

Divorce Detoxified – PAVE the Way to a Smoother Divorce

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The word "divorce" conjures up a host of strong negative thoughts and feelings for so many people - those who have gone through the process themselves and those who have watched close friends or family members go through it. Because "marriage" is a legal relationship in the US, the dissolution of a marriage requires a legal process to be completed. Family lawyers and judges around the country, who are well aware of the wide dissatisfaction with the legal process for dissolving marriages, are constantly on the lookout for ways to improve the system.

In Florida, some of these recent improvements include a new statutory provision and rules and procedures for "collaborative" divorce. Another recent change designed to improve the options available to help separated Florida families struggling to better co-parent their children were a series of amendments to the rules and procedures for "parent coordination".

Many of the recent divorce process alternatives such as collaborative divorce and parent coordination are designed to redirect divorcing families away from courts and into alternative dispute resolution settings where the parties are encouraged to seek resolution of their differences through negotiation processes, facilitated by various third party neutrals, and their own lawyers.

A problem with the new divorce process alternatives, as well as the longstanding



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litigation model, is a critical first step for the parties that is too often overlooked by the lawyers and facilitators who are advising the parties - the failure to defuse the painful and complex emotions that

helped trigger the divorce in the first place.

A typical person who has decided that their marriage is irretrievably broken may feel a wide variety of strong emotions, including, for example, feeling betrayed, angry, and victimized. Attorneys may, if they notice that their client is suffering emotional turmoil, instruct their client to see an individual counselor or therapist. This counselor or therapist is outside of the divorce process. The emotional "upset" that led to the divorce in the first place may or may not be resolved by this ad hoc individual therapy. Sometimes individual therapy makes it worse.

Once the legal process is initiated, the spouses are swept into the process of collecting financial records, filling out forms and answering questions about their employment, education and all sorts of discovery. They soon learn that each conversation with their lawyer costs a lot of money. They begin to think twice about contacting their own lawyer even when they are confused or upset.

The emotional "upset" that led to the divorce in the first place continues to fester. Many spouses simply try to "get past" their upset feelings by stuffing them under the surface in order to get through the divorce. The parties

are each left with unresolved emotional fall-out that can impede their ability to reach a settlement in the first place, or to abide by their agreement or final judgment later.

At the conclusion of the legal dissolution of marriage process, if this emotional fall-out has never been addressed, it can feel like a snowball rolling down a hill, which grows larger and larger as it rolls. Additionally, if the parties have children together, they are *expected* to come together and co-parent during and after this adversarial process, despite their built up animosity and blame. These are the litigants who often return to court again and again.

What if spouses who have decided that their marriage is irretrievably broken were able to defuse their powerful emotions and begin to get “emotionally” divorced before they embarked on the “legal” dissolution of their marriage? In this paper, we propose a first step for couples who have decided to divorce that we call “Pre-Divorce Analysis and Validation Experience” or “PAVE”. PAVE counseling does not have to be expensive or time-consuming. With the help of a properly trained counselor, in a few sessions, the spouses can identify and clear the emotional upset that led to their decision to divorce, before they embark on the legal process to divorce. The PAVE counselor can also help equip each spouse with key communication skills they will need during and after their divorce.

An example of the PAVE process:

1. Each spouse attends an individual session with a mental health professional trained in PAVE.
2. The PAVE counselor walks each spouse through the pre-divorce analysis and validation exercises, which are designed to facilitate an emotional clearing and validation process with each spouse before the legal process begins. The counselor can also provide each spouse

with constructive communication tools and techniques they can use during and after the divorce. The spouses can schedule additional sessions at their option.

3. The PAVE counselor can meet with both spouses together if they wish.
4. If there are minor children, the PAVE counselor can meet with the children if the parents wish.
5. Each spouse determines if they want to schedule additional sessions with the PAVE counselor.
6. Each spouse determines if they want the PAVE counselor to provide any information to his or her divorce attorney.
7. The PAVE counselor can remain on the sidelines as a resource to the parties and their attorneys as needed through the divorce process.

