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**Definition of Marriage:**

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- Hyde & Hyde 1866 (p23): the union of a man and a woman to the exclusion of all others, voluntarily entered into for life : **s 5 Marriage Act; Hyde v Hyde**
- Involves many elements: **Todd v Todd**
  - Dwelling under the same roof
  - Sexual intercourse
  - Mutual society
  - Protection
  - Recognition of existence of the marriage by both spouses in public and private relationship
- **Corbett v Corbett** (Purpose of marriage)
  - For procreation
  - Should be between a man and a woman
- Marriage is separate from religion: **Re Kevin**
- **Hyde v Hyde**
  - Voluntary union
  - For life
  - One at a time
  - man and woman
  - to the exclusion of all others
- Marriage Act Case 1962 & Fisher 1986: Parliament could prescribe what regarded as marriage determined by custom
- Kevin [2003]: the definition of marriage was held to not be frozen in time as it once was understood in 1901.
- Cth v ACT [2013]: This case held that definition of marriage is 'Not construed only to legal status of marriage at time Federation'; 'not immutable' and therefore, there is power in the Constitution s 51 xxi to extend to same sex marriage and it is up to the Parliament whether same sex marriage should be provided for by law.

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**Diverse Families and Change over time:**

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- Family relationships have changed in recent times.
- 2011 Census indicates that nearly  $\frac{3}{4}$  of all Aust households are 'family' households
- Couple families with dependent children make up 36% of Aust. families
- One-parent families with DC make up 9.9% of AF
- Couple-only families make up 47% of AF
- Most one-parent families with DC are formed through relationship dissolution, and majority of these are headed by mothers (81%)

- Evidence that attitudes to marriage and marriage practices are changing
- 78.2% of couples admitted to cohabited households prior to marriage
- Religious significance of marriage is declining
- Civil celebrants are increasing
- Divorce rates have increased (2:5 marriages; 60% 10y +) BUT so have the average length of marriages
- Children born out of wedlock is increasing
- In some religions, sexual relationships outside of marriage is still condemned
- Some religions adopt a monogamous model of marriage (one man and one woman)
- Others practice polyandry (marriage of one woman to more than one man)
- Religion plays an important role in marriage and in divorce i.e. less likely to divorce than those with no religious affiliation
- Decline in fertility and family size
  - More children born assisted reproduction
  - 66% children born to married parents
- Increase in sole parent families families with NO children
- Households smaller & less stable
- Ethnically diverse families (16%?) values, practices differ
  - 1992 ALRC recommendation p 77
- More Indigenous families consist of parents who are cohabiting (rather than married); increase in lone parent families and multifamily and extended households.

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### Family and the role of law in Family Law

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- During last 30 years, the legal regulation of non-marital families and the recognition of same-sex relationships are 'distinguishable but closely related' trends across most Western nations.
- Functional family p77
  - Legal recognition to families exhibit interdependence and commitment, regardless of formal status
  - Families are 'Messy, varied, emotional, aggravating, necessary' 78
- Nuclear family norms? S43 FLA p79
  - Protection needed to non nuclear families i.e.:
    - non-genetic parents assisted reproduction s60HB(1)
    - Intended surrogacy parents s60HB
    - De facto partners of adoptive parents s60HA

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### Indigenous Extended Families

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- Re CP 1997:

Facts: concerned a 4 year old boy who was the child of a Tiwi woman but he had been cared for by a woman who was Torres Strait Islander since his birth. The question for the Court was whether the child should be returned to the Tiwi Islands permanently to be cared for by his biological mother and extended family, or continue to live with the former woman.

Held: The child was ordered to live with his biological Tiwi mother and extended family. The child had more than one mother because of the culture of Tiwi Islanders.

Not nec nuclear in structure or responsibility

- Collective care arrangements; concept family may differ
  - Communal kin responsibility
    - **s60B(3), s60CC(3)(h)** the court must have regard to any kinship obligations, and child-rearing practices, of the child's Aboriginal or Torres Strait Islander culture.
  - Stability v fluidity
  - Right to enjoy Tiwi culture
- ***Donell v Dovey (2010):***  
Facts: concerned the competing applications of a TSI father and an adult Aboriginal sister for the care of a child whose mother had died.  
  
