

Early Resolution Registry
Information for Private Consensual Dispute Resolution Practitioners

On May 17, 2021, a new set of Provincial Court Family Rules was implemented. These rules aim to help families to reduce conflict and work towards earlier resolutions outside the court process, make court process and forms user friendly, and make each court appearance meaningful and productive. The Ministry of Attorney General and the Provincial Court jointly led the modernization of the rules supported by a dedicated working group and informed by a public consultation.

The new rules and forms are in [BC Reg 120/2020](#) and section by section explanations of the new rules are in [Provincial Court Family Rules \(PCFR\) Explained](#). Information is also available on the government website: <https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/your-options/early-resolution>.

Part 2 of these Rules introduced Early Resolution Registries, currently limited to the Victoria and Surrey Provincial Court registries.

The rules for Early Resolution Registries includes early resolution requirements for *Family Law Act* family law matters (including parenting time, parenting responsibilities, guardianship, child and spousal support, contact, and property division respecting a companion animal) prior to an Application About a Family Law Matter being filed. The process form family law matters in these registries is initiated by filing a notice to resolve in Form 1 [*notice to resolve a family law matter*], and providing a copy of the notice to resolve to each other party.

Prior to filing an Application About a Family Law Matter or a reply to an application each party must:

- Participate in a needs assessment with a Family Justice Counsellor (under rule 16)
- Complete a parenting education program (under rule 17)
- Participate in at least one consensual dispute resolution session (under rule 18).

Rule 2 defines Consensual Dispute Resolution as:

- (a) mediation with a family law mediator who is qualified as a family dispute resolution professional in accordance with section 4 [*family law mediators*] of the Family Law Act regulation.
- (b) a collaborative family law process conducted in accordance with a collaborative participation agreement
- (c) facilitated negotiation of a child support or spousal support matter with a child support officer employed by the Family Justice Services Division of the Ministry of Attorney General.

The intention of the early resolution process in these registries is to encourage parties to resolve their family disputes by agreement or to help them obtain just and timely decisions in Provincial Court.

The early resolution process aims to improve outcomes for families by helping parties to identify their legal and non-legal needs through early needs assessment and, where appropriate unless exemptions apply, ensure parties attempt one consensual dispute resolution (CDR) session to resolve their family law disputes.

Early information and needs assessment related to this initiative are provided through Family Justice Services Division at the Justice Access Centres (JAC) in both Victoria and Surrey.

Please note this is specific to:

(1) the Victoria and Surrey Provincial Court registries only; and,
(2) applies to Provincial Court family law (FLA) matters, such as child support, spousal support, parenting arrangements, contact with a child, guardianship of a child and property division respecting a companion animal. It does not apply to CFCSA matters, protection orders, enforcement or other time sensitive matters.

Private family law mediators and collaborative family law practitioners interested in further information can also contact the Justice Access Centres directly:

- Victoria Justice Access Center- (250) 356-7012
- Surrey Justice Access Centre- (604) 501-3100

What role do private family law mediators and collaborative family law practitioners have in the Early Resolution Registries?

Rule 2 definition of Consensual Dispute Resolution specifically includes the following processes facilitated by private practitioners:

- (a) mediation with a family law mediator who is qualified as a family dispute resolution professional in accordance with section 4 [*family law mediators*] of the Family Law Act regulation
- (b) a collaborative family law process conducted in accordance with a collaborative participation agreement.

These processes fulfill the CDR requirement in Early Resolution Registries. Parties are considered to have completed the CDR requirement if they have participated in CDR in the 12 months prior to engaging the Provincial Court or following their individual needs assessments at the Justice Access Centre (JAC). The JAC is responsible for tracking the completion of the early resolution requirements and communicating confirmation of these requirements to the Provincial Court.

How were private family law mediators and collaborative family law practitioners engaged in determinations related to Early Resolution Registries?

The provincial working group for the Provincial Court (Family) Rules reform project included family law mediator/lawyers. There was also consultation with other collaborative family law practitioners in the larger Rules reform project, and the public consultation on the proposed Rules occurred in 2019 where private CDR professionals were invited to provide feedback.

Prior to launching the early resolution requirements in Victoria, family law mediators and lawyers in Victoria were invited to several engagement sessions. This included discussions of the role of private practitioners in the early resolution process. One of the goals of these discussions was to determine a reasonable and effective approach to ensuring that parties are aware of their options for fulfilling the CDR requirement and that those who have fulfilled the early resolution requirements are able to receive confirmation of their participation should they choose to engage in a Provincial Court process in the 12 months following CDR.

