



END PHYSICAL PUNISHMENT OF AUSTRALIAN CHILDREN

Legislation Working Group Information Pack

Dr Laetitia Greeff
Linda Savage
Alan Corbett
Dr Meri Oakwood

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RECOMMENDATIONS

NEW SOUTH WALES

- a) Remove the defence of reasonable chastisement/lawful correction/reasonable force from the criminal law framework.
- b) Include a clear statement* in the *Children and Young Persons (Care and Protection) Act 1998* (NSW) that physical punishment and any form of cruel, degrading, or terrifying conduct is prohibited.**
- c) Impose a time delay of 12 months on the coming into force of the new legislation.

Current Legislation

Sections 61AA(1) and (2) of the *Crimes Act 1900* (NSW) state that

- (1) In criminal proceedings brought against a person arising out of the application of physical force to a child, it is a defence that the force was applied for the purpose of the punishment of the child, but only if--
 - (a) the physical force was applied by the parent of the child or by a person acting for a parent of the child, and
 - (b) the application of that physical force was reasonable having regard to the age, health, maturity or other characteristics of the child, the nature of the alleged misbehaviour or other circumstances.
- (2) The application of physical force, unless that force could reasonably be considered trivial or negligible in all the circumstances, is not reasonable if the force is applied--
 - (a) to any part of the head or neck of the child, or
 - (b) to any other part of the body of the child in such a way as to be likely to cause harm to the child that lasts for more than a short period.

Proposed Legislation

Crimes Amendment (Equal Protection from Assault for Children) Bill 20xx

A Bill for

An Act to repeal section 61AA of the *Crimes Act 1900* (NSW) to allow children equal protection from assault by abolishing the defence of lawful correction.

1. Name of Act

Crimes Amendment (Equal Protection from Assault for Children) Act 20xx

2. Commencement

This Act commences 12 months from the date of assent to this Act.

3. Abolition of the Defence of Lawful Correction

This Act repeals section 61AA from the *Crimes Act 1900* (NSW).

*** Proposed Statement**

Children are entitled to care, security, and a good upbringing. Children should be treated with respect for their person and individuality and may not be subjected to or threatened with physical punishment or any other degrading, humiliating or terrifying treatment.

** In New Zealand, most legal experts argued that a simple repeal of section 59 would have given the common law defence of reasonable chastisement new life.¹ The assumption was that in the absence of an act prohibiting corporal punishment, the common law defence of reasonable chastisement would again apply *unless* it was explicitly prohibited by legislation. Therefore, it was imperative that the new section 59 make it abundantly clear that physical force is never permitted when disciplining a child. The Bill's final version explicitly eliminates the common law defence of reasonable chastisement that might have come into play once the former

¹ Beth Wood et al, *Unreasonable Force: New Zealand's Journey Towards Banning the Physical Punishment of Children* (Save the Children New Zealand, 2008) 84.

section 59 had been repealed. However, for Australian purposes, it is recommended that a statement should be added to civil law to avoid unnecessary anxiety for parents and carers, which will naturally follow if associated with criminal law.

QUEENSLAND

- a) Remove the defence of reasonable chastisement/lawful correction/reasonable force from the criminal law framework.
- b) Include a clear statement* in the *Child Protection Act 1999* (Qld) that physical punishment and any form of cruel, degrading, or terrifying conduct is prohibited.**
- c) Impose a time delay of 12 months on the coming into force of the new legislation.

Current Legislation

Section 280 of the *Criminal Code Act 1899* (Qld) states that '[i]t is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, discipline, management or control, towards a child or pupil, under the person's care such force as is reasonable under the circumstances.'

Proposed Legislation

Criminal Code Amendment (Equal Protection from Assault for Children) Bill 20xx

A Bill for

An Act to repeal section 280 of the *Criminal Code Act 1899* (Qld) to allow children equal protection from assault and to live in a safe and secure environment free from violence by abolishing the use of parental physical punishment.

