

Wto court, children often suffer. This concern is leading divorcing parents to increasingly seek out options for ending their relationship without engaging in a family conflict that could have a devastating impact on their children. In response to this great demand, many new alternatives have evolved to help families resolve their disputes in a civil and dignified manner. However, unless parents fully understand these options early in the process, their plans for an "amicable divorce" can quickly get off track. Consider the following example:

Carol stayed in her marriage long after the relationship with John had deteriorated because she wanted to protect the children. Finally, she decided to file for divorce after she came to believe that the conflict in the marriage was more harmful to the children than any harm that a divorce could bring.

During her first meeting with her lawyer, Carol insisted that she wanted an "amicable divorce." Despite her differences with John, Carol understood that the children loved their father and she wanted John to have a liberal visitation schedule. Without exploring other options, Carol served the divorce papers stating that she wanted "sole custody." Carol hoped that John would respond by negotiating with her about the issues in the divorce. To Carol's surprise, John filed motion papers with the court saying that he was the better parent and that he should have temporary custody of the children. Carol could not believe the lies and distortions in John's papers. Carol countered with papers of her own, defending herself against John's allegations and demonstrating to the court that John was not the great father he claimed to be. One week later, Carol found herself sitting across a table from John in a small courtroom. A few feet away, attorneys she barely knew described their parental weaknesses to a judge she had never met.

Years later, Carol does not remember who "won" that first hearing. She remembers more vividly the

the battle lines were drawn, it seemed impossible to turn back. Although the divorce was completed within a year, the conflict continued. As Carol and John became increasingly unable to resolve

resolving her dispute at the beginning of the process she may have been able to persuade John that it was not necessary to go to court. However,

families to get through the divorce process more quickly and with far less expense. Because these alternatives generally teach the parents how to resolve conflicts on their own, most parents who use these methods are successful in staying out of court after the divorce.

The following is a brief description of some of the alternatives that are currently available to help families facing divorce.

- **Mediation:** Clients choose one or more neutral professionals to help them reach agreements. Mediation does not generally eliminate the role of attorneys, since the parties are urged to each choose an attorney to advise them of their legal options and to draft the final documents. However, mediators reduce the role of the attorneys and reduce the conflict that can occur through an adversarial process.
- **Collaborative Law:** Both parents hire lawyers who agree to resolve all issues out of court. The attorneys assist the parties in reaching agreements using cooperative strategies rather than adversarial techniques and litigation. Collaborative Law can be used in conjunction with mediation or as a separate process. For more information about Collaborative Law, call the Collaborative Law Institute at 566-8800.
- **Divorce With Dignity:** Clients and their attorneys work with a judge to find solutions in an informal manner. While the program tries to assist the parties and the attorneys in reaching their own agreements, the judge can, if necessary, make decisions. Divorce With Dignity has been available in Hennepin County for several years and is starting to spread to other counties. To find out whether Divorce with Dignity is an option in your county, call the court administrator in the county of your residence.
- **Arbitration:** Parties who cannot reach an agreement on their own choose to have decisions made by someone other than a judge. For example, if parents cannot agree on custody, they can choose a neutral child psychologist to make recommendations or even binding decisions.
- **Mediation/Arbitration:** This is a combination of mediation and arbitration



their own disputes, they were forced to turn to the courts to solve many of their

once parents find themselves involved in an adversarial process, the allegations that surface

DIVORCE WITHOUT DEVASTATION

By RONALD D. OUSKY

disagreements. Predictably, the children suffered from the turmoil. Counselors and judges warned Carol that the conflict has to stop for the sake of their children. Throughout the years of battling, Carol complained that there was nothing she could do because it was impossible to communicate with John. Now, after years of hearings, evaluations, and counseling sessions, Carol is wondering whether there is anything she could have done differently.

Carol's story is not unusual. Her good intentions for an

can fan flames of anger and resentment that make the prospects for finding a civil solution increasingly elusive.

Today, professionals involved with divorcing families are trying to put an end to high conflict divorces that threaten the security of children by encouraging parents to explore other options. As part of this effort, the Minnesota Supreme Court recently amended its rules to require all divorcing couples to attempt to resolve their disputes through an alternative process before going to

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choose a child psychologist to help them make parenting decisions that are in the best interests of the children.

• **Education:** Although not technically a separate alternative, educating families about divorce is another tool to help families. There are an increasing number of educational programs available throughout the Twin Cities. Many counties are now requiring that all parents, (and sometimes children) attend classes designed to help them better understand what is happening to their family and to guide them in making decisions that will be serve the needs of their children.

Despite the benefits presented by these options, some parents remain reluctant to seek a more "civil divorce" because they fear that these alternatives will not protect them. They fear that their financial settlement or their desire for adequate time with their children will be sacrificed on the altar of reducing conflict. However, most professionals agree that these low conflict alternative generally produce better results for both parents as well as the children. Visitation or access

generate creative solutions that a judge would not have ordered because of legal limitations or the lack of full information. In addition, because the divorce will be less expensive, there will be more financial resources available to meet the needs of the family.

There are also parents who believe that a litigated divorce is their only option because there has been a history of domestic violence. It is true that a history of violence will eliminate some options. Victims of domestic abuse are not restricted to court as the only means of resolving their family law matters. However, if there is a history of domestic abuse, the process will need to be modified to provide full assurance that the victim feels safe throughout the process and the professionals engaged in the alternate process must be trained in dealing with issues of domestic violence.

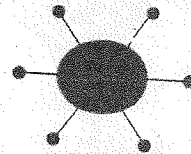
Regardless of the direction that parents wish to take, it is critical that they understand all of their options at the very beginning of the process and that parents explore those options carefully before they take action that may take them down a path that they did not anticipate.

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