

# Parenting and Family Support Centre

Submission to Queensland Law Reform Commission  
Review of Particular Criminal Defences



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## Executive summary

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The Queensland Law Reform Commission is currently undertaking a review of particular defences in the Queensland Criminal Code (1899), including the defence of domestic discipline in section 280 (S280). S280 allows physical discipline of children, including the use of “force” as is deemed “reasonable” under the circumstances for the purpose of correction, discipline, management or control of a child. Question 21 of the Qld Law Reform Commission Consultation Paper provides two options for reforming S280:

Option 1 is to repeal the defence and introduce diversion and other supporting measures. Specifically, it calls to repeal section 280 of the Criminal Code which provides the defence of domestic discipline. It states that police and court based diversionary options should be introduced to divert parents who use low level corporal punishment away from the criminal justice system, and support education and rehabilitation. Under option 1, the repeal should come into force two years after the initiation of a statewide community education and awareness campaign.

Option 2 is to amend the domestic discipline offence. This involves amending section 280 of the Criminal Code in one or more of the following ways: a) limit the defence so it is only available as a defence to common assault; b) provide legislative guidance as to factors relevant to the assessment of reasonableness or include deeming provisions about conduct that is unreasonable, or both; c) limit the purposes for which domestic discipline may be used; d) include definitions of ‘parent’, ‘person in place of a parent’, ‘teacher’ and ‘master’.

Option 1 is the only acceptable way forward. The defence of domestic discipline must be repealed in full, and measures installed to support adults to use alternative, non-physical means to discipline and guide children.

Option 2 is insufficient. Merely stating limits for the defence will not sufficiently protect children from the harms of corporal punishment and physical abuse. This is evidenced in other Australian states and territories that have adopted this approach. For example, in New South Wales, the rate of child maltreatment remains high (Sanders et al., 2024) despite criminal law attempting to define where ‘lawful correction’ ends and illegal violence begins (Crimes Act 1900 (NSW) s.61AA(2)).

Full repeal of the defence is the only way to protect children’s right to a life free from violence. Placing limits on the defence would effectively state that physical harm to children is permissible within certain circumstances, which is unacceptable. The government must protect children from all physical harm, and support adults to do so as well.

The Parenting and Family Support Centre therefore recommends that:

1. Section 280 be repealed, removing the defence of domestic discipline.
2. Government invests in a multi-tiered public health approach including educational campaigns, development and deployment of resources, and provision and funding of services to:
  - a. educate on the harms of corporal punishment
  - b. promote positive alternatives to corporal punishment
  - c. encourage a cultural shift towards non-violent discipline
  - d. improve understanding of children and young people on their rights to live free from violence
  - e. increase awareness of, and pathways to access, support services for children, young people, and adults, including evidence-based parenting supports

- f. provide additional support for cohorts at higher risk of using physical discipline including First Nations families, families from culturally and linguistically diverse backgrounds, and families with parents or children that live with disability
- g. employ a whole-of-government approach to ensure appropriate health and law enforcement approaches work collaboratively, including services providing alternative parenting strategies and alternatives to prosecution
- h. measure the impact of change through a regular state-based parenting survey to monitor attitudes towards, and use of, corporal punishment and alternative discipline practices, and use representative surveys to monitor child wellbeing and prevalence of child maltreatment to see whether improvements occur.

The following submission provides an evidence-based case for these recommendations.

## The current law on corporal punishment

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In Australia, children are the only individuals for whom the use of physical violence is legally permissible (Royal Australian College of Physicians, 2013). All states and territories provide either a legislative or common law defence for the use of corporal punishment, though the scope and limitations of these defences vary (see *Crimes Act 1900* (NSW) s.61AA; *Criminal Law Consolidation Act 1935* (SA) s.20(2); *Criminal Code Act 1924* (Tas) s.50; *Criminal Code 1913* (WA) s.257; *Criminal Code Act* (NT) s.27).

In Queensland, the defence of ‘domestic discipline’ allows parents and teachers to lawfully use physical punishment against children under their care, provided it is for “correction, discipline, management, or control” and deemed “reasonable” (Supreme Court of Queensland, 2017). The onus is on the prosecution to prove beyond reasonable doubt that the force used was either not for these purposes or was unreasonable in the circumstances. However, the term “reasonable force” is not clearly defined in the *Criminal Code*, and there is limited case law to establish its boundaries. This ambiguity makes it difficult to distinguish between corporal punishment and child abuse, raising concerns about the law’s effectiveness in protecting children from harm (Savage, 2023).

