



Considering Divorce? What are your Options?

Steve McBride, Certified Divorce Financial Analyst.

So, you are really angry about your spouse's affair and you want revenge.

You are ready to make him or her pay, and you want your day in Court. STOP!!! You may want to think this through before letting your emotions take control.

When I ask people going through divorce what is the most important issue for them, they almost always say that having their children come through the divorce with as little damage as possible is most important to them.

Divorce is almost always damaging to children. It is a painful process, no matter how you do it. However, there are options available to divorcing couples that can reduce some of the damage, and can also have less of a negative impact on your bank balance.

Professional Help. There are many types of professionals that can help you with your divorce. Divorce is not just a legal process, but in many ways more of an emotional and financial event. Many people first think of hiring an attorney and then are shocked at the expense, especially when they use them inappropriately. Many family law attorneys will admit that they spend over 50% of their time providing emotional counseling rather than legal work on their divorce cases. It seems to me that emotional issues are best dealt with by trained therapists and mental health professionals who typically charge much less per hour than attorneys and can be extremely effectively in helping you deal with the emotional issues which surround divorce. Similarly, divorce financial analysts can be very cost effective in preparing the financial documentation, analyzing the financial situation and helping reach an equitable financial settlement.

In Colorado, there are four primary ways to obtain a divorce.

Do it Yourself (Pro se). If you can agree on the terms of your divorce, then you can prepare and file all the papers yourself with the Court. If you have access to the Internet, you can get the forms you need at <http://www.courts.state.co.us/chs/court/forms/domestic/domestic.html>. There are also some terrific resources available to help you through the process, such as [The Friendly Divorce Guide for Colorado: How to Plan, Negotiate, and File](#)

[Your Divorce](#) by M. Arden Hauer and Susan. W. Whicher (Bradford Publishing) available in most bookstores. Even though in this process you are not being represented in court by an attorney, you can obtain professional advice from an attorney, financial specialist, or child specialist to help and guide you where necessary. Just remember that an attorney is not allowed to give both of you legal advice – if you wish legal advice, each of you must seek counsel from different attorneys.

Mediation. A single neutral person, who may be a lawyer, a mental health professional, financial specialist, or simply someone with an interest in mediation, acts as the mediator for the couple. The mediator helps you reach agreement, but does not give individual legal advice, and may or may not prepare the divorce documentation. Few mediators will process the divorce through the court. Retaining one's own lawyer for independent legal advice during mediation is generally wise. If you have retained an attorney, they may sit in on the mediation process or give you advice between mediation sessions. Mediators do not have to have to be licensed professionals in Colorado, so if you are considering this approach, you may wish to approach the Colorado Council of Mediators, <http://www.coloradomediators.org> for those who have met their criteria for membership. Mediation can work well if you are in basic agreement about most of the issues but need help working through certain aspects, like the financial settlement or parenting plan.

Litigation. Sometimes referred to as the warfare model, each party hires an attorney who often tries to settle your case with the other attorney out of court. In fact, over 95% of cases are settled out of Court. If you want, or need, your day in court, then your attorney will prepare your case and represent you in court. This is the costliest form of dispute resolution, emotionally and financially. It is always destructive for the children involved. Such cases can drag on for many years. However, if you cannot agree, cannot communicate, where there is distrust and/or abuse, and you are willing to take the risk that a busy judge will decide your fate based on the arguments that your attorney makes, then litigation may be your only reasonable approach, in spite of how painful and expensive it can be.



Collaborative. A relatively new approach to divorce, collaborative divorce is used when each party feels that they need legal advice but want to work in an atmosphere of collaboration and cooperation to reach agreement. This approach is done completely outside of the court system until the final filing of all the documents. Collaboratively trained attorneys require the parties to sign an agreement stating that if either of the parties, or their attorneys, threaten, or take, any court action, or behave in a way that is not collaborative, then both attorneys (and the other advisors) must withdraw from the case, and none of the work product may be used by the parties in any future legal action. The attorneys, and other team members (such as the financial advisor, mental health professionals, divorce coaches, child specialists, etc) are there to help the couple to reach their own agreement. Fundamental to the approach is the knowledge that the parents still need to work together after the divorce to raise their children and to create a climate in which two healthy family units can exist for the children. Thus, effective communication between the parties is essential, and often steps to learn how to communicate better are taken during the collaborative process. More information about collaborative divorce can be found at www.ccfip.org, the web site of the Colorado Collaborative Law Professionals.

Parenting and Finance.

Two key issues in many divorces are the parenting plans and the financial settlement. In any of the approaches listed above, a financial divorce specialist can be of assistance in collecting the financial information and presenting it in a way that helps the parties, and their advisors, to make informed decisions, not only about the immediate situation, but about the long-term impact of the decisions made in the settlement.

Assess your Situation. It is important for couples to assess their situation and decide which is the best approach for them to take. If you can communicate effectively, your situation is not complex and you both feel you have enough knowledge to agree your settlement with relatively little professional input, then pro se or mediation may be your best choice. If you need legal advice to help you decide what is best to do or to represent you in your negotiations, then the traditional litigation model may be best. If you wish to minimize the conflict, and have professionals help you and your spouse to reach agreement outside of the court system, then the collaborative model may be best.

Steve McBride, MPIA, CDFA, is a Certified Divorce Financial Analyst based in Greenwood Village. He can be reached at 720 404 1607 or through his web site, www.DivorceFinanceColorado.com.

