

# BILLS DIGEST

**CRIMES (ABOLITION OF FORCE AS A JUSTIFICATION FOR CHILD  
DISCIPLINE) AMENDMENT BILL 2006**  
*(Supplementary Order Paper 2007 No 86 (Chester Borrows))*

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**CRIMES (ABOLITION OF FORCE AS A JUSTIFICATION FOR CHILD  
DISCIPLINE) AMENDMENT BILL 2006**  
*(Supplementary Order Paper 2007 No 86 (Chester Borrows))*

Date of introduction:	09 June 2006
Member:	Sue Bradford
Select Committee:	Justice and Electoral
Date report presented:	20 November 2006
SOP No 86 released:	20 February 2007 (Chester Borrows)

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**PURPOSE**

The aim of the Bill (after its Second reading) is to amend Section 59 of the Crimes Act 1961 "to make better provision for children to live in a safe and secure environment free from violence by abolishing the use of parental force for the purpose of correction" (*Clause 3 (the purpose clause)*).

*The Bill as introduced is described in [Bills Digest No 1278](#).*

The Bill as reported by the Select Committee is described in [Bills Digest No 1481](#).

**MAIN CHANGES PROPOSED**

**Purpose**

SOP No 86 proposes that the purpose of the Bill should be: " ... to amend the [Crimes Act 1961] to make better provision for the parental control of children by limiting the use of force for the purpose of correction" (*Clause 3, the "purpose" clause*).

**Parental control and correction**

The Bill would insert New Section 59 into the Crimes Act as follows:

"(1) Every parent of a child and every person in the place of a parent of the child is justified in using force if the force used is reasonable in the circumstances and is for the purpose of---

- "(a) preventing or minimising harm to the child or another person; or
- "(b) preventing the child from engaging or continuing to engage in conduct that amounts to a criminal offence; or
- "(c) preventing the child from engaging or continuing to engage in offensive or disruptive behaviour; or
- "(d) performing the normal daily tasks that are incidental to good care and parenting.

"(2) Nothing in subsection (1) or in any rule of common law justifies the use of force for the purpose of correction.

"(3) Subsection (2) prevails over subsection (1)."

SOP No 86 proposes the replacement of subsections (2) and (3) with the following:

"(2) The use of force for a purpose specified in any of paragraphs (a) to (e) of subsection (1) is unreasonable if -

- "(a) it involves conduct prohibited by an enactment creating a criminal offence, other than an offence under -
  - "(i) section 194 (assault on a child, or by a male on a female); or
  - "(ii) section 196 (common assault); or
  - "(iii) section 9 of the Summary Offences Act 1981 (common assault); or
- "(b) it causes or contributes materially to harm that is more than transitory and trifling; or
- "(c) any weapon, tool, or other implement is used; or
- "(d) it is inflicted by any means that is cruel, degrading, or terrifying.

"(3) Subsection 2 does not limit the circumstances in which force used for a purpose specified in any of paragraphs (a) to (e) of subsection (1) might be found to be unreasonable.

"(4) Nothing in this section justifies the use of force towards a child in contravention of section 139A of the Education Act 1989." (*Clause 4, replacing Section 59 of the Crimes Act 1961*).

### **Consequential amendment**

Section 139A of the Education Act 1989 provides generally that no person who is an employee of a school, is an employee of an early childhood centre, owns, manages, or controls an early childhood centre, or who supervises or controls a student or pupil on behalf of the institution's controlling authority may use force, by way of correction or punishment, towards any student or child unless that person is a guardian of the student or child.

The Bill amends Section 139A of the Education Act 1989 to omit the exception from that section's prohibition on corporal punishment in schools for guardians of the student or child.

SOP No 86 proposes to delete this provision from the Bill so that Section 139 of the Education Act 1989 would not be amended (*Clause 5 omitted from the Bill*).