1. Name of Act

Criminal Code Amendment (Equal Protection from Assault for Children) Act 20xx

2. Commencement

This Act commences 12 months from the date of assent to this Act

3. Abolition of the Defence of Lawful Correction.

This Act repeals section 280 in the *Criminal Code 1899* (Qld)

* Proposed Statement

Children are entitled to care, security, and a good upbringing. Children should be treated with respect for their person and individuality and may not be subjected to or threatened with physical punishment or any other degrading, humiliating or terrifying treatment.

** In New Zealand, most legal experts argued that a simple repeal of section 59 would have given the common law defence of reasonable chastisement new life.² The assumption was that in the absence of an act prohibiting corporal punishment, the common law defence of reasonable chastisement would again apply *unless* it was explicitly prohibited by legislation. Therefore, it was imperative that the new section 59 make it abundantly clear that physical force is never permitted when disciplining a child. The Bill's final version explicitly eliminates the common law defence of reasonable chastisement that might have come into play once the former section 59 had been repealed. However, for Australian purposes, it is recommended that a statement should be added to civil law to avoid unnecessary anxiety for parents and carers, which will naturally follow if associated with criminal law.

² Beth Wood et al, *Unreasonable Force: New Zealand's Journey Towards Banning the Physical Punishment of Children* (Save the Children New Zealand, 2008) 84.

NORTHERN TERRITORY

- a) Remove the defence of reasonable chastisement/lawful correction/reasonable force from the criminal law framework.
- b) Include a clear statement* in the *Care and Protection of Children Act 2007* (NT) that physical punishment and any form of cruel, degrading, or terrifying conduct is prohibited.**
- c) Impose a time delay of 12 months on the coming into force of the new legislation.

Current Legislation

Section 27(p) of the *Criminal Code Act 1983* (NT) states that in '[c]ircumstances in which force not being such force as is likely to cause death or serious harm is justified, ... the application of force is justified provided it is not unnecessary force and it is not intended and is not such as is likely to cause death or serious harm: ...

(p) in the case of a parent or guardian of a child, or a person in the place of such parent or guardian, to discipline, manage or control such child.'

Proposed Legislation

Criminal Code Act Amendment (Equal Protection from Assault for Children) Bill 20xx

A Bill for

An Act to repeal section 27(p) of the *Criminal Code 1983* (NT) to allow children equal protection from assault and to live in a safe and secure environment free from violence by abolishing the use of parental physical punishment.

1. Name of Act

Criminal Code Act Amendment (Equal Protection from Assault for Children)
Act 20xx

2. Commencement

This Act commences 12 months from the date of assent to this Act.

3. Abolition of the Defence of Lawful Correction

This Act repeals section 27(p) of the *Criminal Code 1983* (NT).

*** Proposed Statement**

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³ Beth Wood et al, *Unreasonable Force: New Zealand's Journey Towards Banning the Physical Punishment of Children* (Save the Children New Zealand, 2008) 84.

WESTERN AUSTRALIA

- a) Remove the defence of reasonable chastisement/lawful correction/reasonable force from the criminal law framework.
- b) Include a clear statement* in the *Children and Community Services Act 2004* (WA) that physical punishment and any form of cruel, degrading, or terrifying conduct is prohibited. **
- c) Impose a time delay of 12 months on the coming into force of the new legislation.

Current Legislation

Section 257 of the *Criminal Code 1913* (WA) states that 'It is lawful for a parent or a person in the place of a parent, or for a school master, to use by way of reasonable correction, towards a child or pupil under his care, such force as is reasonable under the circumstances.'

Proposed Legislation

Criminal Code Act Amendment (Equal Protection from Assault for Children) Bill 20xx

A Bill for

An Act to repeal section 257 of the *Criminal Code 1913* (WA) to allow children equal protection from assault and to live in a safe and secure environment free from violence by abolishing the use of parental physical punishment.

