



# COLLABORATIVE PRACTICE TORONTO

## What is Collaborative Practice?

Collaborative Practice is an out-of-court alternative for divorcing couples that has been gaining momentum across North America since its creation in 1990. Separation and divorce can be one of the most stressful and expensive transitions in life. Separating couples suddenly find themselves dealing with a series of unfamiliar social, legal and financial issues triggered by separation.

The Collaborative Practice approach brings together specially trained legal, family and financial experts to assist parties to work toward a separation agreement that is realistic, workable, confidential and meets the interests of both spouses and their children. A collaborative divorce is usually much less expensive than a traditional divorce because it eliminates the need for time consuming, expensive court appearances.

At the start of the process all parties must sign a contract agreeing to adhere to the three guiding principles of collaborative practice, which are;

1. A pledge not to go to court
2. An honest exchange of information by both spouses
3. A solution that takes into account the highest priorities of both spouses and children.

Collaborative Practice is a client-centered, solutions-oriented process. Both the parties and their lawyers make a commitment that negotiations will be principled, dignified and respectful. Issues are resolved without the threat of going to court, after a wide variety of options for settlement are explored. Often, the couple decides to make use of the expertise of other collaboratively-trained professionals. A neutral child specialist can provide insight into concerns of the children and help craft parenting plans. A neutral financial specialist can help gather and explain financial information and create future projections for settlement options. Family professionals help couples improve communication and manage conflict.

## What is the difference between Collaborative Practice and traditional adversarial divorce?

A key difference between Collaborative Practice and traditional divorce is the pledge to reach an agreement without going to court. Spouses going through a conventional divorce often become adversarial, and can end up in court. The ensuing conflicts can take an immense toll on all the participants, especially the children.

In a collaborative divorce, the spouses and their lawyers pledge in writing not to go to court. The separating couple meet with their lawyers and any other professionals they choose to involve in a series of meetings to work out an agreement. While each case is different,

several meetings may be all that is needed to come to an equitable agreement. The Collaborative approach allows separating couples to put child support and parenting agreements in place without having to wait months or years for a court ruling.

The cooperative nature of Collaborative Practice can greatly ease the emotional strain caused by the break-up of a relationship, and protect the well-being of children. If either party decides to leave the collaborative process and go to court, then both collaborative lawyers are required to resign from the case. This agreement ensures that everyone works hard at achieving a settlement acceptable to both spouses.

### **Why choose a collaborative divorce?**

Quite simply, because spouses and children need a more constructive and compassionate approach to one of life's most emotional events. In Canada, about 38 % of marriages end in divorce.

The end of a marriage or relationship is traumatic enough without the divorce process itself adding to the pain. While divorce will always remain a challenging life event, Collaborative Practice helps families make a more peaceful transition to a new life. Collaborative Practice works to strengthen relationships within the family, so that parties will be able to co-parent their children and maintain extended family networks after the divorce.

Couples can draw on the skills of a variety of collaboratively-trained professionals (lawyers, financial, family, and child specialists), to support the needs of their family. The goal is to work towards mutually-acceptable, constructive solutions to deal with parenting and financial issues, and help both spouses establish a solid foundation so they can move forward with their new lives.

### **What are the benefits of Collaborative Practice divorce?**

The benefits are many: sessions are held in private, so details are out of the public record. The clients, assisted by their chosen professionals, are in charge and make their own agreements rather than giving control to the court. This provides the opportunity for creative problem-solving, resulting in richer, more satisfying agreements.

Without lengthy waits for hearings or trial dates, the issues are resolved sooner and often less expensively. The couple and their family have the opportunity to benefit from the expertise of neutral professionals, including family, child and financial specialists. An agreement that is reached through mutual problem-solving (as opposed to by adversarial negotiation or capitulation) is more likely to be complied with over the long run. Another benefit is that spouses really craft their own solution, rather than have a stranger (a judge or arbitrator) decide for them.