Held: The full Court held that:
    - Judges should know about indigenous culture
    - Research *Bringing Them Home* take judicial notice
  - ***Beck & Anor [2012]:***
    - Customary adoption: no power FLA to enforce

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### **Eternal Biological Family**

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- Role of sperm donors in lesbian families?
- ***Re Patrick***  
Facts: The mother and her female partner had a child through informal assisted conception with a known donor. This occurred prior to legislative changes at both state and federal level. The father wanted claim of his child.  
  
Held:
  - Recognition of diverse family forms
  - “It is true that children can be happily raised with homo-nuclear family, but the difference here is that the father desires and has always desired to play an active and fatherly role in the life of his son”
  - Ordered donor contact time: ‘fatherly role’
  - Demonstrates the privileging of ‘natural’ biological fatherhood
- Legal recognition of three parents? p86

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## Recognition of Adult Partnerships

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- All States since 1980s & Federally in 2009: there has been legal recognition of de facto relationships
- This is important because it unifies couples that are married as well as those who choose not to be married
- It impacts on the legal obligations of parties once there is a breakdown in relationship
  - **FLA s4AA & s90K** To prove you were in a de facto relationship for the purpose of accessing federal family law jurisdiction:
    - One or both of the parties must ordinarily been a resident when application is made + both parties were resident for third of relationship OR substantial contribution Alternative;
    - OR Both resident when relationship broke down.
- Not appropriate: Parkinson p89 – pool income?
  - Autonomous, self-sufficient, independent?
  - Assume marriage-like relationship?
  - Only protect those with children?

### Meaning of **de facto relationship**:

1. A person is in a **de facto relationship** with another person if:
  - (a) The persons are not legally married to each other; and
  - (b) The persons are not related by family (see subsection (6)); and
  - (c) Having regard to all the circumstances of their relationship, they have a relationship as a couple living together on a genuine domestic basis.
    - i. Paragraph (c) has effect subject to subsection (5).

### Working out if persons have a relationship as a couple

2. Those circumstances may include any or all of the following:
  - (a) The duration of the relationship;
  - (b) The nature and extent of their common residence;
  - (c) Whether a sexual relationship exists;
  - (d) The degree of financial dependence or interdependence, and any arrangements for financial support, between them;
  - (e) The ownership, use and acquisition of their property;
  - (f) The degree of mutual commitment to a shared life;
  - (g) Whether the relationship is or was registered under a prescribed law of a State or Territory as a prescribed kind of relationship;
  - (h) The care and support of children;
    - i. The reputation and public aspects of the relationship.
3. No particular finding in relation to any circumstance is to be regarded as necessary deciding whether the persons have a de facto relationship.
4. A court determining whether a de facto relationship exists is entitled to have regard to such matters, and to attach such weight to any matter, as may seem appropriate to the court in the circumstances of the case.
5. For the purposes of this Act:

- (a) A de facto relationship can exist between 2 persons of different sexes and between 2 persons of the same sex; and
- (b) A de facto relationship can exist even if one of the persons is legally married to someone else or in another de facto relationship.

**When 2 persons are related by family**

- 6. For the purposes of subsection (1), 2 persons are ***related by family*** if:
  - (a) One is the child (including an adopted child) of the other; or
  - (b) One is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or
  - (c) They have a parent in common (who may be an adoptive parent of either or both of them).

For this purpose, disregard whether an adoption is declared void or has ceased to

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**De Facto**

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- *Jonah v White* p TM 54
- Issue: Were they living together as a de facto couple? Was there a genuine domestic basis?
- Facts: 17 yr clandestine relationship/affair – lived together 2 or 3 nights every few weeks; 2 week holiday & overseas
- Held: was mutual commitment, care & support, but Not de facto: was lack of shared life, not lack of common residence
  - **Merger of two lives is the core of de facto relationship**
  - Can be married but also de facto relationship
  - Emotional communication insufficient
- *Moby v Schulter* p94; TM 52
- Issue: was there a de facto? Living together?
- Facts: relationship 2002-2009; live in same household until 2007; M stay a few times a week TM 53
- Held: was de facto: living together need not be full time
- Declaration time living together: 2 years is required by **s90RD FLA**

