

Introduction:

There is a significant missed opportunity to use the Children's Wellbeing and Schools Bill [Bill 151; 59/1] to bring in the Equal Protection (from assault) which children in England need, deserve, and are, frankly, entitled to. The introduction of Equal Protection (in essence, the prohibition of physical punishment of children) is supported by extensive evidence.

Evidence summaries include:

Fussey E, Gerry F, Herbert B, S Havighurst, D Higgins, Schaff O, Rowland AG (2024). Equal Protection from Assault in England and Northern Ireland: The Health, Education and Legal Case for legislative change to remove the "reasonable punishment" defence and to prohibit all physical punishment of children. London (UK): Royal College of Paediatrics and Child Health. Published online first on 17 April 2024.

Available from:

<https://www.rcpch.ac.uk/resources/equal-protection-from-assault-england-and-northern-ireland>

(accessed 18 December 2024)

Rowland AG, Gerry F, Stanton M. Physical punishment of children: time to end the defence of reasonable chastisement in the UK, USA and Australia. The International Journal of Children's Rights 2017 Jun 20;25(1):165-95.

Available from: https://brill.com/downloadpdf/journals/chil/25/1/article-p165_165.pdf

(accessed 18 December 2024)

Proposed Amendment to the Children's Wellbeing and Schools Bill

This briefing note therefore sets out draft amendments to the Children's Wellbeing and Schools Bill which, if adopted, are believed to be suitable to bring in Equal Protection for children in England.

Given the complexity of amending parliamentary Bills, any Member of the House of Commons who wishes to submit the amendments proposed in this paper is advised to contact the Public Bill Office for final wording advice via:

Public Bill Office

- Extension: x3251
- Email: pbohoc@parliament.uk

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Explanatory notes:

These proposed amendments to the Children's Wellbeing and Schools Bill are to abolish the common law defence of reasonable punishment in relation to corporal (physical) punishment of a child taking place in England; to amend certain provisions of the Children Act 2004 relating to corporal (physical) punishment of children; and for connected purposes.

1 Amendments to insert new Clause

Under heading "CHILDREN'S SOCIAL CARE", subheading "Child protection and safeguarding", after Clause 4

Insert the following new Clause-

"Equal protection for children

() Abolition of common law defence of reasonable punishment

(1) The common law defence of reasonable punishment is abolished in relation to corporal punishment of a child taking place in England.

(2) Corporal punishment of a child taking place in England cannot be justified in any civil or criminal proceedings on the ground that it constituted reasonable punishment.

(3) Corporal punishment of a child taking place in England cannot be justified in any civil or criminal proceedings on the ground that it constituted acceptable conduct for the purposes of any other rule of the common law.

(4) "Corporal punishment" means any battery carried out as a punishment.

() Promoting public awareness and reporting

(1) The Secretary of State must take steps before the coming into force of section **(Abolition of common law defence of reasonable punishment)** to promote public awareness of the changes to the law to be made by that section.

(2) The Secretary of State must prepare three reports on the effect of the changes to the law made by section **(Abolition of common law defence of reasonable punishment)**.

(a) The first report must be prepared as soon as practicable after the expiry of the period of 3 years beginning with the coming into force of section **(Abolition of common law defence of reasonable punishment)**.

(b) The second report must be prepared as soon as practicable after the expiry of the period of 5 years beginning with the

coming into force of section **(Abolition of common law defence of reasonable punishment)**.

(c) The third report must be prepared as soon as practicable after the expiry of the period of 10 years beginning with the coming into force of section **(Abolition of common law defence of reasonable punishment)**.

(d) The Secretary of State must, as soon as practicable after preparing a report under this section—

- (i) lay the report before Parliament, and
- (ii) publish the report.

() Power to make transitory, transitional and/or saving provision by regulations

(1) Regulations made by the Secretary of State may make transitory, transitional or saving provision in connection with the coming into force of section **(Abolition of common law defence of reasonable punishment)**.

(2) The power to make regulations under subsection (1) is exercisable by statutory instrument.

Under heading "GENERAL", subheading "Commencement", after Clause 59

(1), page 115, line 5

Insert the following -

(1A) Section **(Abolition of common law defence of reasonable punishment)** comes into force at the end of the period of six months beginning with the day after the day on which this Act is passed."

Under heading "GENERAL", subheading "Commencement", Clause 59

In subheading (3), page 115, line 20 insert -

“, (1A),” between “(1)” and “and (2),”

2 Amendments to alter existing Act

Under heading “CHILDREN’S SOCIAL CARE”, subheading “Child protection and safeguarding”, after Clause 4

Insert the following new Clause –

“() Reasonable punishment

(1) In section 58 of the Children Act 2004 (c. 31) (reasonable punishment)—

- (a) OMIT subsection (1),
- (b) OMIT subsection (2),
- (c) OMIT subsection (3), and
- (d) OMIT subsection (4).”