

Module : **Family Law**
Stage : **III**
Theme : **Private Law**
Credit Points : **10**

Aims

This module aims to provide students with:

- A sound knowledge and understanding of the law regulating the formation, breakdown, and dissolution of the institution of marriage and the family unit.
- A clear and detailed understanding of the fundamental rights and duties of the State and of individuals in relation to the family and children
- Knowledge and understanding of the fundamental principles and substantive rules of Irish family law
- Knowledge of proposals for reform in line with the greater degree of family diversity in contemporary Irish society.

Syllabus

Introduction

- The family in history and society
- Definition of family
- The role of law
- The Constitutional implications
- Jurisdiction of the courts
- Conduct of proceedings

Marriage

- The engagement
- Formalities and capacity to marry
- The legal implications of marriage
- Proposals for reform and for the introduction of civil unions

Nullity

- Void and voidable
- Grounds
- Bars to relief
- Consequences of decree

Domestic Violence

- Barring order, Safety order, Interim order
- Grounds for relief
- Spousal and other violence
- Role of Health Boards
- Enforcement of orders

Separation and Divorce

- Historical background
- Grounds for Judicial Separation
- Consequences of a decree
- The Family Law Act, 1995
- Grounds for divorce
- Effect of a decree
- Ancillary Relief
- Recognition of foreign divorces

Maintenance and Matrimonial Property

- The right to maintenance
- Maintenance orders after separation and divorce
- Enforcement of orders
- Property rights during marriage
- Property rights and orders after separation and divorce
- Resolution of disputes between spouses
- Protection of the family home
- Succession rights within families

Guardianship and Custody

- Influence of the Constitution
- Child custody and access disputes
- The welfare principle
- Custody disputes with third parties

Child Law

- Wardship
- Child care and the protection of children
- The rights of children
- Child abduction
- Adoption

The Family Outside Marriage

- The Constitution
- Parenthood
- Status of Children
- Financial obligations
- Protection from domestic violence
- Proposals for reform

Workload

Contact	90 hours
Directed Learning Time	30 hours
Independent Learning Time	60 hours
Assessment Time	20 hours
Total	200 hours

Teaching and Learning Methods

Students will be taught using a combination of formal and participative lectures. They will also be given work related to the material presented for preparation and discussion at tutorials. An assignment based on a practical Family Law dispute will be set.

Integration & Linkage

Family Law has become an increasingly important area in the legal profession. This particular module links well with Constitutional Law, due to the special place afforded to the family in the 1937 Constitution. Knowledge gained in land law will also be important in terms of the consideration of matrimonial property. The inclusion of this module in the syllabi adds a humanistic side to the programme and complements other modules such as Constitutional Law, Jurisprudence and Human Rights Law, in this respect.

Learning Outcomes

On completion of this module students should be able to:

- Analyse and review the concept of marriage within the law
- Identify and appraise the rights and duties that flow from marriage
- Describe and discuss the grounds for the dissolution of marriage, procedures for attaining a judicial separation or divorce, and alternative methods of resolving disputes
- Critically discuss the key areas of child law, including adoption, guardianship, custody, access, and the exercise by the State of its powers to take the child into care.
- Appraise the law regarding matrimonial property and in particular its disposal on the breakdown of marriage.

Assessment

This module will be assessed by way of a written assignment (30%) and a traditional closed book examination (70%). The assignment will be either an analytical essay or a problem question, both of which will require students to identify pertinent issues, describe and discuss the applicable rules of law, and then either critically assess those rules or apply them to the applied factual scenario. The examination will consist of a mixture of descriptive, analytical and application questions, taking the form of essay style questions and problem style questions. The essay style questions will focus on students' analytical abilities.

Reading List

Essential

Shatter, *Family Law in Ireland*, 4th Edition, (1997, Dublin; Butterworths)

Nestor, *An Introduction to Family Law*, 2nd Edition, (2003, Dublin; Gill and MacMillan)

Power, *Child Law Legislation*, (2001, Dublin; Round Hall)
Shannon, *Law Society of Ireland: Family Law Manual*, 3rd Edition, (2003, Oxford, OUP)
Wood & O'Shea, *Divorce in Ireland*, 2nd Edition, (2003, Dublin; First Law)
Shannon, *Family Law Practitioner: Children and the Law*, (2001, Dublin; Round Hall)

Recommended

Binchy, *Casebook on Family Law*, 2nd Edition, (1998, Dublin; Butterworths)
Cretney and Masson (1997) *Principles of Family Law* (6th Edition), Sweet & Maxwell
Fahey & Lyons, *Marital Breakdown and Family Law in Ireland*, (1995, Dublin; Oak Tree Press)
O'Connor (1988) *Key Issues in Irish Family Law*, Round Hall Press
Martin, *The Politics of Children's Rights*, (2000, Cork: Cork University Press)