the parties (the "service member") is active duty military, reserve or guard, or retired military. This is not a "legal" term that is recognized within the context of the law, but a lay term used to describe a divorce where one of the parties is a service member (regardless of the member's status). Being a service couple does not exempt the parties from the same requirements that civilian couples must meet when filing for divorce. However, military service creates unique issues when it comes to divorce because certain rules apply in military divorces that are different from civilian divorces. Among the differences are:

- Compliance with military rules and regulations
- Obtaining service upon an active duty spouse
- Domicile or residence requirements for filing
- Division of the military pension

Military divorces are governed by a combination of federal and state law. Military pension and certain emergency child support orders are dictated by federal law. State laws dictate the handling of all other matters pertaining to a military divorce.

No Court Divorce –Also called no-court divorce, non-court divorce, or divorce without court, no court divorce refers to the collaborative approach to divorce. See also Collaborative Divorce; Collaborative Practice; Collaborative Process. Rather than turning the decision-making power over to a judge, control of the collaborative solution is kept with the people directly involved in the dispute. All of the parties consent in writing to be part of a respectful process that leads to an out-of-court resolution. The clients retain the power to create a resolution that fits their particular needs and priorities. The focus is on constructive problem-solving rather than adversarial bargaining and court-imposed solutions. Benefits of no court divorce:

- Encourages mutual respect
- Emphasizes the needs of children
- Avoids going to court
- Keeps control of the process with the individuals
- Provides for open communication
- Utilizes a problem-solving approach
- Identifies and addresses interests and concerns of all
- Allows divorce with dignity
- Prepares individuals for new lives

No Fault Divorce - "No fault" divorce describes any divorce where the spouse suing for divorce does not have to prove that the other spouse did something wrong. All states allow divorces regardless of who is at "fault." To get a no fault divorce, one spouse must simply state a reason recognized by the state. In most states, it's enough to declare that the couple cannot get along (this goes by such names as "incompatibility," "irreconcilable differences" or "irremediable breakdown of the marriage"). In nearly a dozen states, however, the couple must live apart for a period of months or even years in order to obtain a no fault divorce.

Paralegal - (Also known as a Legal Document Assistant or LDA) - An individual who helps a couple represent themselves in the dissolution of their marriage in a simple, uncontested divorce situation. An LDA will do all the processing of the paperwork throughout the divorce process. If a couple chooses to go through the mediation or collaborative process, the LDA can also file the appropriate forms to complete the divorce.

Physical Custody - refers to the right as a parent to have the child living in his or her home.

Some states will award joint physical custody to both parents when the child spends significant amounts of time with both parents. Joint physical custody works best if parents live relatively near to each other, as it lessens the stress on children and allows them to maintain a somewhat normal routine. Where the child lives primarily with one parent and has visitation with the other, generally the parent with whom the child primarily lives will have sole physical custody, with visitation to the other parent.

Positional Bargaining - This type of negotiation strategy is based on fixed, opposing viewpoints (positions) and tends to result in compromise or no agreement at all (impasse). Often, compromises do not efficiently satisfy the true interests of the disputants. Instead, compromises simply split the difference between the two positions, giving each side half of what they want. Creative, integrative solutions achieved through interest-based negotiation or interest-based bargaining, on the other hand, can potentially give everyone all of what they want.

Prenuptial agreement - Also referred to as a "premarital agreement";, this is a legal document that dictates how property and debt will be split should the parties decide to divorce at some future time.

Pro per - Literally means "do it yourself." This term is often used in mediation and collaborative law to designate that clients have determined to represent themselves. For example, when filing papers through a Legal Document Assistant, clients sometimes file "Pro Per."

Pro se representation - Pro se means "for self." In the court context, pro se litigants are individuals who represent themselves rather than being represented by lawyers. In most states, individuals and lawyers file forms in court called "appearances." The appearance forms advise the court who will be representing the parties so the court can communicate with the individuals or their representatives. Lawyers cannot appear in court or sign court documents on behalf of clients unless an appearance form has been filed. In the collaborative practice model, the parties file pro se appearance forms and their individual lawyers assist them with the paper work and filing. This facilitates an essential

term of the collaborative divorce; namely, that the collaborative lawyers will be replaced by adversarial lawyers if the collaborative process cannot achieve resolution. The adversarial lawyers will then file their appearances in court and proceed to litigate the case.

