

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT
HAMPSHIRE DIVISION**

**CONSENT TO PARTICIPATE IN THE
FAMILY RESOLUTIONS SPECIALTY COURT**

Your family has been accepted for services by the Family Resolutions Specialty Court (FRSC). To participate in FRSC, both parents must sign this Consent.

Description of FRSC

FRSC is a new approach for families in family court. FRSC has three important goals:

1. To help manage conflict within a family,
2. To reduce the trauma for children and their parents, and
3. To offer families tools for moving forward.

Each family is assigned a Family Consultant (FC). The FC is a mental health professional experienced in child and family work. The FC guides you throughout the FRSC process. The FC provides you with support and information. The FC also makes referrals for community services if needed. Service referrals may include counseling, parenting support, and budgeting and housing programs.

You first meet the FC in your intake. Then you meet the FC again in a guided interview. You will continue to meet with the FC as often as necessary through the process. The FC attends all court conferences with you. The FC gives information and recommendations to the Judge. There is a more detailed description of the FC's role in the written materials that have been provided to you.

Your child or children may have a lawyer (the Child's Attorney) appointed to represent them. A mediator is always appointed. The mediator helps you discuss and resolve points of disagreement throughout the process.

In the FRSC process, you and everyone working with you, function as a team. The team shares information, talks openly together, and helps you make decisions for your family. The team members are the parents, the FC, sometimes a probation officer, the parents' lawyers (if any), the Child's Attorney, the mediator, and the Team Coordinator.

Procedure

In FRSC, here is the process you will be following:

1. You may review this Consent with a lawyer. Once signed, return it to the Court.
2. You will have an intake meeting with a member of the court staff and the FC. Then you will have a guided interview with the FC. You will have a series of meetings, as needed, with members of the team. You will have access to mediation.
3. You may hire a lawyer to represent you, or you may represent yourself. Your lawyer is

your advocate and your legal counselor. A legal counselor helps you understand the laws that apply. A legal counselor talks to you about the effects of those laws on you, your children, and your parenting obligations. Your lawyer will work with you and with the team members to encourage a cooperative relationship between you and your co-parent. Your lawyer may attend special trainings for lawyers practicing in FRSC.

4. The Court may appoint a lawyer to represent your children. That lawyer will be appointed through the Hampshire County Bar Association's Domestic Relations Program for Children. You may jointly request that the Court not appoint a lawyer for your children. If your request is approved, the Court may still appoint a lawyer later if needed.
5. There will be a series of team meetings. The Court may arrange for a Team Coordinator to help the team work together efficiently. The Team Coordinator helps the team plan the details of the FRSC process to fit your needs. The Team Coordinator is a lawyer with knowledge of family law. The Team Coordinator is neutral and does not act as the lawyer for either parent. The Team Coordinator will not communicate individually with either parent.
6. There will be a series of court conferences. They will all be conducted by the same FRSC Judge until the matter is completed.
7. The court conferences are legal proceedings that are carried out in a respectful and informal manner. The Rules of Evidence that control typical court proceedings are relaxed.
8. The full team usually attends the court conferences.
9. At the court conferences, all team members update the FRSC Judge. You and the other team members may tell the Judge about the needs of each family member and the issues you are working on. The team will review what still needs to be done and how best to accomplish it. The FRSC Judge may make temporary court orders if they are needed.
10. The Court will assign a mediator to your family at the beginning of the process. You and the mediator will decide when the best time is to start mediation. The mediator will help you discuss settlement of the issues you are working on. By signing this Consent, you agree to participate in mediation.
11. Throughout the FRSC process, both parents are required to provide, to the Court and to your co-parent, complete and accurate information on your income, expenses, assets, and debts.