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**Non-Coupled Relationships**

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- Legal obligation? Hayley and Cynthia scenario in powerpoint
  - ***Domestic Relationship Act (1994) ACT*** defined as:
    - Adults in which one provides personal or financial commitment and support of a domestic nature for the material benefit of the other ... even if not same household, excluding paid caregiving.
  - ***Relationship Act 2008 (Victoria)*** TM 61
    - Registrable caring relationship
  - ***Property (Relationships) Act 1984 (NSW)*** p99
    - Live together, both parties provide domestic support and personal care

- Very rare that people use this form of relationship to go to court – mainly because non-coupled relationships do not intermingle money and property.

– *McMaster v Whyler* [2013]:

Facts: the parties were dancing partners who spent a lot of time together; the applicant had lived in a granny flat at the rear of the respondent's house for four years and the parties had a joint account and joint shareholding, but never had a sexual relationship.

Held: declared that there was no de facto relationship in these circumstances. Next time, argue under the Victorian Relationships Act 2008 for a more successful claim.

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### Legal Framework Marriage

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- Symbolic and cultural & religious significance
- Legal consequences from *status* of marriage:
  - Structure to identify legal relations of dependence, duties support
- Section 5 Marriage Act 1960: union of man and woman voluntarily entered into for life to exclusion all others: (cf s43)
  - Codify *Hyde v Hyde and Woodmansee* (1886) 'in Christendom'
- Entry: MA s23B (& Grounds for Nullity) p101
  - Formalities s48: authorised celebrant s41, documents s42, witnesses s44, certain words must be spoken where marriage is not solemnised by a minister s5(3)
  - Consent (CANNOT BE ANY duress, fraud, mistake, incapacity) s23B(2)(b)
  - Not married or in prohibited relationship s23B(2)(a)
  - Over 18 s12

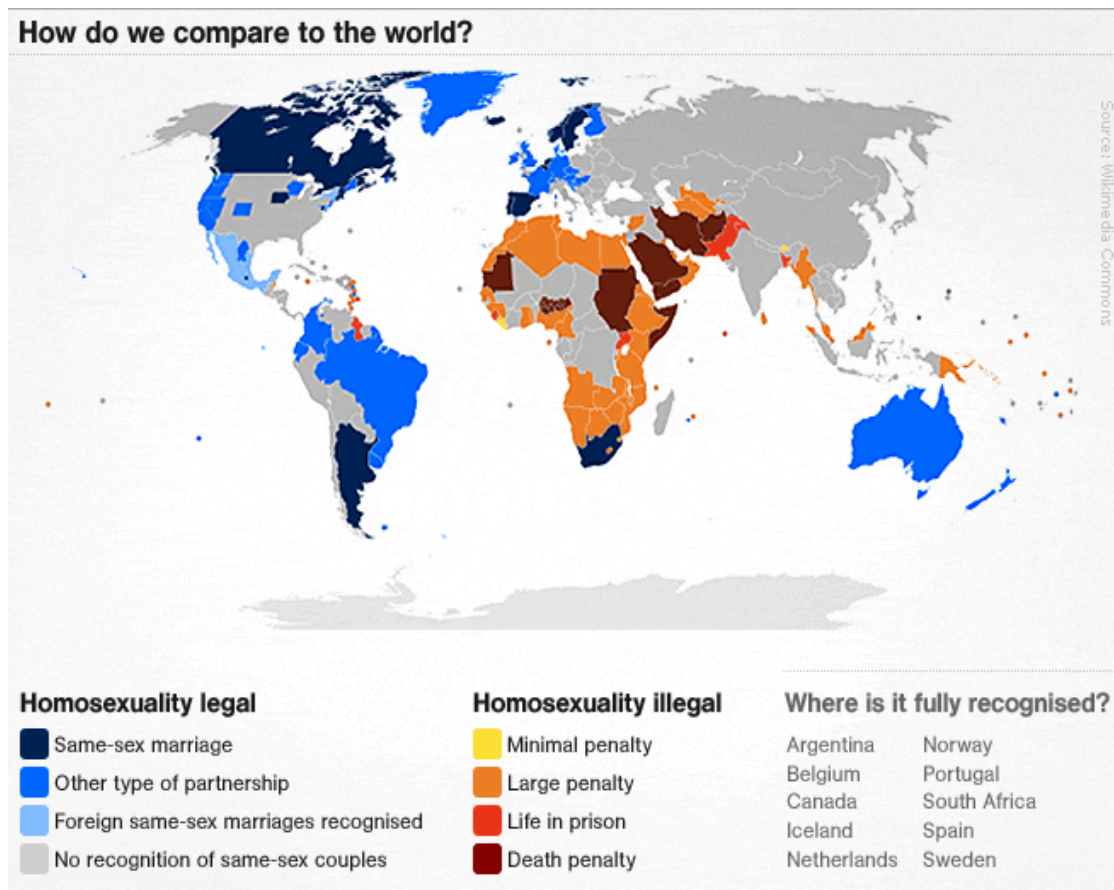
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### Man and Woman:

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- *Re Kevin* (FFC 2003) 'man and woman' p 102 / TM 62
- *Issue*: was Kevin a man at time of marriage? Declaration of validity of marriage by post-operative transgender/transsexual male
- *Held*: yes, combination of
  - *subjective* psychological (self and others' perception; accepted) and
  - *objective* physiological factors (post-operative; brain sex);
  - *not biological* matters or 'essential roles' (cf *Corbett*) – consistent with Australian & international law & humanity
  - Man/woman determined at time of marriage
  - Man/woman ordinary contemporary meaning
  - Marriage defined terms of companionship
  - Socially accepted as a man
- Note, that in order to register a legal change of sex in Australia, a transgender applicant must not be married at the time of application. This

prevents transgendered people from being in a former heterosexual relationship to a current same sex marriage. So if transgendered people wish to remain in relationship with spouse post transition, they are forced to choose between divorce and legal recognition of desired sex: *AB v Registrar of B, D and M*: Court held this not to be unlawful sex discrimination.



## Same Sex Marriage

### FOR

1. Formal equality: same legal treatment
2. Discriminatory even if legislation – proof; gaps
3. Symbolic & practical significance
4. Why not? Will benefit more than detriment
5. Have so much legal recognition for same sex couples, why not?

### AGAINST

1. Divergent views gay & lesbian people
2. Marriage patriarchal, oppressive, stereotypes
3. So many different kinds of relationships are already recognised by other legislation, eg civil partnership
4. Varied community views: 70% in support



## 5. Promotes gay lifestyle: religious opposition

### Nullity

- *Nullity* – there was no marriage in law, but can get legal consequences of marriage
- *Marriage Act s23B(2)* Grounds for Nullity: void if
  - (a) married to another (bigamy)
  - (b) in prohibited relationship (ancestor/descendant; brother/sister)
  - (c) By reason s48 – formalities: *Rewal*
  - (d) Consent not real because
    - (i) duress or fraud: *Marriage of S; Osman; Deniz; Rick & King;*
    - (ii) mistaken identity
    - (iii) mentally incapable understanding
  - (e) Is not of marriagable age (18) s12

Duress or fraud Examples:

- *Marriage of Deniz*  
Facts: Concerned a man from Turkey who, while in Australia, married a young woman of Lebanese background in order to remain in Australia. The young woman had 'upon being informed of his reason for marrying her, suffered a nervous breakdown and attempted to commit suicide'.  
  
Held: consent was not real consent because of fraud.
- *Rick & King*  
Facts: The husband applied for nullity for fraud on the basis that the wife had not disclosed that she was HIV positive  
  
Held: Dismissed the nullity. When they were getting married, it was valid. Just because she lied to him about a medical condition does not warrant fraud.
- *In the Marriage of S*  
Facts: applicant was born in Egypt and at age 16 went through a ceremony of marriage in Australia. There was no hint of joy in the pictures of the wedding and she seemed to be teary and disinterested.  
  