Reasons for divorce – see Causes of Divorce

Religious Annulment - Within the Roman Catholic Church, a couple may obtain a religious annulment after obtaining a civil divorce, so that one or both people may remarry, within the church or anywhere else, and have the second union recognized by the church. The grounds for annulments in the Catholic Church are different than for Civil Annulment.

Separation – The terms “divorce” and “separation’ are often incorrectly used interchangeably. A separation is when marriage partners sever their relationship with the intent of ending the marriage. Separation does not have much legal effect in and of itself.

- Trial separation. When a couple lives apart for a test period, to decide whether or not to separate permanently, it's called a trial separation. Even if the spouses don't get back together, the assets they accumulate and debts they incur during the trial period are usually considered marital property. This type of separation is usually not legally recognized, but is instead a specific period in a couple's relationship.
- Living apart. Spouses who no longer reside in the same dwelling are said to be living apart. In some states, living apart without intending to reunite changes the spouses' property rights. For example, some states consider property accumulated and debts incurred while living apart to be the separate property or debt of the person who accumulated or incurred it. In other states, property is joint unless and until a divorce complaint is filed in court. Also in some states, couples must live apart for a certain period of time before they are permitted to file for a no-fault divorce.
- Permanent separation. When a couple decides to permanently split up, it's often called a permanent separation. It may follow a trial separation, or may begin immediately when the couple starts living apart. In most states, all assets received and most debts incurred after permanent separation are the separate property or responsibility of the spouse incurring them. However, debts that happen after separation and before divorce are usually joint debts if they are incurred for certain necessities, such as to provide for the children or maintain the marital home. Again, a couple's decision to permanently separate may not be considered a legal one unless one party files for legal separation instead of divorce.
- Legal separation. A legal separation results when the parties separate and a court rules on the division of property, alimony, child support, custody, and visitation -- but does not grant a divorce. This isn't very common, but there are situations where spouses don't want to divorce for religious, financial, or personal reasons, but do want the certainty of a court order that says they're separated and addresses all the same issues that would be decided in a divorce.

The money awarded for support of the spouse and children under these circumstances is often called separate maintenance (as opposed to alimony and child support). In some states, separate maintenance can be obtained with a motion pendente lite, or a motion "pending the litigation." Usually a lawyer files this motion. These motions set the tone for what may be awarded in a future divorce judgment.

Shared Custody – see Joint Custody.

Sole Custody - One parent can have either sole legal custody or sole physical custody of a child. Courts generally won't hesitate to award sole physical custody to one parent if the other parent is deemed unfit -- for example, because of alcohol or drug dependency, a new partner who is unfit, or charges of child abuse or neglect. However, in most states, courts are moving away from awarding sole custody to one parent and toward enlarging the role a divorced father plays in his children's lives. Even where courts do award sole physical custody, the parties often still share joint legal custody, and the noncustodial parent enjoys a generous visitation schedule. In that situation, the parents would make joint decisions about the child's upbringing, but one parent would be deemed the primary physical caretaker, while the other parent would have visitation rights.

Spousal support - Also called “alimony” and “spousal maintenance”;, this term refers to money paid to one spouse by another to help the lesser-earning spouse maintain a certain standard of living. Spousal support is most common in situations where one spouse makes considerably more than the other.

Temporary Divorce - See Divorce Temporary Hearing

Uncontested divorce - An uncontested divorce is one in which all issues have been agreed upon by the parties. The parties reduce their agreement to writing and it is presented to a Judge at the final hearing. An uncontested divorce can be achieved by the parties working on their own or through mediators and collaborative lawyers as well as lawyers working in the traditional context. Often, cases which are contested on one or more issues end up being uncontested when the parties settle after a period of adversarial litigation. In fact, the vast majority of divorce cases are settled by agreement. But what occurs in the course of litigation prior to the settlement can be damaging to the family relationships and resources.

Zealous advocacy - In the zealous advocacy model, lawyers are taught to argue for the best result they can get for a client, without regard to how it effects or damages others. The adversary system is revered as an "engine" for

discovering the truth. In theory, if each adversarial attorney pushes as hard as he can for his client, the truth will rise from the fray and justice will result. This model may be necessary and effective in criminal law cases, for instance, but in family law cases, zealous advocacy can escalate hostilities and the family can be injured as a result.