Use of Electronic Communication in FRSC

Communication in FRSC may sometimes be by electronic means. You understand and agree to the following when electronic communication is in use:

1. You will use the technology used by the Court and support team members for all FRSC team meetings and court conferences.
2. You will follow the guidelines set up by the Court and support team members.
3. You will help protect the children by making sure they don't see or hear adult electronic conversations.
4. You will be sure that no other adults are within hearing distance during electronic conversations unless all others online agree.
5. You will not record any electronic FRSC conversation.
6. You will participate in all electronic court conferences with your video turned on unless you do not have access to video.

Confidentiality and Privilege

If you participate in FRSC, you understand and agree as follows:

1. **Confidentiality and Privilege:** In Massachusetts law, these are two important words to understand.
 - A. Confidentiality means that if you have a relationship with a lawyer or with a mental health professional, they are not allowed to tell other people what you have told them unless you give them permission.
 - B. Privilege means that you have a right to prevent your lawyer, mediator, or mental health professional from testifying in a court about what you have told them. In some situations, a Court can make an order that the mental health professional testify even if you are against it.
 - C. In FRSC, confidentiality and privilege are treated a little differently. By signing this Consent, you are agreeing to the FRSC process.

In the FRSC process, the FRSC Team members (Family Consultant, mediator, parent and Child's Attorneys, and Team Coordinator) may disclose information received in the FRSC process to other members of the team.

The FRSC Team members may not disclose information received in FRSC to those outside the FRSC process except for the following:

- By consent of the parents
 - By court order or requirements of law
 - To other persons (accountants, therapists, lawyers, etc.) who are also bound to keep the information confidential
 - To the FRSC Judge, but only in the courtroom and only in your presence.
2. **The Family Consultant:** The FC is a mental health professional, but not your counselor or therapist. So, the laws of confidentiality and privilege do not apply to the FC. In FRSC, you and the FC are part of the team where information is appropriately and reasonably shared.

The FC shall not be a witness for either parent or for the children in any legal proceedings, current or future, between the parents.

If you see a mental health professional, other than the FC, for services before, during, or after your participation in FRSC, you keep all of your rights with that professional to the protections offered under the law. So do your co-parent and your children if they are seeing a mental health professional outside of FRSC.

3. **Your Attorney:** You keep all your rights to the attorney/client privilege in FRSC.
EXCEPTIONS:

- A. In the traditional family law system, if you are represented by an attorney, the

attorney representing your co-parent or the attorney representing your children ordinarily may communicate only with your attorney and not directly with you. In FRSC, all the attorneys will, to the greatest extent possible, communicate with the full team in each step of the FRSC process. By signing this Consent, you and your attorney agree that your attorney will use this more open form of communication. For example, even when the other parent is represented by counsel, your attorney will include both you and the other parent in any communications your attorney makes to the team.

- B. Similarly, the Child's Attorney often needs to speak directly with the parents. By signing this Consent, you and your attorney agree that the Child's Attorney may speak with you directly, rather than solely through your attorney.
4. **The Child's Attorney:** The child's relationship with his or her lawyer is privileged just as the adult's is. You should be prepared that the child's lawyer can't tell you much about what the child says in that private relationship unless the child authorizes him or her to do so.
 5. **The Mediator:** Under Massachusetts law, the mediation process is entirely confidential. But by signing this Consent, you authorize the mediator to speak with other members of the FRSC Team. You and your mediator will sign a separate Agreement to Mediate that explains mediator confidentiality in FRSC.
 6. **The Probation Officer:** Your work with the probation officer, if any, is not confidential, and there is no privilege.
 7. **The Team Coordinator:** Communication you have with the Team Coordinator is not confidential or privileged under the law. However, the Team Coordinator is bound by the FRSC confidentiality process described above.
 8. **Reports of Serious Harm:** The FC and the probation officer are required by law to protect children, persons with disabilities, and elders from serious harm. If the FC or probation officer thinks a child, person with a disability, or elder is a risk of serious harm, they must report the concern to the proper Massachusetts agency. These reports are rare in FRSC.

