

# MOVING WITH CHILDREN AFTER SEPARATION

If you are separated or separating and you would like to move with your children, you may need the agreement of the other parent or a court order before you can do so.

If you want to move within your local area (for example moving within the same town) and the move will not affect the time the other parent spends with the children, usually you do not need their agreement, you can just move. If it is safe to do so, you should let them know where you are moving. If you have fears for your safety and do not want them to know your new address you should get legal advice.

If you want to move further away (for example to another town, state or even country) and the move will affect the time the other parent spends with the children, or it means that the children will have to change schools, usually you do need the other parent to agree to the move.

If the other parent does not spend any time with the children and you would like to move, you should get legal advice before you do so.

## HOW DO I GET AN AGREEMENT?

If you feel comfortable and safe you can just ask the other parent if they agree to you and the children moving. Before you do, you should try to think of some ideas for how the children will still spend time and continue to have a relationship with them once you move. This can help them feel more comfortable with the move and they may be more likely to agree.

If the other parent agrees to you moving with the children, you should write the agreement down so that you both understand what the agreement is and have a copy of it. You can do this in a text message or email or on a piece of paper that you both sign. If you want something more official, you can write up a Parenting Plan or Consent Order. If you would like to do this, you should get legal advice.

## WHAT IF THEY WILL NOT AGREE?

If the other parent will not agree to you and the children moving, usually your first step is to invite the

other parent to mediation to try to reach an agreement. You can pay a private mediator or there are free/low-cost mediation services that may be able to help you.

At mediation you will be able to explain to them why you want to move, and they can talk about why they do not agree. Mediation is a chance to listen to each other and, with the help of the independent mediator, try and reach an agreement where you are both happy.

If you cannot reach an agreement at mediation, or the other parent will not go to mediation, the mediation service will give you a certificate saying that you could not agree. This certificate is valid for 12 months. During that 12 months you can apply to the court asking for an order allowing you and the children to move. This is called a 'relocation order'.

## HOW DOES THE COURT DECIDE?

The court will look at what you and the other parent want and decide whether allowing you to move away with the children is in their best interests. If the court decides it is in the best interests of the children to move, you and the children will be able to go. If the court decides that it is in the best interests of the children to stay, they will not be allowed to go. You may still move, but the children cannot.

When making this decision, the court will look at a number of things including:

- What sort of relationship the children have with you both and how much time they spend with each of you;
- How the children will continue their relationship with the other parent if the children move and how expensive or difficult it will be for them to do so;
- How far you want to move and for how long;
- How the children will be affected by leaving their school, their friends, and any other family members they are close to; and
- How old the children are and whether they want to move.

The court will also look at why you want to move, for example to be closer to family, for a new job, to study or to be with a new partner. It will balance your right to move on with your life and the children's right to spend time and have a relationship with the other parent.

#### WHAT IF I ALREADY HAVE ORDERS?

If you already have court orders, you should read them carefully. If the orders say that you can move away with the children, you may be able to do so without taking any further steps.

If the orders do not allow you to move, then you will need to follow the steps above to get the other parent's agreement. If they do not agree you will need to apply to the court to change the orders.

If you have court orders, you should get legal advice before you do anything. Breaching court orders is serious and you can be punished for doing so.

#### WHAT IF I JUST GO?

If you move without the other parent's agreement or a court order allowing you to do so, the other parent can apply to the court for a 'recovery order'. If the court decides to make the recovery order, you will have to send the children back to where you moved from. You should get legal advice before you decide to make any move with your children.

#### WHAT IF I NEED FURTHER HELP?

The following Services may be able to provide you with some free legal advice:

- North Queensland Women's Legal Service: 4033 5825 (Cairns) or 4772 5400 (Townsville).
- Aboriginal and Torres Strait Island Women's Legal Service (Townsville): 1800 082 600.
- Aboriginal and Torres Strait Islander Legal Service (ATSILS): 1800 012 255.
- Cairns Community Legal Centre: 4031 7688.
- Legal Aid Queensland: 1300 65 11 88.
- Townsville Community Law: 4721 5511.
- Queensland Indigenous Family Violence Legal Service (QIFVLS): 1800 887 700.

Alternatively, you can contact a private lawyer. If you need help finding one, the Queensland Law Society has a 'Find a Solicitor' tool available on their website.

If you are wanting to invite the other parent to mediation, the following Services may be able to assist by providing free/low-cost mediation services:

- Family & Relationships Centre: 1300 672 273.
- Legal Aid Queensland: 1300 65 11 88.
- Relationships Australia (QLD): 1300 364 277.

Alternatively, you can contact a private mediator. The Queensland Law Society has a 'Find a Mediator' tool available on their website (<http://www.qls.com.au>). The Family Law Practitioners Association also has a list of mediators available on their website (<http://www.flpa.org.au>).

If you need further (non-legal) support, the following Services may also be able to assist you:

- Cairns Regional Domestic Violence Service: 4033 6100
- North Qld Domestic Violence Resource Service: 4721 2888 (Townsville and Mount Isa).
- DV Connect: 1800 811 811.
- 1800 Respect: 1800 737 732.
- The Women's Centre FNQ: 4051 9366.
- The Women's Centre Townsville: 4775 7555.