

BILLS DIGEST

**CRIMES (ABOLITION OF FORCE AS A JUSTIFICATION FOR CHILD
DISCIPLINE) AMENDMENT BILL 2005 (2006 No 271-2)**
(Member's Bill - Sue Bradford)

As reported from the Justice and Electoral Committee: 20 November 2006

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CRIMES (ABOLITION OF FORCE AS A JUSTIFICATION FOR CHILD DISCIPLINE) AMENDMENT BILL 2005 (2006 No 271-2)

Date of introduction:	09 June 2005
Member:	Sue Bradford
Select Committee:	Justice and Electoral
Date report presented:	20 November 2006

PURPOSE

The aim of the Bill is to repeal Section 59 of the Crimes Act 1961 “to abolish the use of reasonable force by parents as a justification for disciplining children” (*Clause 3 (the purpose clause)*).

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

The Select Committee said that: " ... while considering this bill we noted the high level of public interest stimulated by the possible repeal of section 59 of the Crimes Act. The submissions we received demonstrated a range of views about the use of physical discipline in New Zealand.

"Submissions were received from a wide variety of individuals and organisations, and often expressed strong views on the matter.

"We consider that there is widespread misunderstanding about the purpose and possible results of the bill as introduced. We do not consider that the repeal of section 59 will lead to the prosecution of large numbers of parents and persons in the place of parents in New Zealand.

"Nevertheless, for the sake of clarity, we have recommended amendments to the bill to clarify that parents may use reasonable force in some circumstances, but not for the purpose of correction.

"We note that there are several potential offences directly related to the care of children that are rarely prosecuted. Such an example is if a caregiver sends a child to its room against its will, this technically constitutes kidnapping under section 209 of the Crimes Act. However, the police are not regularly prosecuting parents for this.

"We consider that logic dictates the police will adopt a similar approach to parents who use minor physical discipline following the changes to section 59. We do not believe that the changes we have proposed to section 59 of the Act will lead to a large increase in convictions or the removal of children from their families for the use of minor physical discipline"¹.

¹ Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill, 2006 No 271-2, As reported from the Justice and Electoral Bill, Commentary, pp. 6 and 7.

MAIN CHANGES TO THE BILL**New title**

The Select Committee has recommended that the title of the Bill be changed from the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill to the Crimes (Substituted Section 59) Amendment Bill (*Clause 1, the "title" clause*).

Purpose

The Select Committee has recommended that the purpose of the Bill be changed from:

" ... the purpose of this [Bill] is to amend the [Act] to abolish the use of reasonable force by parents as a justification for disciplining children"

to:

" ... the purpose of this [Bill] is to amend the [Act] 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*).

Section 59 amended

The Bill as introduced provided merely that Section 59 of the Crimes Act 1961 was repealed.

The Select Committee has recommended that Section 59 be replaced and that the new section be expressed 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)." (*Substituted Clause 4 substituting Section 59 of the Crimes Act 1961*).