

# Family law

Family



**ASSIGN  
BUSTER**

FamilyLaw Essay Introduction \* As societies become more diverse and complex; the law needs to reflect these changing social values in order to remain just. \* State something relating to given question. \* State thesis: Thus, family law is very effective/only effective to an extent in ... \* This is due to the success of law reforms that effectively address ... \* However, this effectiveness is hindered by the limited changes made to include same-sex marriage within current legislation. Effective]DivorceDivorce is the legal dissolution of a marriage. The Australian family law system has implemented significant law reforms that redress the matter of divorce in accordance to changing societal values. \* Prior to 1974, divorces applied under the Matrimonial Causes Act 1959 were on the ground of ‘fault’, which included 14 grounds such as infidelity, cruelty and desertion; whereby one or both spouses had to admit to their wrongdoing that undermined their divorce. Such submissions for divorce were perceived as socially immoral and thus those who took these actions were negatively judged by the community.

\* However, in 1975, a major reform to family law occurred whereby the Family Law Act 1975 (Cth) was passed and introduced ‘no fault’ divorce, where the only ground was ‘irretrievable breakdown’, which allowed couples to divorce after separation. \* This idea of a 12 month separation period with the intention to divorce was established in the Tye v Tye case. Ultimately, the reform increased the accessibility of divorce and reduced the stigma attached with it. This fundamental change to divorce law was clearly a reaction to changing social values, where society has accepted that people should not be left trapped in an unhappy marriage, reinforcing the basic right to live in freedom. [Effective]Domestic violenceDomesticviolencehas

been recognised as an ongoing social issue and community-wide problem, rather than just a ‘private matter’. Hence legislative reforms have effectively reflected these changing attitudes in the community through introducing further protection for victims of domestic violence as a means of improving previous legislation. \* In the 1800s, domestic violence against women was acceptable as they were under ownership of men.

\* Over time the legal system has overcome these injustices in order to reflect the importance of individual’s rights, through the introduction of the Crimes (Domestic and Personal Violence) Act 2007 (NSW) which amended the Crimes Act 1900 (NSW) as it provided extensive protection children and adults victims of domestic violence. Such protection predominately include Apprehended Domestic Violence Orders (ADVOs) which are an effective means in reducing the incidence of domestic violence as they are a quick, inexpensive and accessible form of protection which is supported by full weight of the criminal law if breached. \* The effectiveness of ADVOs is highlighted in the article, “Girl died of starvation, neglect: doctor” (21/05/09, SMH) as this legal instrument had protected the lives of two children from suffering the same neglect as their deceased sister, at the hands of their parents. [Ineffective] Recognition of same-sex relationships

As society diversifies, there is an increasing acceptance of same-sex relationships; which, however is not accurately reflected within the family legislation. \* Initially, there have been progressive improvements to family law including the introduction of the Property (Relationships) Legislation Amendment Act in 1999 which changed the definition of de facto relationships to non-gender specific and the Same-sex Relationships (Equal

Treatment in Commonwealth Laws – General Law reform) Act 2008 removed discrimination in areas such as tax, superannuation, child support and social security. However, in 2004, the Commonwealth Government reaffirmed the traditional concept of marriage in the Marriage Act 1961 (Cth) as the union of man and woman, which automatically forces same-sex marriage to be void in Australia.

\* The exclusion of same-sex marriage within family law demonstrates that there are still changes needed to be made in order to meet the injustices of current law. This demand for change is evident in the media article “ Gay marriage advocates rally around nation” (12/05/12, AAP) which reports thousands of peaceful protestors across Australia rallied in support of same-sex marriage. From this article, it shows the family law’s lack of improvements from previous laws that similarly failed to meet the values of society as communities are forced to take extreme measures just to voice their basic right. Therefore, the exclusion of same-sex marriages in family law deems it as highly ineffective in improving previous laws as it indicates the lack of initiative made to meet changing social values.