

CAN I MOVE WITH MY CHILDREN?

31 July 2018

Relocation is the term used by the court where one parent is wanting to move a child's living arrangements a significant geographical distance from the other parent. It is considered one of the most difficult and controversial issues in Family Law as it runs contrary to the concept of "shared parenting" in the Family Law Act and is becoming increasingly prevalent with the movement of modern society.

The Family Law Act requires parents to consult and endeavour to agree where there is shared parenting responsibility i.e. the major issues affecting a child. This includes changes to living arrangements that make it significantly more difficult for the child to spend time with a parent.

Examples include where one parent meets a new partner who resides elsewhere and they wish to marry, or a parent obtains a job or promotion in another area. As a result, the parent wishes to relocate with the child a significant distance away from the other parent.

The parent wanting to move has a responsibility to consult with the other parent and seek consent to move. If the parent is agreeable, arrangements can be made for the child to see that parent as agreed between them. If the parent does not agree then the relocation cannot occur and a court order must be obtained from the court to allow the move.

Relocation cases are difficult because the court recognises the importance of allowing both parents to have an active role in the raising of the child but acknowledges that parents should have the freedom to move around and get on with their lives either to form new families or take up new job opportunities.

In determining a relocation application, a Judge will consider various matters, including:

- The current relationship the child has with each parent. Presuming the child has a loving, close relationship with both parents, to alter those arrangements and allow the child to move away will significantly affect the ability of the parent with whom the child does not live to maintain the relationship.
- The likely effect of any changes in the child's circumstances.
- How far away is the proposed relocation? Is it a couple of hours by car or a lengthy plane flight?
- The amount of time the child will be able to spend with the other parent by way of weekend contact, holiday periods, etc.
- The means of communication, including the use of webcams, email and telephone calls.
- The financial circumstances of each parent and their ability to afford extensive travel and/or the requirement for a young child to be accompanied in travel.
- The sort of burden any type of travel will have on the child.
- The relationship of the child with siblings, or a parent's new children etc.
- Does the parent have the capacity, ability and willingness to facilitate the ongoing relationship between the child and the other parent?
- Any other possible arrangements. The court will consider whether the other parent can relocate to the location, or alternatively can the new

partner move to where the child currently lives. The court has a duty to weigh up all the possible considerations.

Relocation matters can be extremely complex. To discuss your personal circumstances with a Family Law expert, contact Michael Lynch Family Lawyers on (07) 3221 4300 or law@mlynch.com.au for a no obligation fixed-fee initial consultation.