

Am I allowed to move away with my children?

It is not uncommon after separation, for one parent to want to **relocate** from the area where they lived during their relationship. If the case goes to court, the Court will consider your reasons for **relocating** and the other parent's reasons for opposing the **relocation**.

Reasons for wanting to **relocate** may include:

- moving to be closer to family support
- moving away from family violence
- improved employment opportunities
- pursuit of improved psychological wellbeing for a parent who is unhappy, suffering from depression and/or having difficulty coping with the responsibilities of parenting in their current location
- The seeking of a more financially viable living arrangement

What do I need to do if I want to relocate with my children?

You should always try to talk to the other parent first and, if at all possible, reach an agreement. You may be able arrange for the children to have longer periods of time with the other parent in the school holidays or at other times during the year. In order to have meaningful contact with the children your former partner may be willing to move closer to where you are hoping to **relocate**. Depending on the reasons for your **relocation** this may or may not be appropriate. If you reach an agreement it is wise to enter into a written Parenting Plan or apply for Consent Orders from the Court before you move.

What if we can't reach an agreement about relocating?

The Family Law Court applies general parenting order principles in deciding whether a parent can **relocate**. According to these principles, the most important consideration is always what is in the best interests of the child. It is generally considered to be in a child's best interests for both parents to share parental responsibility, unless there are reasonable grounds to believe that a parent or a person who lives with the parent has been involved in family violence or has in some other way abused the child or any other child in the family.

With these considerations as the focus, the Court will weigh up the benefits to the child of a meaningful relationship with both parents with the need to protect the child from physical or psychological harm.

Your application for **relocation** may still be successful if existing parenting arrangements specify for equal time with each parent, especially if you are found by the Court to be the primary carer of the child.

In making a decision the Court will consider any factors it deems relevant, including:

- each parent's ability to provide for the child's needs
- the child's views, as is appropriate according to their maturity and level of understanding
- the nature of the relationships the child has with each parent and other significant people such as grandparents and other relatives and the likely effect on the child of a change in circumstances impacting on these relationships
- how willing and able each parent is to enable and foster a meaningful and continuing relationship between the child and the other parent
- whether the practicalities and expense of the child spending time with and communicating with the each parent are feasible
- the right of the child to maintain a connection with their culture
- any family violence involving the child or a member of the child's family
- the extent to which each parent has met their parental responsibilities before and since separation

Can I stop my child(ren) from relocating?

Even if **relocation** means that equal or significant time with both parents is not reasonably practicable, the Court will hesitate to restrain a parent from **relocating** if the reasons given indicate that it is in the child's best interests to **relocate**.

Relocation is often contested but it is becoming increasingly difficult for the non-**relocating** parent to successfully oppose it.

Specific and accurate legal advice is highly recommended prior to contesting the **relocation** of children after separation. It is important to work out whether your reasons for contesting the **relocation** will be considered relevant by the Court before you embark on a process that can involve significant financial cost and emotional energy.

www.aaronlegal.com.au

Suite 8,296 Windsor St
Richmond 2753

Ph 4578 7344