
Relocation - Interstate and Overseas

One of the most difficult areas of family law practice arises when a parent wants to move taking a child with them. This may be a move interstate, within the same State (including from one side of a city to another) or overseas.

It is a difficult area in many respects. Firstly, and most importantly, it has a significant impact on the arrangements for the care of the child. The change is very likely to upset the other parent. One parent inevitably feels like the loser if the child moves away and the parent's time with that child is altered.

The main question is whether the proposed relocation is best for the child. The principles considered include:

- the best interests of the child are the paramount consideration, but are not the sole consideration
- the application for relocation may be successful even if the reasons are not compelling for the proposed relocation
- the reasons a parent for the proposed relocation are only one matter considered
- competing proposals are looked at in terms of their advantages and disadvantages and the best interests of the child

The court weighs up the parents' competing proposals and determines the best interests of the child. For both parents are important. The respective proposals of the parents must have extensive proposals and explain to the court how their proposals will promote the children's best interests.

The proposal by the parent seeking to relocate with a child must set out very clearly:

- The place where the child will live
- The school the child will attend including curriculum, extra curricular sport, costs, etc
- The time the child will spend with the other parent and how the costs of travel and possibly accommodation of the other parent, will be paid

- The communication the child will have with the other parent

Courts prefer detailed proposals which show that the parent seeking to move has thought about the proposal and designed it to promote the best interests of the child.

The proposal by the parent seeking to oppose a relocation must set out:

- Where will the child live?
- If the child will live with the parent opposing the move, the reasons for this. Why did the parent not previously apply for the child to live with that parent?
- Can the parent move to the place where the other parent wants to move?

Courts are often reluctant to alter long standing arrangements where one parent has been the main carer of the child.

However, this is not to discourage parents seeking to oppose relocation. Not each and every application for relocation will be allowed. The prime consideration is "what is best for the child". For younger children, whose bonds with the parent whom they do not live, may not be very strong, the court may be reluctant to permit a move if it might damage the child's relationship with the non-relocating parent. The court must consider the impact of the child's relationship with the non-relocating parent.

An international move will, of necessity, place extra strain on the child's relationship with the non-relocating parent. The court may be reluctant to allow relocation if it will be difficult to preserve the child's relationship with the non-relocating parent.

Each case is determined on its merits. There are no guarantees of the outcome for either parent. The court tries to do what it perceives is best for the child.