This is just one example of a possible process. The goal is to enable spouses who have decided to end their marriage to identify and defuse their emotional upset outside of the legal process, ideally before they even begin the legal process. The actual steps are extremely flexible but the common denominator is a PAVE counselor who is trained to facilitate emotional clearing and validation for divorce.

The number of people seeking to divorce in the U.S. is expected to increase significantly as COVID restrictions are lifted around the country. The courts in Florida are already backlogged as a result of the pandemic. A significant increase in parties seeking to divorce will put further strain on our already strained family courts. If PAVE counseling can redirect even a fraction of future Florida divorces to successful, less adversarial alternative dispute resolution processes, Florida's families and courts stand to gain incalculable benefits for years to come.

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Lisheyne Hurvitz is a Licensed Mental Health counselor, a Supreme Court Certified Family Mediator and a Parenting Coordinator, who has been in private practice for over 35 years with an emphasis on helping individuals and families through high conflict situations such as divorce and recovery from sexual violence and abuse. Ms. Hurvitz has served as a court-appointed Parent Coordinator and Therapist in Miami-Dade, Broward, Palm Beach and Sarasota Counties, and assisted many other families in family court proceedings at the invitation of one or both parties involved in high conflict court proceedings. She has pioneered many progressive and innovative methods of teaching individuals and families how to communicate effectively during difficult situations, to co-parent or parallel parent more effectively, and to raise healthier children in the midst of divorce. Ms. Hurvitz maintains a practice in Boca Raton, Florida, but also assists many patients throughout Florida and around the world via remote counseling. To learn more about Ms. Hurvitz, please visit her website at www.lisheyne.com.

Jennifer Miller-Morse, Esq. received her law degree from Harvard Law School in 1991, where her classmates included Barack Obama and Neil Gorsuch. Jennifer remained in the Boston area where she practiced law for many years before relocating to Florida. In 2012, Jennifer opened Miller Morse Law, a private practice

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Endnotes

¹ The Collaborative Law Process Act, § 61.57, Fla. Stat. was implemented on July 1, 2016. The Florida Supreme Court subsequently adopted corresponding rules of procedure. *In re Amendments to Rule Regulating Fla. Bar 4-1.19 & Fla. Fam. Law Rule of Procedure 12.745 (Collaborative Law Process)*, 218 So. 3d 440 (Fla. 2017). On October 15, 2020, the Florida Supreme Court adopted forms for family lawyers to use in the collaborative law process. *In re Amendments to the Fla. Fam. Law Rules of Proc. - Forms 12.985(a)-(g) (Collaborative Law Process)*, No. SC19-1032, 2020 Fla. LEXIS 1694, at *2 (Oct. 15, 2020).

² Florida's Parenting Coordination statute, § 61.125, Fla. Stat., was enacted in 2009. The Florida Supreme Court subsequently adopted corresponding rules of procedure and forms, which have been amended several times over the years. Florida Family Law Rule of Procedure 12.742 and Forms 12.984 and 12.988; *In re Amendments to the Fla. Fam. Law Rules of Proc.*, 27 So. 3d 650 (Fla. 2010); *In re: Amendments to the Fla. Fam. Law Rules of Proc.: New Rules for Qualified & Court-Appointed Parenting Coordinators*, 142 So. 3d 831 (Fla. 2014); *In re Amendments to the Fla. Rules for Qualified & Court-Appointed Parenting Coordinators*, 284 So. 3d 402 (Fla. 2019).

³ Brownwell, Taylor, "Divorce Rates and COVID-19", *The National Law Review*, Vol. X, No. 306 (October 16, 2020); Brooks, Kim, "Considering a Coronavirus Divorce? You're in Good Company", *The New York Times* (October 1, 2020).

⁴ Ash, Jim, "Courts Ask for \$16 Million to Clear Pandemic Backlog", *The Florida Bar News*, (October 22, 2020)

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