Held: duress in this case because "the emphasis on terror or fear in some of the judgments seems unnecessarily limiting. A sense of mental oppression can be generated by causes other than fear or terror. If there are circumstances which taken together lead to the conclusion that because of oppression a particular person has not exercised a voluntary consent to a marriage, that consent is vitiated by duress and is not a real consent".



- Hallas & Kefalos

Facts: a woman in her mid 30s with a major depressive illness was pressured into entering, and remaining, in an unhappy marriage, by her religious advisers.

Held: The court held that her illness and reliance on her adviser were insufficient that her 'will was overborne'.

Note: most applicants that succeed are younger, particularly those without economic independence.

- Kreet & Sampir

Facts: a young woman was involved in a relationship with a man who was disapproved of by her parents. The parents persuaded her to travel to India on the pretext that they would support a traditional marriage of her chosen husband but once there they confiscated her passport and presented her to a marriage with another man. She submitted in the face of threats of violence to herself and the family of the man she was involved with.

Held: The court held that duress was established.

- Criminal Code Act 1995 (Cth) s270.7A(1) defn of forced marriage – enter into marriage without freely and fully consenting p110
  - a) Force
  - b) Duress
  - c) Detention
  - d) Psychological oppression
  - e) Abuse of power
  - f) Taking advantage of person's vulnerability

## Legal Requirements for divorce

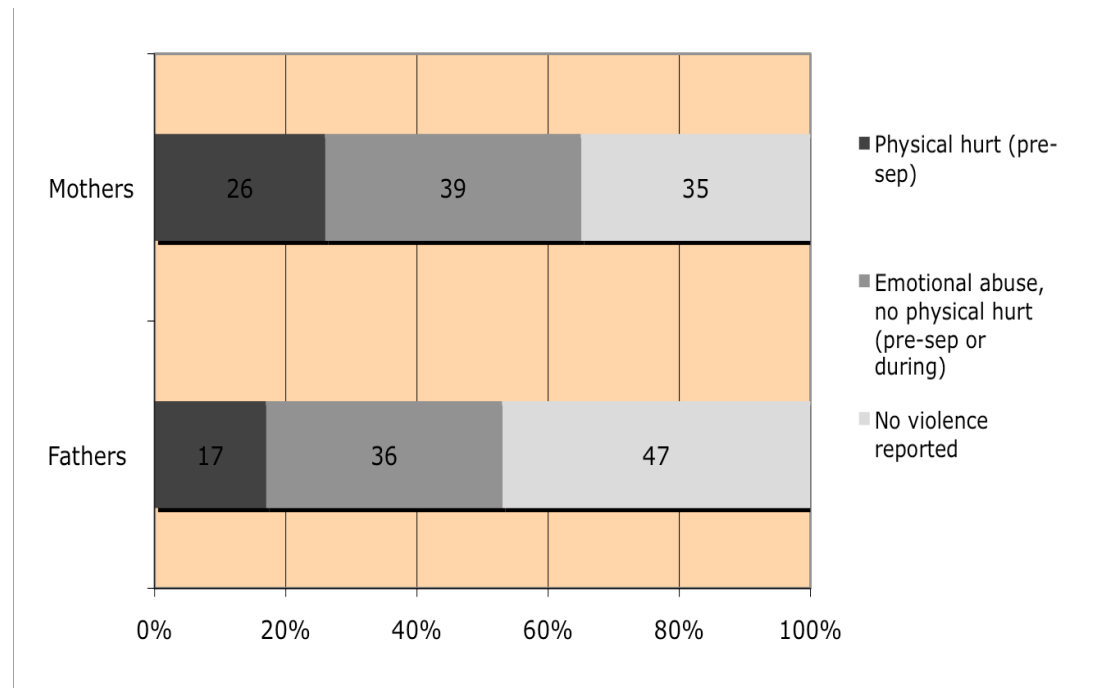
- In Australia, the requirements for a divorce are:
- Domiciled, ordinarily resident, resident 1 yr
- S48(1) FLA –broken down irretrievably?
  - s48(2) Evidenced by 1 years separation
  - Destruction of *consortium vitae*: *Pavey; Todd; Price & Underwood*
    - Intention to sever and not resume marriage, and act on that
    - Contrast state of marriage before and after
- s55A p364 divorce not granted unless court satisfied proper arrangements for care & welfare of children *Evans; Maunder; Navarro & Jurado TM 71*
- Shift from regulation of *status* of marriage to *consequences* of divorce
  - from rights to responsibilities
  - privatising welfare obligations within the family