1. Name of Act

Criminal Code Act Amendment (Equal Protection from Assault for Children)
Act 20xx

2. Commencement

This Act commences 12 months from the date of assent to this Act.

3. Abolition of the Defence of Lawful Correction.

This Act repeals section 257 defence of *reasonable force* in the *Criminal Code 1913* (WA).

* Proposed Statement

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⁴ Beth Wood et al, *Unreasonable Force: New Zealand's Journey Towards Banning the Physical Punishment of Children* (Save the Children New Zealand, 2008) 84.

TASMANIA

- a) Remove the defence of reasonable chastisement/lawful correction/reasonable force from the criminal law framework.
- b) Include a clear statement* in the *Children, Young Persons and their Families Act 1997* (Tas) that physical punishment and any form of cruel, degrading, or terrifying conduct is prohibited. **
- c) Impose a time delay of 12 months on the coming into force of the new legislation.

Current Legislation

Section 50 of the *Criminal Code Act 1924* (Tas) states that 'It is lawful for a parent or a person in the place of a parent to use, by way of correction, any force towards a child in his or her care that is reasonable in the circumstances.'

Proposed Legislation

Criminal Code Act Amendment (Equal Protection from Assault for Children) Bill 20xx

A Bill for

An Act to repeal section 50 of the *Criminal Code Act 1924* (Tas) to allow children equal protection from assault and to live in a safe and secure environment free from violence by abolishing the use of parental physical punishment.

1. Name of Act

Criminal Code Act Amendment (Equal Protection from Assault for Children)
Act 20xx

2. Commencement

This Act commences 12 months from the date of assent to this Act.

3. Abolition of the Defence of Lawful Correction

This Act repeals section 50 in the *Criminal Code Act 1924* (Tas).

* Proposed Statement

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⁵ Beth Wood et al, *Unreasonable Force: New Zealand's Journey Towards Banning the Physical Punishment of Children* (Save the Children New Zealand, 2008) 84.

VICTORIA

- a) Because the common law applies here, a clear statement* should be included in the *Child Wellbeing and Safety Act 2005* (Vic) that physical punishment and any form of cruel, degrading, or terrifying conduct is prohibited. **
- b) Impose a time delay of 12 months on the coming into force of the new legislation.

* Proposed Statement

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AUSTRALIAN CAPITAL TERRITORY

- a) Because the common law applies here, a clear statement* should be included in the *Children and Young People Act 2008* (ACT) that physical punishment and any form of cruel, degrading, or terrifying conduct is prohibited.**
- b) Impose a time delay of 12 months on the coming into force of the new legislation.

* Proposed Statement

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⁷ Beth Wood et al, *Unreasonable Force: New Zealand's Journey Towards Banning the Physical Punishment of Children* (Save the Children New Zealand, 2008) 84.

SOUTH AUSTRALIA

- a) Because the common law applies here, a clear statement* should be included in the *Children and Young People (Safety) Act 2017* (SA) that physical punishment and any form of cruel, degrading, or terrifying conduct is prohibited. **
- b) Impose a time delay of 12 months on the coming into force of the new legislation.
- c) The *Criminal Law Consolidation Act 1935* (SA) provides in s 20(2) that conduct will not be regarded as assault if it lies within the limits of what would generally be accepted in the community as normal incidents of social interaction or community life that are justified or excused by law. It is recommended that this section be repealed or, at the very least, amended to explicitly exclude the physical punishment of children.

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⁸ Beth Wood et al, *Unreasonable Force: New Zealand's Journey Towards Banning the Physical Punishment of Children* (Save the Children New Zealand, 2008) 84.