Costs

1. **The FC:** There is no fee for the FC.
2. **The Child's Attorney:** There is no fee for the Child's Attorney.
3. **The Mediation:** There is no fee for mediation.
4. **Outside Services:** You are responsible to pay for any services you use that are outside the FRSC process (like counseling, extra parenting courses, etc.). Your health insurance may cover some of these expenses.

5. **Your Child's Privilege:** If your child has a therapist, that therapist cannot tell the team or the Court anything your child says or writes unless the child agrees or unless there is a Court order. If someone on the team wants information from the therapist, the Court appoints a different lawyer called a "Guardian to Waive or Assert the Child's Privilege" to decide if the child's therapist should communicate with the team or Court. If the Court appoints this lawyer, you may have to pay the lawyer's fee. The Court will look at your income and financial situation to figure out a fair amount for you to pay.

Leaving FRSC Before You Finish the Process

1. You may leave FRSC at any time. This is called "opting out." The FRSC Judge can also end your participation in FRSC at any time without your consent. If your participation in FRSC ends before you finish the process, you will usually go to one final court conference. Then you will go into the regular court process with another judge. The Rules of Evidence will be used in the regular court process.
2. Any temporary orders the FRSC Judge made before the opt out will stay in place until the new Judge changes them.
3. Any partial judgments the FRSC Judge made will stay in place.
4. You will no longer have the services of the FC.
5. If a probation officer was part of your FRSC Team, they may continue to work with you in the regular court process. The probation department will decide.
6. If you have a lawyer, you and your lawyer will decide whether the lawyer will continue to represent you.
7. In most cases, the Child's Attorney will end services to the children when the FRSC process ends. If the Child's Attorney wants to continue in the case after the FRSC process ends (and if you and your co-parent agree), the Child's Attorney and both parents can jointly request it. The new judge will decide.
8. Any outside services that you were receiving during FRSC may or may not continue. You will work this out with the service provider directly.

No Subpoenas to Support Team Members. The parents, the parents' lawyer(s) and the Child's Attorney shall not subpoena any member of the FRSC support team to participate in any way in any court proceeding in FRSC or in the traditional process. Exception: A parent, parent's lawyer, or Child's Attorney may subpoena a probation officer by using the designated subpoena process.

Social Scientist Research. By signing this Consent, you understand that: Social scientists will be doing research to learn how well FRSC is working. They will ask for some feedback from you. You agree that your feedback can be used in the research. If the research is published or shared with others, your names and other identifying information will not be used.

- The research is separate from the FRSC program.
- The researchers and the Smith College Institutional Review Board (IRB) are not responsible for how FRSC works.
- You shall not subpoena the research or the researchers in any legal disputes between you and the other parent.
- If you have any questions about FRSC, you can bring them to the Team Coordinator, Judge, or any team member.

- If you have questions about the research, you can bring them to the Research Coordinator, Dr. Marsha Kline Pruett, PhD, at mpruett@smith.edu.
- If you have any concerns about how the research is being conducted, you can contact the Institutional Review Board at irb@smith.edu

SIGNATURE OF THE FRSC PARTICIPANT:

I have read this Consent to Participate. I have had enough time to talk to a lawyer about it if I wanted to. I have no questions about the Consent to Participate. I have been given a copy of it. I agree to participate in FRSC.

Participant's Signature

Participant's Signature

Participant's Printed Name

Participant's Printed Name

Date_____

Date_____

FRSC TEAM MEMBERS CONSENT TO PARTICIPATE

By signing below, I agree to practice in FRSC in accordance with the procedures set out in this Consent to Participate.

Parent Attorney's Signature & Date

Parent's Attorney's Printed Name

Parent Attorney's Signature & Date

Parent's Attorney's Printed Name

Child Attorney's Signature & Date

Child Attorney's Printed Name

Family Consultant's Signature & Date

Family Consultant's Printed Name

Mediator's Signature & Date

Mediator's Printed Name

Team Coordinator's Signature & Date

Team Coordinator's Printed Name