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PLAN - Intro - what is family, effective 4/12?

Para 1 - divorce. FLA 1975 FLRA 1995.

Para 2 - Children - CROC 1989, Hague 1980

Para 3 - Violence - Domestic amendment act 1994.

A family can be defined as a group of people who share a relationship of some kind, and in regards to the ~~Aust~~ Australian legal system, family law revolves around the idea of a nuclear family, a mother, a father, and two children.

~~Being a~~ Upon the breakdown of a family, many family members are affected in different ways, and at times there is much bitterness in regards to divorce, children and issues such as domestic violence which may arise.

Hence, the law is extremely effective in achieving justice for parties involved in relationship breakdown through its creation of numerous acts and laws, which benefit family members in different ways, as a means of achieving justice.

As a result of a relationship breakdown, divorce is a common pathway ~~that~~ in which couples gain a 'legal dissolution of marriage'. Over the years, laws have changed in relation to the nature of divorce. Before law reform occurred, ~~there~~ divorce was based on the idea that one person was at fault, and there were 14 particular grounds upon which a divorce was allowed to go ahead. This led to the unhappiness of marital parties, and most notoriously, the onus being put on the female, as the reason for divorce.

Apon the introduction of the Family Law Act 1975, many things changed. Seen as one of the most significant introductions in relation to family law, the Family Law Act saw the abolition of the 14 grounds to divorce, and also the abolition of 'no fault' divorce, in which no party could now be deemed responsible for the irremediable breakdown of the marriage. This change ~~is~~ was a clear indication of the changing values within society, ~~and~~ in regards to the fact that no person should feel trapped in a relationship against their will. This was further enforced by the Family Law Reform Act 1995, which further recognised the extent to which people should be able to file for divorce. This act, along with elements of the Family Law Act introduced ~~the concept that~~ that any one person in the relationship may file for divorce, upon the condition of giving some notice. The couple must identify that there is an 'irremediable breakdown of the marriage', and may live 'separately' and apart' for a period of time in order to ensure they will not get together. As well as this, the couple may be required to attend marriage counselling in attempt to sort out the differences between the two parties. This ensures that justice is achieved for both parties, as not one party is blamed for the breakdown of the relationship. Hence, the introduction of both the Family Law Act 1975 and the Family Law Reform Act 1995, has enabled immense effectiveness in achieving justice for parties

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involved in relationship breakdown.

During a relationship breakdown, the most <sup>emotional and</sup> bitterly contested issue is the child, in regards to where it will live, who it will live with, and how it will be provided for. In terms of its effectiveness, the law sees the interests of the child as being paramount in any given situation, as children are vulnerable, and thus, the law is extremely effective in providing justice for all parties involved. One issue which may arise in regards to the dealing with children in the breakdown of a relationship is that of abduction. A child abduction occurs when one party in the relationship removes the child from its place of habitual residence in order to live with it/ be with it or another reason. Abduction is a major issue, because the interests of the child are not met, and the child is endangered, hence, there are legal measures and acts in place to prevent this. This is particularly evident in the case *Cooper & Casey* in which a man requested the movement of his child back to its home in New Zealand, after the man's wife (child's mother) unlawfully removed the child from its place of habitual residence by fleeing to Australia. As a result of the child's rights being paramount, the child was returned to its father under ~~the~~ both the Hague convention 1980, which enforces the rights of the child, and also CRC (convention on the rights of the child) 1989, which aims to act always in the best interests of the child. This case is a perfect

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in regards to the effectiveness of the law in providing justice for all parties during a relationship breakdown, as the law was very successful in focusing on the interests of the child.

Apon the breakdown of a family, in some circumstances, domestic violence may become an issue. Domestic violence is defined as 'the violence' between family members, and can be physical (assault), emotional (manipulation/blackmail), sexual (rape, sexual assault) or economic (fraud, money by deception). Domestic violence can be committed and received by both males and females, and remains as one of the most pertinent issues in regards to the breakdown of a family or a relationship. As a result, there has been a need for many different laws and acts in order to effectively combat the issue, yet the law at the moment is only moderately effective, as this is the type of issue which people do not generally report, in the fear that it will get worse, thus, protection and effectiveness is limited depending on individual ~~the~~ circumstances. One of the ~~most~~ most prominent types of domestic violence is stalking and/or intimidation, which is the act of being near someone, someone's house or someone's workplace with the sole purpose of creating fear, and often involves the following of the victim. Under the Crimes Amendment Act 1994, and further enforced in the Family Law Reform Act 1995, stalking/intimidation is an illegal action, which may result in ~~the~~ ~~act~~

imprisonment. In order to combat this issue, a victim may take out ~~an~~ an ADVO, otherwise known as an apprehended ~~violence~~ domestic violence order, which is a legal document forbidding the offender to ~~be~~ be within a certain distance of the victim. This is 'just one ~~way~~' effective way in which the legal system aims to provide justice for parties involved in relationship breakdown. Others include counselling, which may be needed in the case of mental and emotional damage as a direct result of the domestic violence.

Hence, when a family ~~breaks~~ or relationship breaks down in any way, the members are affected in different ways. Therefore, it is absolutely essential that the law and Australian legal system is effective in achieving justice for parties involved in relationship breakdown. Through the exploration of divorce, children and domestic violence, it is apparent that the law is extremely effective in the way it deals with such issues, and ~~it~~ does effectively ~~provide~~ provide justice for ~~the~~ all parties involved in relationship breakdown.

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