TABLE 1 – SUMMARY

STATE/ TERRITORY	CURRENT LEGISLATION	PROPOSED LEGISLATION
NSW	Section 61AA of the <i>Crimes Act 1900</i> (NSW)	Crimes Act Amendment (Equal Protection from Assault for Children) Act 20xx And Statement in the <i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW)
Tas	Section 50 of the <i>Criminal Code Act 1924</i> (Tas)	Criminal Code Act Amendment (Equal Protection from Assault for Children) Act 20xx And Statement in the <i>Children, Young Persons and their Families Act 1997</i> (Tas)
WA	Section 257 of the <i>Criminal Code 1913</i> (WA)	Criminal Code Act Amendment (Equal Protection from Assault for Children) Act 20xx And Statement in the <i>Children and Community Services Act 2004</i> (WA)
Qld	Section 280 of the <i>Criminal Code Act 1899</i> (Qld)	Criminal Code Act Amendment (Equal Protection from Assault for Children) Act 20xx And Statement in the <i>Child Protection Act 1999</i> (Qld)
NT	Section 27(p) of the <i>Criminal Code Act 1983</i> (NT)	Criminal Code Act Amendment (Equal Protection from Assault for Children) Act 20xx And Statement in the <i>Care and Protection of Children Act 2007</i> (NT)
SA	Common Law	Statement in the <i>Children and Young People (Safety) Act 2017</i> (SA) And Repeal or amend section 20(2) of the <i>Criminal Law Consolidation Act 1935</i> (SA) to explicitly exclude physical punishment of children
Vic	Common Law	Statement in the <i>Child Wellbeing and Safety Act 2005</i> (Vic)
ACT	Common Law	Statement in the <i>Children and Young People Act 2008</i> (ACT)

BRIEFING NOTES

NEW SOUTH WALES

Parental corporal punishment of children under 18 years is legal in New South Wales under the defence of *lawful correction* found in section 61AA of the *Crimes Act 1900* (NSW). However, if a parent hits their child who is 18 years or older, that parent could be charged with common assault. Corporal punishment, therefore, discriminates against children because of their age.

Repealing the provision in the criminal law does not create a new offence. What it does is *remove* the defence from the criminal statute. By repealing this provision, children are put on a level playing field with adults, providing them with the same protection from common assault.

There should be no special legal protection for hitting children.

Ending corporal punishment will send a clear message that hitting children is wrong and is just as unacceptable as hitting adults.

It does not lead to prosecutions where the force used by a parent is inconsequential and trivial or needed to protect their child from imminent danger, such as restraining their child from running onto a busy road or sticking their fingers into an electrical socket.

More than 60 countries have made corporal punishment illegal in all settings (home, school, alternative care and penal institutions). Evidence shows that there is not an overwhelming increase in parental prosecutions in those jurisdictions that have passed the necessary legislative measures to end corporal punishment.

WESTERN AUSTRALIA

Parental corporal punishment of children under 18 years is legal in Western Australia under section 257 of the *Criminal Code Act 1913* (WA). If a parent hits their child who is 18 years or older, that would be assault. Corporal punishment, therefore, discriminates against children because of their age.

Repealing the provision in the criminal law does not create a new offence. What it does is *remove* the defence from the criminal statute. By repealing this provision, children are put on a level playing field with adults, providing them with the same protection from common assault. There should be no special legal protection for hitting children.

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More than 60 countries have made corporal punishment illegal in all settings (home, school, alternative care and penal institutions). Evidence shows that there is not an overwhelming increase in parental prosecutions in those jurisdictions that have passed the necessary legislative measures to end corporal punishment.

QUEENSLAND

Parental corporal punishment of children under 18 years is legal in Queensland under section 280 of the *Criminal Code Act 1899* (Qld). If a parent hits their child who is 18 years or older, that would be assault. Corporal punishment, therefore, discriminates against children because of their age.

Repealing the provision in the criminal law does not create a new offence. What it does is *remove* the defence from the criminal statute. By repealing this provision, children are put on a level playing field with adults, providing them with the same protection from common assault. There should be no special legal protection for hitting children.

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More than 60 countries have made corporal punishment illegal in all settings (home, school, alternative care and penal institutions). Evidence shows that there is not an overwhelming increase in parental prosecutions in those jurisdictions that have passed the necessary legislative measures to end corporal punishment.