Some of the key considerations heard during those meetings were that confidentiality of the CDR process was adequately protected, and that the confirmation process should be streamlined, support the consensual dispute resolution process and not place undue effort on parties and CDR professionals.

How are issues of confidentiality and process addressed?

Confidentiality issues are addressed by providing information and obtaining consent from both parties for a practitioner to provide confirmation of parties' participation in a CDR process (meeting the CDR requirement):

- Parties will be advised at needs assessment with the Family Justice Counsellor at the JAC of how confirmation will be provided to the court to enable them to proceed if the parties need the court's assistance to address unresolved issues.
- Consent from both parties for this information to be shared by the CDR professional, for the purposes of advising the court the requirements have been fulfilled, will be gathered by either the private CDR professional or the Justice Access Centre.

To create an effective confirmation process:

- Private CDR professionals will not provide confirmation of private CDR to the JAC unless a party requests it;
- A party may contact the private practitioner directly to make this request, or the request may come to JAC staff who will then contact the CDR professional;
- When requested, confirmation from private CDR professionals will be sent directly to the Justice Access Centre.

What is the process for gathering consent from the parties for private family law mediators and collaborative family law practitioners to share information with the JAC and the Provincial Court?

Based on the suggestions from private CDR professionals there is a two-stream approach to gathering consents to release information for the purposes of confirming fulfillment of the CDR requirement.

The initiating court document for the Early Resolution Registries is a Notice to Resolve a Family Law Matter. This document is a basic form that signals to the other party that there are family law issues they would like to resolve, and initiates the early resolution process.

Private CDR professionals identified that it would be important to ask clients to identify if a Notice to Resolve a Family Law Matter has been filed with the Provincial Court as a part of their intake process to ascertain if parties have engaged with the court.

- (1) *Clients who have filed a Notice to Resolve prior to engaging in CDR-* In these cases when service with a private CDR professional is initiated, that professional will discuss and obtain consent to disclose information provided for confirmation of the CDR requirement if either party, at the conclusion of the CDR process, decides to proceed with court to resolve any issues within the following 12 months.
- (2) *Clients who have not filed a Notice to Resolve prior to engaging in CDR-* In these cases CDR professionals may choose not to gather consent from the parties, to avoid negatively impacting the CDR process when no one has initiated a court process. If either party initiates the court process in the 12 months following the conclusion of CDR, then the Family Justice Counsellor providing needs assessments will obtain consent to release information from both of the parties at that time.

*See the flow chart at the end of this document for a visual representation of the process.

Private CDR professionals suggested that it may be helpful to have a term on their agreement to mediate or participation agreement that identifies this process and obtains consent. For example,

I consent to [name of practitioner] providing the information required to confirm to the Provincial Court that parties have met the Consensual Dispute Resolution requirement, pursuant to Rule 18 of the Provincial Court Family Rules, should either party request it.

When should the information be submitted to the JAC?

This information will only be provided to the JAC when a party requests confirmation of the early resolution requirements be submitted.

- If parties had filed a Notice to Resolve prior to receiving services of a private CDR professional, that professional will have consent to share the information at the request of a party. If either party contacts the CDR professional and requests confirmation this will be submitted directly to the JAC.
- If parties had not filed a Notice to Resolve prior to receiving services of a private CDR professional, following a party filing the Notice to Resolve and after both parties have completed needs assessments at the JAC, if either would like to proceed the Family Justice Counsellor will contact the CDR professional directly to advised that parties have consented to release information and have requested confirmation be submitted (and can provide written confirmation of that consent).

How will confirmation of early resolution requirements be provided to the court registry?

At the request of a party, the JAC will be submitting a file summary document to the Provincial Court Registry. This document includes limited information to confirm to the court registry that the requirements have been fulfilled. This will enable the filing of, or reply to, an Application About a Family Law Matter and then the matter can proceed to a Family Management Conference (first appearance).

Is a specific confirmation of CDR form required from private CDR professionals?

The court has requested the same information from private CDR professionals as from the family justice counsellors and child support officers providing CDR services at the JAC. A consistent fillable pdf form for confirmation has been created to address each of the areas on the file summary sheet. Please contact the local JAC directly to obtain a copy of the form or for more information about this confirmation process. Completed forms will be emailed directly to the JAC.