## Week 3. Family Violence

### Extent of violence in families:

- 2-28% families (1:10 - 1:3 families) p 191
- ABS 2006: ¼ women experience partner violence *some time* (6% physical); 42% pregnant; 1/3 feared for lives
- Higher in separating population: 65% p 188
- multiple forms of violence in same family: physical, verbal, emotional, neglect, sexual – often in context of disadvantage, mental ill health, substance abuse (Brown, 1996)
- Allegations (FV & abuse) in half+ FCA cases:
- little detail, corroboration, forensic evidence, assessment of risk to children (Moloney p 209-10)

### Family violence: AIFS



### Nature of violence in families:

Relationship context: higher among separated couples

- Kelly & Johnson p 197: different types DV - IPV
  - ‘Patriarchal terrorism’ i.e. ‘wife beating, battering, spousal abuse, or domestic violence’ / Coercive & controlling violence (CCV); usually male perpetrator – and very gendered
  - ‘Common couple’ violence / conflict instigated
    - Separation instigated – both male & female
- Qualitative differences male & female violence

- Male Violence more *severe* impact – females 10 times more likely to suffer injury; men 6 x more likely to inflict; more likely to involve law & services
- MV aimed at *controlling* – induce fear
  - worst aspect p 192
  - most common form of abuse is emotional abuse
- Female Violence related to dependence, self defence, retaliation
- Different experience women of difference p 193

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### Impact: DV and Children

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- DV / spousal: this is a PREDICTOR of violence against children (Tomison, 2000 ) and other types of violence i.e. physical, mental, emotional etc.
  - 1/3-1/2 *neglect* cases occur with DV
  - 2/3 also *emotional* abuse of children
  - 1/5 –2/3 also child *sexual* abuse
  - 1/3 (2/3 US, 1/2 UK) also child *physical* abuse
  - Effects cognitive and psychological development of children, more so in newborns.
- men 3 x likely to be perpetrator
- DV abused women more than 2-8 x likely to abuse their children
- ‘more lasting the violence, more acute the discord, ... worse outcomes for children’
- Co-occurrence of DV & other problems (Bromfield et al, 2010)
  - Context of exclusion and disadvantage
  - Parents often traumatised and victimised: substance abuse & mental illness
  - Key risk factors for child abuse & neglect

### Family Law Act 1975: s 4

"**abuse**", in relation to a [child](#), means:

- (a) an assault, including a sexual assault, of the [child](#); or
- (b) a person (the **first person** ) involving the [child](#) in a sexual activity with the first person or another person in which the [child](#) is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is unequal power in the relationship between the [child](#) and the first person; or
- (c) causing the [child](#) to suffer serious psychological harm, including (but not limited to) when that harm is caused by the [child](#) being subjected to, or [exposed](#) to, [family violence](#); or
- (d) serious neglect of the [child](#).

### s 4AB(4)

- (1) For the purposes of [this Act](#), [family violence](#) means violent, threatening or

other behaviour by a person that coerces or controls a [member](#) of the person's family (the *family member*), or causes the family [member](#) to be fearful.

(2) Examples of behaviour that may constitute [family violence](#) include (but are not limited to):

- (a) an assault; or
- (b) a sexual assault or other sexually abusive behaviour; or
- (c) stalking; or
- (d) repeated derogatory taunts; or
- (e) intentionally damaging or destroying [property](#); or
- (f) intentionally causing death or injury to an animal; or
- (g) unreasonably denying the family [member](#) the financial autonomy that he or she would otherwise have had; or
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family [member](#), or his or her [child](#), at a time when the family [member](#) is entirely or predominantly dependent on the person for financial support; or
- (i) preventing the family [member](#) from making or keeping connections with his or her family, friends or culture; or
- (j) unlawfully depriving the family [member](#), or any [member of the family member](#)'s family, of his or her liberty.