NORTHERN TERRITORY

Parental corporal punishment of children under 18 years is legal in the Northern Territory under section 27(p) of the *Criminal Code Act 1983* (NT). If a parent hits their child who is 18 years or older, that would be assault. Corporal punishment, therefore, discriminates against children because of their age.

Repealing the provision in the criminal law does not create a new offence. What it does is *remove* the defence from the criminal statute. By repealing this provision, children are put on a level playing field with adults, providing them with the same protection from common assault. There should be no special legal protection for hitting children.

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More than 60 countries have made corporal punishment illegal in all settings (home, school, alternative care and penal institutions). Evidence shows that there is not an overwhelming increase in parental prosecutions in those jurisdictions that have passed the necessary legislative measures to end corporal punishment.

TASMANIA

Parental corporal punishment of children under 18 years is legal in Tasmania under the defence of *reasonable force* found in section 50 of the *Criminal Code Act 1924*. If a parent hits their child who is 18 years or older, that would be assault. Corporal punishment, therefore, discriminates against children because of their age.

Repealing the provision in the criminal law does not create a new offence. What it does is *remove* the defence from the criminal statute. By repealing this provision, children are put on a level playing field with adults, providing them with the same protection from common assault. There should be no special legal protection for hitting children.

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More than 60 countries have made corporal punishment illegal in all settings (home, school, alternative care and penal institutions). Evidence shows that there is not an overwhelming increase in parental prosecutions in those jurisdictions that have passed the necessary legislative measures to end corporal punishment.

VICTORIA

Parental corporal punishment of children under 18 years is legal in Victoria under the common law (judge-made law) defence of *reasonable chastisement*. If a parent hits their child who is 18 years or older, that would be assault, and the defence of reasonable chastisement would not apply. Corporal punishment, therefore, discriminates against children because of their age.

A new law that explicitly removes the defence of reasonable chastisement and thereby prohibits corporal punishment would go a long way to put children on a level playing field with adults, providing them with the same protection from assault. It does not create a new offence.

There should be no special legal protection for hitting children.

Ending corporal punishment will send a clear message that hitting children is wrong and is just as unacceptable as hitting adults.

It does not lead to prosecutions where the force used by a parent is inconsequential and trivial or needed to protect their child from imminent danger, such as restraining their child from running onto a busy road or sticking their fingers into an electrical socket.

More than 60 countries have made corporal punishment illegal in all settings (home, school, alternative care and penal institutions). Evidence shows that there is not an overwhelming increase in parental prosecutions in those jurisdictions that have passed the necessary legislative measures to end corporal punishment.

SOUTH AUSTRALIA

Parental corporal punishment of children under 18 years is legal in South Australia under the common law (judge-made law) defence of *reasonable chastisement*. If a parent hits their child who is 18 years or older, that would be assault, and the defence of reasonable chastisement would not apply. Corporal punishment, therefore, discriminates against children because of their age.

A new law that explicitly removes the defence of reasonable chastisement and thereby prohibits corporal punishment would go a long way to put children on a level playing field with adults, providing them with the same protection from assault. It does not create a new offence.

There should be no special legal protection for hitting children.

Ending corporal punishment will send a clear message that hitting children is wrong and is just as unacceptable as hitting adults.

It does not lead to prosecutions where the force used by a parent is inconsequential and trivial or needed to protect their child from imminent danger, such as restraining their child from running onto a busy road or sticking their fingers into an electrical socket.

More than 60 countries have made corporal punishment illegal in all settings (home, school, alternative care and penal institutions). Evidence shows that there is not an overwhelming increase in parental prosecutions in those jurisdictions that have passed the necessary legislative measures to end corporal punishment.