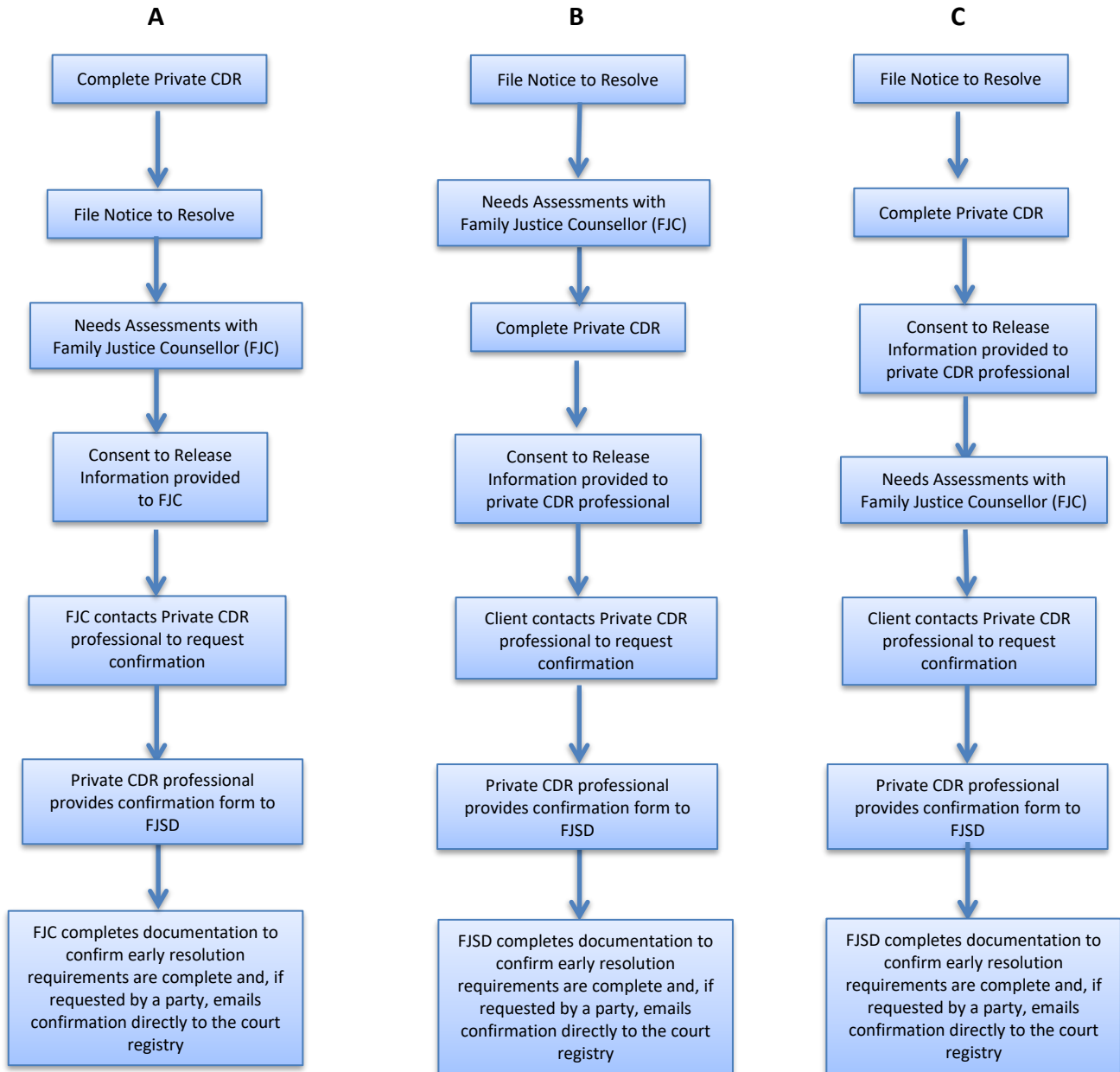
Victoria: JSBVictoriaJACEarlyResolution@gov.bc.ca Surrey: JSBSurreyJACEarlyResolution@gov.bc.ca

What if confirmation of participation in the CDR process cannot be obtained, either because one party withholds consent, or the private CDR professional cannot be contacted?

If the family justice counsellor has been unable to gather confirmation from the CDR professional but has confidence that the CDR process occurred, then the information provided on the file summary sheet to the court registry will detail that CDR requirement was recently fulfilled with a private CDR professional and that confirmation from that professional is not available. There is no further information provided (e.g. the CDR professional is not named, the reason for the information being unavailable is not included).

Process Flow Chart

There are 3 potential pathways for parties completing CDR with a private CDR professional:



** The purpose of this flow chart is to indicate various orders key components may occur (e.g. when the Notice to Resolve is filed, assessment with family justice counsellor, fulfilment of the CDR requirement, gathering of consent and the flow of the confirmation documentation). It is acknowledged that the process may not always be linear as depicted, and parties may receive multiple services from CDR practitioners over time.