### **What is the difference between mediation and Collaborative Practice?**

A mediator is a neutral third party. Clients work with their lawyers in between mediation sessions if they wish to receive legal advice on a particular issue. The lawyers are usually not present during mediation. Once the mediation is completed, the lawyers finalize the

wording of the agreement, and advise their clients whether they should sign it. Mediation is often appropriate for couples who are relatively low conflict and can negotiate without their lawyers present.

Collaborative Practice can work for clients experiencing low, medium or high conflict or trust issues, who want the support of their lawyers and other professionals during the negotiation sessions. Collaborative professionals provide advice and information to their clients every step of the way.

### **What other professionals might be involved besides lawyers?**

Divorce takes place on many levels – legal, financial and psychological. Specially trained divorce coaches who work with individual parties, or neutral family, child specialists, and financial specialists are available as resources to help the spouses manage their emotions, meet the needs of any children, and develop workable property division and support arrangements.

### **What distinct skills do collaborative professionals bring to the process?**

Collaborative professionals are trained in principled negotiation and effective communication skills. The goal of Collaborative Practice is to explore ways to satisfy the needs and interests of both spouses to create a win-win solution. The parties avoid taking adversarial positions that lead to a “winner” and a “loser”, and destroy relationships in the process.

### **What types of family law issues can be resolved using the collaborative process?**

All family law issues can benefit from the collaborative process, including issues concerning parenting arrangements (how to share time with the children and make decisions for them); spousal and child support, the valuation of a business or other asset, and the division of property and the family home.

### **How does Collaborative Practice actually work?**

When a separating couple chooses a Collaborative Practice approach, they each hire a Collaboratively trained lawyer and decide if they need additional Collaborative experts, such as coaches, child experts or financial specialists, to join (or work alongside) the process. The spouses and their chosen professionals sign a Participation Agreement undertaking to act in good faith, disclose all relevant information, put the children’s needs first, and look for mutually acceptable solutions. Negotiations take place in a series of settlement meetings where information is exchanged and an array of options considered. Mutual problem-solving by all the parties leads to the final divorce agreement.

See “General Guidelines for Negotiation” at [www.collaborativepracticetoronto.com](http://www.collaborativepracticetoronto.com) for further detail.

### **Is Collaborative Practice a faster way to get a divorce?**

Individual circumstances determine how quickly any divorce process proceeds. However, Collaborative Practice can be a more direct and efficient form of divorce. From the start, it focuses on problem-solving, not blaming or endlessly airing grievances. Full disclosure and open communication helps to assure that all issues are discussed in a timely manner. Finally, because settlement is reached out of court, there is no waiting for the multiple court dates that are often needed to dispose of the issues. Interim arrangements for children and support can be addressed within a few weeks instead of months.

### **How does Collaborative Practice focus on the future?**

Divorce is both an ending and a beginning. Collaborative Practice helps each spouse anticipate his or her needs in moving forward, and include these in the discussions. When children are involved, Collaborative Practice makes their future a number one priority. Collaborative Practice helps couples achieve a dignified closure of their relationship, and make a smooth transition to the next stage of their lives.

### **Tell me more about the history of Collaborative Practice?**

“Collaborative Family Law” was started in 1990 by a Minnesota lawyer who had many years of courtroom experience using the adversarial divorce model and knew the stress and disruption that it caused to families. Although the collaborative model originated with lawyers, as family and financial professionals began adding their expertise and support an interdisciplinary approach evolved called “Collaborative Practice”. The collaborative approach has spread to every major city in Canada and the U.S., and now to Europe and Australia.

Collaborative Practice Toronto is an interdisciplinary group of over 120 collaboratively trained professionals and is affiliated with the International Academy of Collaborative Professionals.

For more information about Collaborative Practice Toronto, and a list of collaboratively-trained professionals, see:

[www.collaborativepracticetoronto.com](http://www.collaborativepracticetoronto.com) and [www.collaborativepractice.com](http://www.collaborativepractice.com).