AUSTRALIAN CAPITAL TERRITORY

Parental corporal punishment of children under 18 years is legal in the Australian Capital Territory under the common law (judge-made law) defence of *reasonable chastisement*. If a parent hits their child who is 18 years or older, that would be assault, and the defence of reasonable chastisement would not apply. Corporal punishment, therefore, discriminates against children because of their age.

A new law that explicitly removes the defence of reasonable chastisement and thereby prohibits corporal punishment would go a long way to put children on a level playing field with adults, providing them with the same protection from assault. It does not create a new offence.

There should be no special legal protection for hitting children.

Ending corporal punishment will send a clear message that hitting children is wrong and is just as unacceptable as hitting adults.

It does not lead to prosecutions where the force used by a parent is inconsequential and trivial or needed to protect their child from imminent danger, such as restraining their child from running onto a busy road or sticking their fingers into an electrical socket.

More than 60 countries have made corporal punishment illegal in all settings (home, school, alternative care and penal institutions). Evidence shows that there is not an overwhelming increase in parental prosecutions in those jurisdictions that have passed the necessary legislative measures to end corporal punishment.

DRAFT LETTERS TO MPs.

POLITICAL ASK - CORPORAL PUNISHMENT

Legislative reform has been identified as a critical step to ensuring children are no longer subject to physical force by their parents and corporal punishment (CP) becomes both unacceptable and a thing of the past. Past experience shows that attitudinal change is often led by, or reinforced by legislation. Previous examples include legislation banning smoking in public places, single use plastic bags and making seatbelts compulsory.

Legislative reform by the repeal of existing defences or prohibition of the use of force, makes it crystal clear that that hitting and hurting a child is no longer a parental right and is no longer lawful or defensible in any circumstances. The legislative steps required depending on whether the defence to CP is in the Criminal Code or in the common law is provided for each state and territory in this document.

Laying the groundwork for legislative change usually involves a range of actions. This includes direct approaches to MPs and Ministers, submission writing, letters and articles in newspapers and journals and petitions for example. Experience in other countries indicates that it has often been driven by civil society – for example a group of concerned individuals coming together (See Scotland) or spearheaded by a private members Bill by an individual MP who has taken up the issue. (See New Zealand and Wales).

At times a direct approach to members of parliament by way of a letter is a first step. MPs like many people are often unaware of the defence to the use of force against children, or the evidence about the harmful impact of CP on children and the link between CP and family and domestic violence. We provide two different approaches – how you approach MPs depends on the current political context and the MP you are approaching, as well as your own personal style. Letters should be modified to incorporate issues that are currently being debated. For example if coercive control laws are being considered you can draw parallels between these proposed laws and CP.

As former MPs we have considered the form and content of correspondence that may assist you in raising this issue with MPs and how to make the case for legislative reform bearing in mind the huge number of issues that are raised with them.

The language used is very important. In the interests of consistency it would be useful if key messages could be agreed to that could be used in letters to MPs.

As you know the media use headlines for articles and news coverage to gain attention – the more inflammatory the better often using the words 'banning' and 'criminalising'- implying parents will be subject to prosecution for even a single smack on the bottom or restraining their child from running on the road. Whilst links to the research should be included and a paragraph included this should not be too lengthy. (We understand a summary of what is considered the best evidence in the Australian context is being prepared). It is important to push back on any immediate issues that are being used in your state or by a particular individual against the need for legislative reform as MPs and political parties are unlikely to be receptive to action for

a contentious issue like CP when they perceive it as having no discernible political upside.

Alan Corbett and I have provided different approaches that can be used as a starting point basis are available to discuss any issues you have related to contacting Ministers and MPs.

LINDA SAVAGE

DRAFT LETTER 1 - Criminal Code jurisdictions - modify for common law jurisdictions of Victoria, SA and ACT as per recommendations and notes in this document.

Linda Savage

Dear

EQUAL PROTECTION FOR CHILDREN IN WESTERN AUSTRALIA FROM ASSAULT

I am writing to you because like many people, you may not know that children in this state have less protection from assault than adults.

