

ALTERNATIVE PROCESSES TO LITIGATION
WHAT ARE THE CHOICES

- A. **Cooperative Divorce:** A process which links a negotiation model with a dispute resolution mechanism in a binding Participation Agreement. Cooperative Divorce allows the parties to choose from all of their options how they will negotiate and what will happen if their negotiation ends in a dispute. In Cooperative Divorce, impasse is not viewed as failure, but only concludes the first phase of the process. The second phase, if necessary, is how the dispute, or impasse, will be resolved. In Cooperative Divorce, then, the parties determine how disputes will be dealt with before they arise.
- B. **Collaborative Divorce:** A process during which the parties and their attorneys, after committing not to threaten or resort to court intervention, enter into a contract to meet to identify issues, communicate needs and resolve differences in a win-win manner whenever possible. The Collaborative Process is predicated upon four-way meetings and emphasizes a team approach to problem solving. The contract provides that the attorneys withdraw from the case if a settlement is not reached. As such, the engagement of counsel is limited and disassociated with outcome.
- C. **Mediation:** A negotiating model, and also a dispute resolution mechanism during which the parties meet with a mediation expert and try to resolve differences through a combination of negotiation and communication while being independently represented by attorneys who advise their clients as to their rights and obligations. Mediation generally requires a parity in the power positions of the parties. A skilled mediator, however, can effectively work with the parties on a wide range of issues, especially child related matters.
- D. **Facilitated Negotiation:** A negotiating model during which the parties and

their attorneys agree to a structured negotiation with the aid of a neutral third party who oversees the process and assists in bringing closure to the negotiation. This process is particularly helpful if there is a prevailing lack of trust between the parties, between the attorneys, or both. It is also useful where a particularly difficult or unique issue is presented that will make the negotiation difficult in the best of circumstances.

- E. **Arbitration:** A dispute resolution mechanism during which the parties and their attorneys present evidence in a streamlined manner to a neutral person or panel for either a binding or non-binding decision. Arbitration provides a discreet, informal, expedited and potentially conclusive alternative to litigation.
- F. **Cooperative Litigation:** A dispute resolution mechanism which utilizes the existing framework of the judicial system, but presents issues to the court for determination in an efficient, professional manner without personal attacks or “gotcha” tactics.
- G. **Private Judge:** A dispute resolution mechanism which combines some of the features of both Arbitration and Litigation. After a Divorce Complaint is filed, the parties request that the court appoint a Private Judge to hear the matter. The Private Judge is a retired jurist who can then schedule hearings on an expedited basis. Any decision of a Private Judge, may, however, be appealed.