(3) For the purposes of [this Act](#), a [child](#) is ***exposed*** to [family violence](#) if the [child](#) sees or hears [family violence](#) or otherwise experiences the effects of [family violence](#).

(4) Examples of situations that may constitute a [child](#) being [exposed](#) to [family violence](#) include (but are not limited to) the [child](#):

- (a) overhearing threats of death or personal injury by a [member](#) of the [child](#)'s family towards another [member](#) of the [child](#)'s family; or
- (b) seeing or hearing an assault of a [member](#) of the [child](#)'s family by another [member](#) of the [child](#)'s family; or
- (c) comforting or providing assistance to a [member](#) of the [child](#)'s family who has been assaulted by another [member](#) of the [child](#)'s family; or

(d) cleaning up a site after a [member](#) of the [child](#)'s family has intentionally damaged [property](#) of another [member](#) of the [child](#)'s family; or

(e) being present when police or ambulance officers attend an incident involving the assault of a [member](#) of the [child](#)'s family by another [member](#) of the [child](#)'s family.

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### Relevance of FV to FL

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- 'Core business Family Court' & FMC, FRC
  - Half cases; severe; mothers; sexual abuse p210
- CCV often escalates *after* separation: plan
- Children at increased risk: need to keep safe
  - Ongoing risk if time with perpetrator
- Client's capacity to negotiate and consent: not conducive to mediation – exception to s60I
- Litigation: evidence – ADVO not sufficient evidence of violence by itself; need to particularise. Must be able to gather as much information to paint a picture of the FV in court.
- Property: may not pursue– fearful, lack of resources, lack of property; negative contribution

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### Protecting from violence

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Civil protection orders: **ADVO (NSW)** p 202

- Complainant or police apply – undefended, balance probabilities,
  - Person domestic relationship, reasonable grounds to fear + fears personal violence, intimidation, stalking (s16, *Crimes (Domestic & Personal Violence) Act* NSW 2007)
- **Breach is criminal offence: more likely to deter perp.**
- FLC: Insufficient evidence of violence
- FLA: personal protection orders

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### Defining Violence

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- tension between promoting child's meaningful relationship with parents and ensuring safety BUT now safety is given priority.
- History of FV in FLA p 206
  - early legislation didn't recognise FV – now they do!
  - NSW & ALRC report FV 2010
  - Chisholm inquiry 2009
  - Family Law Council inquiry 2010
  - National Plan preventing violence 2010
- S4AB – now includes a much broader approach into defining what is FV and is now easier for lawyers to place an incident as violent pursuant to this part of the legislation.

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## Good Practice: Identifying FV

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- Interviewing / Screening
  - For all clients: is violence relevant?
  - Questions to ask clients: *Best Practice Family Lawyers* p216 (check familylawcourts.gov.au for most recent version)
  - Direct questions on violence (NSW health)
    - Within the last year have you been hit, slapped or hurt in other ways by your partner or ex-partner?
    - Are you frightened of your partner or ex-partner?
    - Are you safe to go home when you leave here?
  - FRC Screening Framework p 12-16
    - Respect and rapport – focus is safety
    - Open ended questions
- 1. Take a history/narrative of client
- 2. Ask about nature of relationship
- 3. Ask questions about family links/friend links
- 4. Ask the victim whether they are fearful right now? If not, ask them whether they can go home and guarantee safety for their children and themselves.
- 5. DOORS training videos.

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## Risk Assessment

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- Lawyers: make good warm referrals
- Assess likely degree of harm or injury
  - Identify nature, frequency, severity, frequency, risk – for each family member
- Structured judgment approach (Robinson, vUWS):
  - Spousal Assault Risk Assessment
  - FRC & FRAL assessment framework
  - Abuse observation checklist, Jaffe 2003
  - Common Risk Assessment Framework (Vic)
- Mental health problems, substance abuse
- Risk assessment should be informed by victim assessment

Janet Johnston, 2009, Ch 11:

1. Potency
  - Past injury, threats, weapons,
  - mental illness, obsession, D&A, depression, current stressor
2. Pattern
  - History violence, threats, possessive
  - Victim fearful
3. Primary perpetrator
4. Parenting problems
5. Preferences and perspective of child

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## Ensuring Safety FLA

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- s67ZBB, s67Z, allegations/risk FV or abuse: notice to FCA: triage
- s60CF: inform FV order
- Evidence: particularise (Rathus, 2008, p 16)
  - Affidavit – detailed & consistent
  - 3<sup>rd</sup> party corroboration
  - Subpoena evidence
  - Family violence report: independent / social science
  - Court ordered report Family consultant
- Confidentiality
- Remember to make referrals! You are in a position to help someone so help them!