Assaulting another person is a criminal offence in Western Australia. It occurs when one person strikes another person – **applying force of any kind to another person**, either directly or indirectly, without the person's consent, or with their consent if it is obtained by fraud.

Despite this children are specifically singled out for less protection from assault and the intentional use of force than adults. This is because in Western Australia if a parent is charged with assaulting their child they may be able to claim their use of physical force was to discipline their child and was reasonable, and therefore lawful.

Section 257 of the *Criminal Code WA* provides when the use of force against a child may be lawful.

Discipline of Children

'It is lawful for a parent or a person in the place of a parent, or for a school master, to use by way of reasonable correction, towards a child or pupil under his care, such force as is reasonable under the circumstances.'

RESEARCH SECTION SUBJECT TO CHANGE ONCE A RESEARCH PARAGRAPH OR ATTACHMENT PROVIDED BY RESEARCH GROUP

Physical punishment or physical discipline of children can take many forms, including smacking, spanking and slapping. Many people, including parents are not aware of the adverse impact of physical punishment, however light, on a child's mental and cognitive development.

- CP is associated with adverse physical, mental and behavioural outcomes in childhood including low self-esteem, anti-social behaviour, aggression and has an

adverse impact on cognitive and academic performance and engagement. (Gershoff & Grogan-Kaylor, 2016; Durant & Ensom, 2017, Font & Cage, 2017)

- A review of 69 prospective longitudinal studies found physical punishment makes children's behaviour worse over time and also is not associated with positive outcomes over time. (Heilman et al, 2021)
- Abuse alters a child's brain (Perry, 2008; Ioannidis, 2020). Research has shown that corporal punishment has a similar effect on the child brain as abuse because it elicits fear and anxiety (Cuartas et al, 2021).
- Children who are subject to CP are at higher risk of more extreme physical abuse within the family. (Frechette, Zoratti & Romano, 2015).
- A study of child homicide in NSW from 1991 to 2005 concluded more lives could be saved by measures that reduce the incidence of child abuse, including the prohibition of corporal punishment of children. (Neilssen, Large, Westmore & Lackersteen, 2009).

OR

A 2016 **review** of more than 70 international studies showed it was linked to reduced compliance with parents' instructions over time, children having increased aggression and antisocial behaviour, mental health problems, and lower self-esteem. In adulthood, it is also linked to antisocial behaviour and being either a victim or perpetrator of intimate partner violence.

As a signatory to the Convention on the Rights of the Child Australia has undertaken to uphold every child's right to live a life free from all violence, including corporal punishment. The National Commissioner for Children and Young People is leading calls for (Ask Anne Hollands for a quote) She is not alone – add names/ organisations. It is time for Western Australia to ensure children have equal protection from assault as adults.

Attached is a draft Bill that will make that happen and allows for a 12 month period before commencement for public education and alternative supports to be offered to parents in disciplining their children.. It should be noted that repealing s.257 of the *Criminal Code WA* :

- does not create a new offence but simply provides children with the same protection from assault as adults.
- sends a clear and unequivocal message that hitting and hurting a child is wrong and no longer acceptable just as hitting and hurting an adult is wrong.
- will not lead to prosecutions for 'trivial smacking' any more than there are prosecutions for trivial assaults of adults by other adults.
- will send a clear, consistent and unequivocal message that the use of physical violence is never ok.

Key to addressing family and domestic violence is the principle that violence of any kind is never acceptable. This principle should apply to everyone including

defenceless children. Western Australia has the opportunity to lead Australia in recognising every child's right to a life free from violence of any type in any setting.

I would welcome the opportunity to meet with you to discuss this issue.

Kind Regards

Linda Savage

End Physical Punishment of Australian Children : A campaign advocating for children to have equal protection from violence as adults and supported by child advocates, academics and not for profit organisations under the auspices of the Parenting and Family Research Alliance – a multidisciplinary research collaboration of experts from leading universities and research centres. <https://www.pafra.org>

DRAFT LETTER 2.

