

Star Advertiser

State law offers more collaborative divorce process

Tuesday, August 13, 2013

By Nina Wu

POSTED: 01:30 a.m. HST, Aug 13, 2013



JAMM AQUINO / JAQUINO@STARADVERTISER.COM

Attorney Lisa Jacobs of Better Way Divorce established her collaborative law practice to promote alternative dispute resolution options.

Any way you look at it, divorce is ugly.

The litigation process can cause even more hurt and damage to an already-broken relationship, not to mention mounting legal fees as spouses duke it out in court.

Attorney Lisa Jacobs of Better Way Divorce offers an alternative called collaborative law in which the parties pledge to negotiate the details of finances, child custody and property division with mutual respect and without confrontation or court intervention.

The voluntary process, helped along by an attorney trained in collaborative law, remains private, and it's generally less expensive than going through the courts.

RESOURCES

"You're really focused on the family and the relationships you're seeking to preserve," Jacobs said. "What that means is everybody's coming to the table and finding out what their concerns, needs and fears are and addressing that in a way

>> www.ponodivorce.com

>> www.collaborativepractice.com

that seeks to come up with a solution that works best for everybody."

The state's Uniform Collaborative Law Act, which became law in 2012, provides a standardized framework for divorcing couples to enter into a "collaborative law participation agreement," which is essentially a contract.

Hawaii is one of eight U.S. states that have enacted such laws.

Jacobs, 47, previously worked as a civilian supervisory attorney adviser at the Naval Legal Service Office at Pearl Harbor before establishing her Better Way Divorce practice this year. With close to 20 years of law experience under her belt, she underwent training from California attorney Pauline Tesler.

Jacobs said collaborative divorce has not yet taken off in Hawaii, where many couples are not aware it's an available option for dissolving a marriage.

According to the International Academy of Collaborative Professionals, there are more than 235 collaborative law practice groups in the U.S. comprising attorneys, mediators, and mental health and financial experts. Jacobs said more than 60 professionals in Hawaii, including 24 attorneys, have been trained in collaborative law.

The nonprofit Collaborative Divorce Hawaii Practice Group, which includes Jacobs and eight other members, was established to promote the alternative dispute resolution option and offer training.

No certification is required for the attorneys, but the international academy recommends at least 12 hours of training.

"It's an opportunity for people to work it out themselves instead of having a judge make the decision," said Elizabeth Kent, who helped draft Hawaii's law.

The collaborative law process also can be applied to disputes involving insurance or intellectual property. In divorce litigation, it can be especially helpful for couples with young children.

"It's the strongest, most child-friendly, civilized and creative process," said Tesler, who is a pioneer in collaborative law practice and has seen it work for high-profile couples with complex issues.

In an uncontested divorce filed through the court system, both parties agree to terms on their own and typically are not represented by attorneys. In mediation, a mediator is assigned to help the couple hash out their differences but does not give legal advice to either party. In collaborative law, each spouse has an attorney who helps negotiate an agreement.

For additional fees, couples can bring neutral financial advisers, child specialists or mental health professionals trained in divorce "coaching" to help the parties reach agreement.

The coaches help each spouse identify issues and move forward in the process.

"Divorce is not just legal," said Jacobs, who went through a divorce from her first husband 20 years ago. "In fact, so much of it is actually emotional."

Those emotions are often the greatest hurdles to reaching a resolution.

When dueling spouses bring anger, fear and resentment into an adversarial court system, the result can be a drawn-out, expensive legal process with even more bitterness at the end, even for the party who "wins."

"It's like a wound that will continue to open up and not heal," Jacobs said.

She believes the collaborative approach to divorce is less traumatic for all parties involved.

"These are outcomes better reached through respectful communication, not courtroom battles," she said.

To contact Lisa Jacobs, call 263-6299, email lisa@ponodivorce.com or visit www.ponodivorce.com.