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## FAMILY LAW ACT 1975 - SECT 67Z

### Where interested person makes allegation of child abuse

(1) This section applies if an [interested person](#) in [proceedings](#) under [this Act](#) alleges that a [child](#) to whom the [proceedings](#) relate has been [abused](#) or is at risk of being [abused](#).

(2) The [interested person](#) must file a notice in the [prescribed form](#) in the [court](#) hearing the [proceedings](#), and serve a true copy of the notice upon the person who is alleged to have [abused](#) the [child](#) or from whom the [child](#) is alleged to be at risk of [abuse](#).

(3) If a notice under subsection (2) is filed in a [court](#), the [Registry Manager](#) must, as soon as practicable, notify a [prescribed child welfare authority](#).

(4) In this section:

**"Interested person"** in [proceedings](#) under [this Act](#), means:

- (a) a [party](#) to the [proceedings](#); or
- (b) an independent [children's lawyer](#) who represents the [interests](#) of a [child](#) in the [proceedings](#); or
- (c) any other person prescribed by the regulations for the purposes of this paragraph.

### S 67ZBB Court to take prompt action in relation to allegations of child abuse or family violence

(1) This section applies if:

- (a) a notice is filed under [subsection 67Z\(2\)](#) or [67ZBA\(2\)](#) in [proceedings](#) for an



order under this Part in relation to a [child](#); and

(b) the notice alleges, as a consideration that is relevant to whether the [court](#) should make or refuse to make the order, that:

(i) there has been [abuse](#) of the [child](#) by one of the parties to the [proceedings](#); or

(ii) there would be a risk of [abuse](#) of the [child](#) if there were to be a delay in the [proceedings](#); or

(iii) there has been [family violence](#) by one of the parties to the [proceedings](#); or

(iv) there is a risk of [family violence](#) by one of the parties to the [proceedings](#).

(2) The [court](#) must:

(a) consider what interim or procedural orders (if any) should be [made](#):

(i) to enable appropriate evidence about the allegation to be obtained as expeditiously as possible; and

(ii) to protect the [child](#) or any of the parties to the [proceedings](#); and

(b) make such orders of that kind as the [court](#) considers appropriate; and

(c) deal with the issues raised by the allegation as expeditiously as possible.

(3) The [court](#) must take the action required by paragraphs (2)(a) and (b):

(a) as soon as practicable after the notice is filed; and

(b) if it is appropriate having regard to the circumstances of the case--within 8 weeks after the notice is filed.

(4) Without limiting subparagraph (2)(a)(i), the [court](#) must consider whether orders should be [made](#) under [section 69ZW](#) to obtain documents or [information](#) from [State](#) and [Territory](#) agencies in relation to the allegation.

(5) Without limiting subparagraph (2)(a)(ii), the [court](#) must consider whether orders should be [made](#), or an injunction granted, under [section 68B](#).

(6) A failure to comply with a provision of this section does not affect the validity of any order [made](#) in the [proceedings](#) for the order.

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## **FAMILY LAW ACT 1975 - SECT 60CF**

### **Informing court of relevant family violence orders**

(1) If a [party](#) to the [proceedings](#) is aware that a [family violence order](#) applies to the [child](#), or a [member](#) of the [child](#)'s family, that [party](#) must inform the [court](#) of the [family violence order](#).

(2) If a person who is not a [party](#) to the [proceedings](#) is aware that a [family violence order](#) applies to the [child](#), or a [member](#) of the [child](#)'s family, that person may inform the [court](#) of the [family violence order](#).

(3) Failure to inform the [court](#) of the [family violence order](#) does not affect the validity of any order [made](#) by the [court](#).

