Column: New Florida law may revolutionize divorce in the Sunshine State

By Cole Jeffries
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Divorce is almost never easy. More often than not, even couples intent on an amicable uncoupling come out the other end of the divorce process embittered. If they weren't angry before the divorce started, the process almost always makes them so.

But the Florida Legislature has taken steps to provide a fundamentally different divorce process. The Collaborative Law Process Act was passed during the last legislative session. And Gov. Rick Scott signed it into law on March 24. This law creates a pathway toward a more civil and less contentious way for couples to change the status of their relationships.

Florida is the 15th state in the nation to adopt a version of the Collaborative Law Process Act. Here is how it would work:

Each party in the divorce would retain an attorney specially trained in family law; that part wouldn't change much. Then, both parties would hire a mental health professional whose role would be to guide both of them toward an emotional outcome that avoids trauma as much as possible. This professional would also help the parents work through the emotional barriers to settlement.

Most divorces involve financial issues. When that arises, both sides employ the services of an independent financial adviser to help them.

Then, everyone — the spouses, their attorneys, and the retained professionals — sit down and examine all the relevant issues. Everyone shares documents and information. This process is private and confidential in stark contrast to a litigated divorce, where testimony and evidence may be considered to be in the public domain.

It is a voluntary process, and all issues are explored and settled via negotiation. Either party can put an end to the collaborative process at any time, but there are consequences to that; if litigation follows a failed collaborative process, neither lawyer can represent their client in the litigation, and the professionals (the mental health and/or financial experts) cannot be deposed or testify in that action. Therefore, unlike any other alternative dispute resolution process, the lawyers "have skin" in working toward resolution versus conflict.
Here are some benefits of the Collaborative Law Process Act:

**IT MAKES DIVORCE A MORE RESPECTFUL PROCESS:** Divorce affects couples and their children. It should respect the sanctity of the family, rather than reduce it to a contentious and angry process. The Collaborative Law Process Act makes it possible for a divorce to be conducted in a constructive fashion that focuses on the overall benefit of respectful relationships while solving difficult problems.

**IT'S EFFICIENT:** Since everyone is, in effect, working toward a common goal, goals and objectives can be met more quickly and efficiently. Removing the oppositional nature of divorce means issues can be resolved more quickly.

**IT MAKES DIVORCE MORE PRIVATE:** The issues that come up in a divorce should be issues examined in privacy. In a more traditional and more contentious divorce, a family's financial and other personal information can become available to the public, potentially creating embarrassment.

**IT PROVIDES GREATER CONTROL:** The process enables each party to fully understand the important facts and create together, with the help of the team, a fair resolution customized to their most important interests.

Deciding to go the collaborative route under the new law means that everyone involved has to learn a new way of doing business. Lawyers need to stop thinking of the courtroom as a battle ground, and instead must accept their new role: to help both spouses attain a satisfactory outcome and a successful future for all involved. It means that they must undergo specialized training before they can participate in cases involving the Collaborative Law Process Act.

So far, around 500 professionals — lawyers, mental health professionals and financial experts — have received that training. This law will encourage many more family law specialists to do so, and then offer it as an alternative to clients who are seeking help with a divorce action.

There are a few steps that remain before the statutes created by the Collaborative Law Process Act become effective. The Florida Bar must submit the collaborative rules of procedure and rules of professional conduct that lawyers in the state must follow in order to practice collaborative law, to the Florida Supreme Court for approval and implementation, making the collaborative process more accessible for Florida families.

*Cole Jeffries has practiced law in Tampa for more than 25 years. As a family law practitioner, he focuses his practice on the Collaborative Divorce Process as alternative to divorce litigation. He is a board member of the Florida Academy of Collaborative Professionals (FACP).*

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