ALAN CORBETT

I am suggesting a three-pronged approach but presented at the same time to the person concerned.

- 1) A cover letter. One option is below.
- 2) A published paper that summarises the latest research.
- 3) Several brief descriptions of what it was like as a child to be hit or to watch others being hit by a parent.

1) COVER LETTER- draft.

Dear ..(MPs name)

I am writing to request your support for the (Bill's Title)...

The overall rationale behind this Bill is to ensure that children have equal protection under the law from being hit and hurt by their parents. It seeks nothing more than to extend to children the same protection that applies to us.

The adverse effects of child physical punishment are well known and accompanying this letter is a paper that presents the evidence.

Despite the differences we may have in our personal and philosophical beliefs, the one thing we all share is a memory of our childhood. We all have a story and some are not pleasant ones when it comes to the punishment we may have received as children.

However, whatever our personal history and current political affiliations, I'm sure we can all agree that hurting a child to try and modify their behaviour makes no sense.

Furthermore, the use of physical force upon a child is not appropriate in 2022, especially if there are other non-physical and non-violent ways of guiding children and which are readily accessible to parents.

Fortunately, there are such alternatives and it is vital to ensure that these are available should this Bill become law.

Please feel free to contact the author if you have any comments, suggestions or questions.

Yours Sincerely,

2) PUBLISHED PAPER

A published article that summarises the latest research. Perhaps the publication "Corporal Punishment of Children in Australia: The evidence-based case for legislative reform" which was submitted for publication by The Parenting and Family Alliance, would be appropriate?

3) DESCRIPTIONS

The third document could be raw account of physical punishment from a child's perspective based on the recollections of adults who were punished as children.

This could be a powerful tool for changing minds as the content will be relatable to many.

I have written the first part through a boy's eyes. I obtained the ideas both from my male friends and of course, from my own experience.

More examples could be invited from your group and the 'best' ones that illustrate the harm done to children could be chosen.

As you read them I'm sure you will agree that physical punishment did indeed do them harm.

BOY...

1) Child to parent: Why did you hit me? Why do you want to hurt me?

Parent to child: I don't want to hurt you, but you have to learn to be 'good' / to respect authority/ to be obedient/ not to hurt others....

Child to parent: Then show me what I did wrong, explain to me what I need to do and try to understand that sometimes I just do things and I don't know why.

.....

2) You are my mum and my dad. I love you and I need you to protect me but when you hurt me and then you say you love me, I get confused. How can both be true?

.....

3) By smacking me you are teaching me that it is ok to hurt the people you love and showing me how to do it!

.....

3) I have upset my parents. It is my fault. I am a bad person. I deserved to be hurt and I am hurt but I won't tell on them. I will defend my parents because they love me. They are the best.

.....

4) Dad, how does hitting me help me to become a better person? I just become angrier and more scared that you will hurt me again. Is that the person you want me to be? Both angry and scared of you?

.....

5) My child once said to me "If you want to hurt me you will need to hit me harder than that."

.....

6) I am watching my brother being hit over and over again with a wooden spoon. My mother has lost it. My brother is crying, I am crying and shouting for it to stop. I can't remember how it ended.

.....

7) The morning after, I looked at my buttocks in the mirror. The shape of the wooden spoon was branded on both. I could hardly sit down but I told myself I must endure the pain and I wasn't going to be weak.

.....

8) I am watching my mother being hurt by my father and I know I will be next.

.....

9) My mother cowers in the kitchen corner; dad's dinner is dripping off the wall. I find myself hating her for being weak. Why can't she fight back? Why won't she protect me from him? Are all women like this? My dad says she deserved it and I'm starting to believe it.

.....

10) I had a school lesson today on 'respectful relationships 'and the teacher said if we respect other kids we will never hit them. But now I am home and my parents tell me that they hit me because I need to respect them.

GIRL ... examples

1)

2)