

ALBUQUERQUE DIVORCE LAWYER BLOG

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Leaving the State

One issue that can complicate any child custody arrangement is one parent's decision to leave New Mexico and their desire to take their child with them. While the court cannot prevent a parent from moving, it can prevent the parent from taking a child with them. If the parent wants to move prior to a divorce or paternity action being filed, they will most likely be prevented from doing so by the temporary domestic order entered by the court in nearly every family law case. If the parent wants to move after a parenting plan and custody order has been entered by the court, the plan itself should address whether or not one parent can move with the child.

If both parents agree that one parent can leave New Mexico with the children, then they should file a pleading with the district court that notifies the court of their parenting agreement. If the parties do not agree, then the party wishing to move can file a motion asking the court to allow him or her to relocate with the child. Once a parent decides to move, they should first discuss the proposed move with the other parent in order to see if an agreement can be reached. If not, then the parent who wishes to move needs to file their motion to relocate as soon possible because it can take weeks if not months to get a hearing before the judge.

In considering a motion to relocate, the court will look at many of the same issues it looks as in any custody evaluation. The basic question asked by the court will be whether or not the move is in the child's best interest. This includes things like: what support systems will be available to the child in his or her new home; how attached the child is to the family and community they will be leaving behind; the wishes of both parents; and, depending on the child's age, the wishes of the child. The court will also examine the distance between New Mexico and the proposed new home and the ability of the parties to travel for visitation, as well as the moving parent's reason for wanting to relocate.

Acting quickly and understanding the complicated nature of child custody decisions is key to success in getting the court's approval to relocate with a child or preventing that relocation. Thus, is it imperative that any parent in such a situation contact an experienced New Mexico child custody attorney as soon as possible.

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