While corporal punishment remains lawful in the home, it is explicitly prohibited in early childhood education and care settings under the *Education and Care Services National Law* (2011), which applies nationwide. This legislation makes it an offence for approved providers, supervisors, staff, and volunteers to subject children to corporal punishment (*Education and Care Services National Law* (Qld), s.166). Similarly, the *Child Protection Act* (1999) prohibits the use of corporal punishment for children in foster care, kinship care, and residential care settings (*Child Protection Act* (Qld), s.122(2)).

The frequency with which the defence of domestic discipline is invoked in legal proceedings is unclear. A 2008 review by the Department of Justice and Attorney-General found that in most cases where parents were charged with assaulting their children, the defence was not formally raised, as defendants typically pleaded guilty or charges were discontinued for other reasons (Department of Justice and Attorney-General, 2008). This suggests that repealing the defence would be unlikely to result in a significant increase in prosecutions but would provide greater legal clarity regarding the acceptability of physical punishment.

## Criticisms of the law

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The Queensland Law Reform Commission (QLRC) has identified that the current law is not “fit for purpose”. They highlight several key criticisms of the defence of domestic discipline in its *Review of Particular Criminal Defences* (Queensland Law Reform Commission, 2023). These include:

1. Four in 10 cases using the defence are for serious violence, including grievous bodily harm and non-fatal strangulation of children. These are not cases of domestic discipline and children must be legally protected from this level of serious violence.
2. The defence lacks clarity, as the concept of ‘reasonable’ force is open to subjective interpretation.
3. Physical punishment is ineffective, undesirable, and associated with long-term harm to children.
4. The defence is inconsistent with contemporary societal views on violence and does not align with the best interests and human rights of children, particularly their right to equal protection under the law.

The Parenting and Family Support Centre (PFSC) supports these assertions and emphasises the need for legal reform to align with evidence-based understandings of child discipline and protection.

The Queensland Child Death Review Board has also raised concerns about the legality of physical discipline in its recent deliberations, citing multiple cases where the issue was a factor (The State of Queensland (Queensland Child Death Review Board), 2024). While inclined to recommend legislative change, the Board acknowledged that the QLRC review presents the most appropriate opportunity to advocate for the repeal of section 280 of the *Criminal Code* (1899). The PFSC concurs that this review represents a critical moment to advance legal protections for children.

## Prevalence and support of corporal punishment

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### Current use and attitudes towards corporal punishment

Corporal punishment remains common in Australia, though attitudes towards its use are shifting. The nationally representative Australian Child Maltreatment Study (ACMS) found that 53.7% of parents continue to use corporal punishment, with similar rates among mothers and fathers (Haslam et al., 2023). However, younger parents (under 45) are significantly less likely to use corporal punishment than older generations, indicating a broader trend away from its acceptance (Haslam et al., 2023).

Public attitudes reflect this change. The ACMS found that 73.6% of Australians do not believe corporal punishment is necessary for raising children (Haslam et al., 2023). Support for corporal punishment is lowest among younger people, suggesting a generational decline in its use.

However, beliefs about corporal punishment vary across demographic groups. Australians facing significant disadvantage are more than twice as likely (2.25 times) to believe corporal punishment is necessary compared to those with the least disadvantage. Parents are also twice as likely to believe in its necessity compared to non-parents, while women are half as likely as men to support its use (Haslam et al., 2023). These variations highlight the need for targeted education and support, particularly for disadvantaged communities, parents, and men, to promote non-violent disciplinary practices.

## Past experiences of corporal punishment

Self-reported data indicate that corporal punishment has been widespread in Australia. The ACMS data show that 62.5% of Australians had experienced corporal punishment during childhood (Haslam et al., 2023). Among 16–24-year-olds, 58.4% had experienced corporal punishment at least four times, with similar rates among boys (59.9%), girls (56.9%), and those with diverse genders (58.8%).

Certain groups have historically been at higher risk of experiencing corporal punishment, including First Nations families, culturally and linguistically diverse communities, and families where parents or children live with disability (Fang et al., 2022). Socioeconomic status (SES) is also a key factor, with higher rates of both experiencing and using corporal punishment in families facing economic hardship. However, corporal punishment occurs across all SES levels, with nearly 60% of children from families with no financial hardship also reporting experiences of physical discipline (Haslam et al., 2023).

Additionally, corporal punishment is often transmitted across generations. Parents who experienced it as children are more likely to use it with their own children, reinforcing the cycle of physical discipline (Haslam et al., 2023). Addressing this intergenerational transmission is crucial to reducing its prevalence and promoting positive, evidence-based parenting strategies.

