

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

**FAMILY RESOLUTIONS SPECIALTY COURT**

**“JUST THE BASICS”**

**INTRODUCTION.** The traditional adversary system can be very hard on families who are transitioning to two households (for parents in divorce or for never-married parents). “Me versus you” “I’m out to get my rights” “Let the judge decide” are dangerous goals if we want to protect kids and encourage lifelong co-parenting that works.

The Family Resolutions Specialty Court (FRSC) creates a very different model. Its main characteristics are:

- **SELF EXPRESSION/SELF-DETERMINATION.** The parents’ own voices are primary. To the greatest extent possible, the Court supports the parents’ self-determination about parenting, money, and property.
- **FOCUS ON NEEDS, NOT RIGHTS.** The focus is on meeting the NEEDS of each family member, not just “mine.”
- **COMMUNICATION.** There is an emphasis on learning to communicate effectively as co-parents.
- **INFORMALITY.** The Judge holds “court conferences,” rather than trials or hearings, sits with the parents at a conference table and discusses with them what they need to move toward finality. The Rules of Evidence are usually suspended.
- **SPECIAL SERVICES.** To accomplish the goals of FRSC, the family receives special services from four different kinds of professionals, including:
  - A. An Attorney Appointed for The child. The parents may jointly decline representation for the child unless there is a reason for the Court to insist on the appointment.
  - B. A Family Consultant – a mental health professional who is not a therapist or counselor for the family, but rather supports the parents throughout the process, gives information about kids’ needs and adults’ needs, assists the parents to practice co-parenting skills and co-parent communication skills, and makes referrals for additional services if necessary.
  - C. A Probation Officer (already on the Court staff) is appointed in some cases – particularly where parents are representing themselves. The probation officer helps with case management, filling out forms, exchange of financial information and emergencies.

- D. A Mediator who helps the parents arrive at a full agreement on all issues they have to solve to complete the process. The parents agree in advance to participate in mediation as an expected element of the FRSC process.
- E. A Team Coordinator who may be appointed to help the team work through the process efficiently and help them plan a specific approach suited to each family. The Team Coordinator is an attorney who knows domestic law and procedure.

### **THE FRSC APPROACH TO LEGAL RIGHTS**

- A. If the parents have attorneys, the attorneys are expected to focus primarily on their “client counseling” role, rather than on their “advocacy” role – helping the parents understand the law, assisting them to focus on the needs of each family member, helping them make tough decisions in the interest of their own, each other’s, and their children’s needs. They are expected to be open to understanding the needs and desires of both parents (even the parent who has not hired them) and of the children. They are expected to learn the collaborative “language” of FRSC and to be able to speak and listen comfortably with both parents.
- B. The concept of legal “rights” takes a new shape: Each parent’s legal rights remain intact, but the emphasis is not on “getting everything the law allows me to get” or on the demand that “my ideas will control the outcome” – but rather on “finding the best allocation of money, property, decision-making and time with the children that will help all of us move ahead productively and with the least uncontrolled conflict.” Each individual – each parent and each support team member – has a responsibility to help in that search. The task encompasses an inquiry into “what I need, what the other parent needs, what each child needs and what will best serve the family group as a whole.” The approach recognizes that what seems best right now may become different in the future. It recognizes that a key need of each parent (though it is not a legal right) is the need to maintain a cooperative atmosphere with the co-parent that will encourage each child to WANT to spend time with both parents. The parents begin to see that the battle for rights is a less effective way to restructure a family than the mutual recognition of needs.