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## FORENSIC COUNSELING SERVICES

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### **Examples of decision making and “trigger” language in parenting facilitation orders**

Occasionally clients request that the parenting facilitator serve as a “tie breaker” for them in situations where they cannot resolve issues and simply need a decision which they can move forward from. Less frequently courts and clients are looking for monitoring of various issues that impact on the children in question so that automatic consequences (both positive and negative) are triggered based on parents’ actions without need for further court intervention. While from a philosophical standpoint we prefer to help parents reach resolutions on their own, or create structures for resolving their own issues, nationally some of the biggest requests in parenting facilitation type services are for these components.

#### Decision making language

It seems clear from legislation enabling parenting facilitation that the courts cannot order parents to a third-party decision maker, although like other jurisdictions across the nation parents can elect to agree to utilize such services. Over the years we have received a number of orders that have some level of decision making by the parenting facilitator agreed to by the parties. These issues have ranged from time-sensitive registration in extracurricular events to ‘make up’ time for parents who are in reserve military service and unable to exercise their usual parenting time with their children due to drill and deployment issues. This page lists excerpts from some of the best-written orders as starting points for parents and attorneys to consider when drafting similar agreements.

- Follow up on recommendations and/or additional services:

“The parents agree and it is so ordered that both parents shall comply with any and all recommendations made by the parenting facilitator as to any behavior changes or additional services for themselves or the children deemed necessary by the parenting facilitator.”

- Exchange location disputes (particularly an issue for families traveling over summers, or where families travel extensively for exchanges):

“The parents agree and it is so ordered that any disputes between the parties concerning the location for an exchange of possession shall be resolved by the parenting facilitator, whose decision shall be binding upon both parents and enforced as an order of this court.”

- Extracurricular activities

“The parents agree and it is so ordered that, in the event of a dispute between the parents the parenting facilitator shall have the authority to make binding decisions about enrolling the children in extracurricular activities, including sports.”

- “Make up” for missed parenting time (due to National Guard drill, business travel, etc.)

“The parents agree and it is so ordered that in the event the [Mother/Father] misses any of their periods of possession of the children because of [CONDITION] then that lost time may be made up as directed by the parenting facilitator.”

- Picking summer time

“It is ordered that the parents meet with the Parenting Facilitator in MONTH of each year, beginning in 2010 and thereafter, for the purpose of scheduling each party’s summer possession of the children. The parents are ordered to attend the MONTH meetings as scheduled by the Parenting Facilitator.”

#### “Trigger” conditions

One of the fundamental tenants of parenting facilitation is the ability of the parenting facilitator to monitor and report back on the parties’ compliance with court orders. Often when parents are in need of treatment or intervention services the court is not in a position to efficiently evaluate parental compliance and participation.<sup>1</sup> These kind of triggers are often incorporated with a defined set of consequences (such as a “stair step” increase in parenting time as a parent rectifies deficiencies, or movement to supervised visitation if a parent ceases participating in after care). For example, it would be cumbersome and expensive to set a hearing for the court to increase a parent’s contact with a child after they have successfully completed an Intensive Outpatient Program, especially if the parents each held differing views as to the level of success in the program.

In all of this, the parenting facilitator does not make recommendations regarding possession or access issues, which they are prohibited from doing by statute. Rather, with the various consequences already set by the court the parenting facilitator can report back solely on behavioral progress of the parents. This is more than a fig leaf or a proxy, and focuses mental health professionals on assessing what they were trained and licensed to assess: behaviors and interpersonal functioning.

- Reporting on basic trigger conditions:

“The parents agree and it is so ordered that [CHANGE/RESTRICTION/REQUIREMENT] shall continue until such time as the parenting facilitator certifies in writing to both parents and the court that [CONDITION].”

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<sup>1</sup> There is a difference between attending a service (being a warm body in a seat) and actively participating in services and making the behavioral changes that are needed.

- A detailed skill-building example:

“Once Parent A has completed the ‘Bottles and Blocks’ parenting class, providing a certificate of completion to the parenting facilitator, and is able to demonstrate to the parenting facilitator basic infant caregiving skills Parent A shall have [court’s predetermined change in parenting time].”

- A detailed insight and action-oriented example:

“Once Parent A is able to demonstrate insight into how their alcoholism has negatively impacted the child in question and is willing and able to express that to the child in a healthy and supportive manner Parent A shall have [court’s predetermined change in parenting time].”

- Compliance with treatment:

“Should the parenting facilitator be unable to confirm Parent A is in compliance with their psychiatric treatment plan, Parent A will [return to the prior court ordered access level for # of weeks]. At the end of this time compliance shall be reassessed and Parent A either advanced to [the next level court ordered access] if compliant, or [other consequence], repeating this process until Parent A returns to compliance with their psychiatric treatment plan.”

Each individual situation will have highly case-specific issues that will need to be addressed, however it is hoped that these each serve as examples of the parenting facilitator monitoring the fundamental issues of concern, and then reporting back on those issues. While this will obviously come with attendant consequences (positive or negative, based on the parents’ actions) those consequences must be predetermined by the court, rather than created ad hoc by the parenting facilitator.