## The effects of corporal punishment

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Extensive research demonstrates that corporal punishment is linked to negative developmental, psychological, and social outcomes, with no long-term benefits beyond short-term compliance (Gershoff & Grogan-Kaylor, 2016; Heilmann et al., 2021).

While corporal punishment may produce immediate compliance, meta-analyses show that it does not effectively improve behaviour over time. Instead, it models aggression, fails to teach children prosocial alternatives, and is associated with increased defiance and non-compliance over time (Gershoff, 2002; Gershoff & Grogan-Kaylor, 2016). Even studies supporting corporal punishment's short-term effectiveness acknowledge its negative long-term consequences (Larzelere & Kuhn, 2005).

Decades of research, including systematic reviews and meta-analyses, have linked corporal punishment to a range of negative outcomes, including:

- Increased aggression and externalising behaviour (Gershoff, 2002; Heilmann et al., 2021).
- Higher risk of anxiety, depression, and mood disorders (Gershoff & Grogan-Kaylor, 2016).
- Lower cognitive ability and moral internalisation (Gershoff & Grogan-Kaylor, 2016).
- Weakened parent-child relationships and reduced trust (Heilmann et al., 2021)
- Increased risk for child abuse victimisation and traumatisation (Afifi et al., 2017)
- Increased risk for antisocial behaviour and criminal activity as an adolescent and adult (Joyner & Beaver, 2022; Rebellon et al., 2017)
- Increased risk for involvement in intimate partner violence as an offender or victim during adulthood (Afifi et al., 2017; Poulson, 2018)

A meta-analysis of 75 studies across 13 countries found that only 1 out of 111 statistically significant effects showed a positive association between corporal punishment and child outcomes; 99% of findings linked corporal punishment to negative effects (Gershoff & Grogan-Kaylor, 2016).



Corporal punishment contributes to intergenerational cycles of violence, where children who experience it are more likely to use it as adults (Heilmann et al., 2021). National policies permitting corporal punishment are associated with a higher risk of adolescent suicide, particularly among females aged 15–19 (Cramm, Elgar, & Pickett, 2023).

## Alternatives to corporal punishment

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By shifting away from corporal punishment, families can build healthier relationships, reduce violence, and create supportive environments for children's development. Positive parenting approaches encourage problem-solving and emotional regulation, leading to stronger familial bonds and a more resilient social fabric. Promoting non-violent discipline strategies strengthens communities by fostering empathy, mutual respect, and emotional security within families.

Evidence-based parenting programs that emphasise non-violent discipline, combined with community education, play a crucial role in breaking the cycle of violence. These interventions equip parents with effective discipline strategies that do not cause harm while also fostering children's social and emotional skills. Research consistently shows that parenting approaches that avoid corporal punishment are effective in managing challenging child behaviours and correcting misbehaviour (Doyle et al., 2017; Mingeach et al., 2018).

Clinical intervention and prevention programs that support positive parenting strategies have been found to be the most effective in improving child behavioural adjustment, mental health, and family relationships (Doyle et al., 2022). These programs focus on:

- Strengthening the parent–child relationship
- Supporting emotional awareness and self-regulation
- Reinforcing age-appropriate child behaviour
- Using non-violent responses to negative behaviour, such as brief time-out, redirection, positive discipline, and emotion coaching.

By implementing these evidence-based alternatives, communities can reduce problem behaviours, aggression, and mental health difficulties in children, while fostering social-emotional development and positive parent-child interactions (Doyle et al., 2022). Investing in parenting programs as an alternative to corporal punishment can enhance family well-being and promote long-term community resilience.

## Potential effects of repealing the law and supporting alternatives to corporal punishment

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### Supporting better outcomes for children and families

Repealing the defence of domestic discipline and promoting non-violent parenting strategies would contribute to improved child and family health and well-being. Extensive research has shown that corporal punishment is linked to higher risks of aggression, mental health difficulties, and negative parent-child relationships. Eliminating legal protection for corporal punishment would reduce the rates of corporal punishment in Queensland and thus mitigate its harmful effects on children and families. Over time, this shift would foster healthier parent-child interactions, reduce intergenerational cycles of violence, and improve long-term psychological outcomes for children. One specific long-term benefit that would be expected is a reduced risk of adolescent suicide, with such effects of similar bans becoming apparent 12–13 years post-legislation change (Cramm et al., 2023).

