

Advantages of Consensual Dispute Resolution During Separation

	Court	Consensual Dispute Resolution
CONTROL	<ul style="list-style-type: none"> - court calendar, process and forum - decisions by judge that must be based on “law” - decisions predictable in some areas, wildly unpredictable in others 	<ul style="list-style-type: none"> - family’s timeline, family’s forum - decisions by parties based on their particular values & interests - no decision made that parties don’t have time to think about and sign off on
PRIVACY	<ul style="list-style-type: none"> - public record - public courtroom 	<ul style="list-style-type: none"> - parties can choose to only file/reveal bare minimum information
INFORMATION	<ul style="list-style-type: none"> - disclosures mandated, but discovery process clumsy and costly - more tendency towards “competing experts” 	<ul style="list-style-type: none"> - commitment to transparency and flow of information - can focus resources on specialized neutrals
HOLISTIC	<ul style="list-style-type: none"> - court can only act on certain subjects within its jurisdiction, and some interested people in family may not have “standing” to participate 	<ul style="list-style-type: none"> - parties can address any issues that need resolving and can confirm together not only what needs to be on the table, but who should be involved in decision-making
SUPPORT	<ul style="list-style-type: none"> - court and staff do not have time to understand and assist a particular family’s system and needs - court mandated evaluators, experts etc. provide support to the court’s decision-making, not necessarily to support a family’s needs 	<ul style="list-style-type: none"> - parties create a process that brings in the amount and type of support that makes sense for their family and the individuals within that family
RESPECT	<ul style="list-style-type: none"> - heterosexist “normative” understanding (or lack of understanding) of families and gender roles may limit court’s ability to make decisions appropriate for lgbtq family - potential long term negative impact of “bad law” - system is based on adversarial design which can deteriorate an “amicable” or aggravate an already heated break-up 	<ul style="list-style-type: none"> - parties choose to work with support professionals who are respectful of lgbtq and varied families and genders - relationships between parties themselves and among parties and their extended family & community have more opportunity to be preserved through dignity of non-adversarial process
CREATIVE	<ul style="list-style-type: none"> - court doesn’t have the time or information or “big picture” power to craft unique solutions 	<ul style="list-style-type: none"> - parties have power and knowledge to come up with any solutions that all involved agree to
COST	<ul style="list-style-type: none"> - resources often spent by both parties on all stages of process regardless of appropriateness or need 	<ul style="list-style-type: none"> - resources can be focused in areas where a particular family needs more support
DURABLE SOLUTIONS	<ul style="list-style-type: none"> - inappropriateness or vagueness of decisions may make them harder to abide by - process does not often equip parties to solve the inevitable wrinkles/problems that will continue to come up (esp. when there are kids involved) 	<ul style="list-style-type: none"> - voluntary agreement on decisions make them more likely to be mutually beneficial; therefore, follow-through more likely - process may allow for tools to aid with future problem-solving; can be integrated part of family transition/transformation