



RELOCATION

Parties who separate generally reach an agreement about parenting arrangements for their children. However, some separating parents do find themselves disagreeing about certain issues pertaining children. For instance, one of the parents may wish to relocate with the children which may make it impractical for the children to spend time with the other parent. Consequently, the other parent may oppose the relocation application.

WHY WOULD A PARENT WISH TO RELOCATE?

It could be for a number of reasons but the most common reasons are as follows:

1. To escape family violence or threats;
2. To take advantage of a career opportunity and better care for the children financially;
3. Because their new partner is being transferred to another location by their employer; or
4. Extended family support in proposed area of relocation.

RELOCATION – BEST INTERESTS OF THE CHILDREN

Cases involving the relocation of children are complex cases for the Court to decide. Further, the *Family Law Act 1975* (Cth) does not have specific provisions which deal with relocation applications.

When deciding relocation cases the courts, like in all other children related applications, look at what is in the best interests of the children. The Courts take two types of considerations into account when determining the best interests of the children namely, primary considerations and additional considerations.

PRIMARY CONSIDERATIONS

First, the benefit to the child of having a meaningful relationship with both of the child's parents. This requires the Court to consider whether the proposed relocation will impede the child's

ability to maintain a relationship with the non-relocating parent. The effect is compounded where the proposed relocation is to an overseas Country.

Second, the need to protect the child from physical or psychological harm from being subjected to or exposed to abuse, neglect or family violence. This is relevant if the relocating parent can show that it is best for the child to live far from the non-relocating parent to protect them particularly in instances of past abuse toward the child from a parent.

ADDITIONAL CONSIDERATIONS

- the child's views and factors which might affect those views, such as the child's maturity and level of understanding;
- the status quo and reasons why the custodial parent wants to relocate;
- the degree of involvement of the non-relocating parent with the child;
- the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the child and the other parent;
- technology and phone contact;
- the happiness of the relocating parent;
- the competing proposals of the parties;
- whether the relocating parent has family in the existing location;
- whether the relocating parent has family and/or a new relationship in the new location;
- whether the non-relocating parent is able to move;
- whether there are other children involved in either current or new location;
- the financial implications or career implications of a move;
- the cost and practical difficulty of the non-relocating parent spending time with and communicating with the child;
- any events or circumstances since separation.

Each case is different and each case is decided based on the different facts of the particular case.

If you are thinking about relocating with your child whether within Victoria, outside Victoria but within Australia or outside Australia, it is important that you receive advice tailored to your circumstances. You may contact our Family Law team at RRR Lawyers who can provide advice tailored to your specific circumstances.

Disclaimer: RRR Lawyers communications are intended to provide general information and they should not be relied upon as legal advice. Should you require formal legal advice, please call our office on 03 9387 2424 to discuss.