Concurrently increasing access to alternative parenting strategies, such as positive discipline, emotional regulation, and problem-solving approaches, would reinforce healthy parent-child interactions and promote better behavioural and emotional outcomes for children (Doyle et al., 2022). Research consistently shows that parenting programs designed to reduce corporal punishment lead to decreases in the use and favour of corporal punishment, improved parenting practices and parent-child relationships, higher levels of parental wellbeing, and lower levels of externalising and internalising problems among children (Garces-Davila et al., 2024; Santini & Williams, 2016). These interventions benefit not only individual families but also broader communities, fostering a culture that prioritises child well-being and non-violent conflict resolution.

By removing legal justifications for physical punishment and supporting non-violent disciplinary approaches, Queensland can improve long-term developmental and mental health outcomes for children and families.

### **Meeting obligations to support the rights of children**

The United Nations Convention on the Rights of the Child (CRC) outlines the fundamental human rights of children and the responsibilities of governments to protect those rights (United Nations Office of the High Commissioner for Human Rights, 1989). Article 19(1) specifically obligates Australia and other signatory nations to ensure that children are protected from “all forms of physical or mental violence, injury or abuse” while in the care of parents, legal guardians, or other caregivers.

The Committee on the Rights of the Child, the official body responsible for interpreting the CRC, has made it clear that any level of corporal punishment constitutes violence and is inconsistent with the Convention (Committee on the Rights of the Child, 2006).

In General Comment No. 8, the Committee explicitly states:

“There is no ambiguity: ‘all forms of physical or mental violence’ does not leave room for any level of legalized violence against children. Corporal punishment and other cruel or degrading forms of punishment are forms of violence, and the State must take all appropriate legislative, administrative, social and educational measures to eliminate them” (Committee on the Rights of the Child, 2006, para. 18).

The Committee further clarifies that corporal punishment includes:

- Any punishment involving physical force intended to cause pain or discomfort, however mild.
- Specific acts such as smacking, pinching, or washing a child’s mouth out with soap (Committee on the Rights of the Child, 2006, para. 11).

Additionally, Article 18 of the CRC requires that parents and guardians receive the necessary support to fulfil their responsibilities. Despite these obligations, corporal punishment remains lawful in Australia, and there is insufficient support for parents to adopt non-violent parenting approaches.

Repealing the defence of domestic discipline and investing in evidence-based parenting programs would align Queensland’s laws with international human rights standards, ensuring that children are fully protected from all forms of violence.

### **Aligning with other countries**

Repealing Section 280 of the Criminal Code would bring Queensland in line with many other nations that have prohibited corporal punishment in the home. In comparable developed countries, there has been a clear legislative trend since the 1990s toward banning corporal punishment. Thus far, 67 states have enacted legal bans and a further 27 states have made commitments towards legal bans, in recognition of the harmful effects on children's well-being (Global partnership to end violence against children, 2025).

Notable exceptions to this trend include England and Northern Ireland, which remain the only constituent countries of the United Kingdom where corporal punishment in the home is still legally permitted. However, there is growing pressure for reform, with the Children's Commissioner for England making several strong statements against the legality of corporal punishment. In October 2024, the Commissioner reiterated the need for England to follow the example of Scotland and Wales, where bans on corporal punishment have already been enacted (Children's Commissioner for England, 2024).

By repealing Section 280, Queensland would align itself with best-practice child protection policies globally, ensuring that children receive the same legal protections from physical violence as adults.

### **Aligning with contemporary Australian attitudes and needs**

The current legal status of corporal punishment does not align with the attitudes or needs of contemporary Australians. As previously noted, the Australian Child Maltreatment Study (ACMS) found that 73.6% of Australians do not believe corporal punishment is necessary to raise children, with younger generations being particularly less supportive of its use (Haslam et al., 2023).

Findings from the 2024 Queensland Family and Child Commission (QFCC) Community Perceptions Survey further highlight concerns about discipline in parenting (Queensland Family and Child Commission, 2024). The survey found that 80% of respondents believe that parents struggle to discipline their children. Additionally, 18% viewed children lacking discipline, respect and proper punishment as the most pressing issue facing Queensland parents, and 16% of respondents viewed poor parenting and parenting lacking in discipline as the top issue.

Despite the legal status of corporal punishment, these findings suggest that Queenslanders feel existing parenting practices and support systems are insufficient to meet the challenges of raising children. These concerns point to a need for greater access to evidence-based parenting strategies that promote effective discipline without the risks associated with physical punishment. Repealing Section 280 would not only align with shifting public attitudes but also encourage the adoption of more effective, non-violent parenting approaches that support child development and family well-being.



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