



Report from the Office of the Children's Commissioner
13 November 2008

Omnibus Survey Report One year on: Public attitudes and New Zealand's child discipline law

1 Executive summary

The Crimes (Substituted Section 59) Amendment Act 2007 is more than a year old. The Children's Commissioner strongly supported repeal of section 59 believing repeal to be an important signal of children's rights to safety and physical integrity. She advocated for children to have the same status in law that adults have in regard to assault. Indications are that attitudes to the use of force in parenting are changing and will continue to change over time.

During the prolonged public debate prior to the law change, it was clear that attitudes of adult New Zealanders about physical punishment of children and law change were mixed and that it would take time for changes in those attitudes to occur. Since the law change there has been a sustained campaign in opposition including a petition and next year (2009) there will be a citizens initiated referendum on the question, *Should a smack as part of good parental correction be a criminal offence in New Zealand?*

It is important to establish some benchmarks to track changes in attitudes over time regarding physical discipline and public knowledge of, and attitudes towards the law.

This report presents findings from questions included in an independent omnibus survey conducted by UMR Research in May and June 2008. The Children's Commissioner commissioned this research.

Key findings

Forty-three percent of respondents in the independent omnibus survey supported the law while about one-third opposed it. The remainder were neutral.

The level of support against the use of physical discipline with children is also encouraging, with 37 percent clearly opposing use of physical discipline. Support for the use of physical discipline appears to be declining over time.

Awareness of the law change is high, although understanding of what the law means, is lower.

There are relatively high levels of support, at least in principle, for the concept that children should be entitled to the same protection from assault as adults.

Comment

Sustained efforts to engage support for positive parenting practices to manage and guide children's behaviour are required, as are activities to improve understanding of, and support for, the law.

2 Background

In May 2007 Members of Parliament representing most of the parties in Parliament, voted in favour of the Crimes (Substituted Section 59) Amendment Act and repealed the statutory defence contained in section 59 of the Crimes Act 1961¹. During the passage of the bill through the parliamentary process various amendments were made to the original bill sponsored by Green MP Sue Bradford. These amendments were aimed at securing political support for the Bill and reassuring politicians and the public that while law change would make it illegal to claim reasonable force as a defence for assault against children, measures were being taken to reduce the possibility of prosecutions being taken in situations where these would not be in the best interest of either a child or their family because infringements of the law were of a minor nature. (See appendix 3 for the text of the Crimes (Substituted Section 59) Amendment Act 2007)

Long-standing support for ending physical punishment

The Office of the Children's Commissioner's support for the repeal of section 59 of the Crimes Act 1961 dates back to 1992. At that time, the first Children's Commissioner, Dr Ian Hassall, began advocating for repeal². Subsequent commissioners, including the present commissioner Dr Cindy Kiro, have maintained active support for repeal. This stance was informed by the United Nations Convention on the Rights of the Child and studies showing that physical punishment contributes to poor outcomes for children. Research also raised their awareness of the effectiveness of positive, non-violent parenting practices to manage and guide children's behaviour and further strengthened their commitment to advocate for children's rights to safety and physical integrity³.

One of the commissioners' primary objectives in seeking repeal has been to improve attitudes towards children in a way that leads to a reduction in violence against children. Much of the violence towards children is perpetrated in the name of discipline. Children experience harsh discipline as violence. Changing knowledge and attitudes about the use of physical discipline will contribute to a reduction in tolerance of violence to children. It is likely that in time New Zealanders will learn to use positive discipline and physical discipline ceases to be the norm.

Under the previous section 59, children's rights were sometimes poorly served by decisions in courts where adults were acquitted when there had been heavy-handed

¹ Wood, B., Hassall, I., Hook G., & Ludbrook, R. (2008). *Unreasonable Force: New Zealand's journey towards banning the physical punishment of children*. (pp 167-188). Wellington: Save the Children.

² Hassall, I. B. (1992). 'Hitting Children'. *CHILDREN: A Newsletter from the Office of the Commissioner for Children*, No 7, p. 8.

³ Smith, A.B., Gollop, M., Taylor, N.J., & Marshall, K. (2004). *The Discipline and Guidance of Children: A Summary of Research*, Office of the Children's Commissioner, Wellington. Retrieved 12 July 2007 from http://www.occ.org.nz/media/files/discipline_guidance

use of physical force with children⁴. If the victims in such cases had been adults, assault charges would likely have resulted in convictions. New Zealand now treats children and adults as equal citizens under the law in regard to assault.

Prosecution and convictions of parents for minor assaults on children was never an objective of advocates for repeal. The law sets a standard about how children are disciplined. The commissioner believed that, in practice, police and the courts would manage complaints regarding the minor use of physical discipline sensibly. Parents are best helped to discipline children positively through having access to support and information.

In the past 30 years support for repeal has grown, particularly among individuals and organisations that work with children and families. Groups opposed to law change reinforced public anxiety with warnings that good parents would be 'criminalised'. There was also, not unexpectedly, public resistance to change associated with traditional views about physical discipline of children and lack of public knowledge of the shortcomings of physical discipline or discipline alternatives that weren't physical⁵.

Public awareness

Since the law changed there has been no widespread public campaign to inform the public about the law and its provisions, or to engage support for it. Such campaigns occurred in some countries that made similar changes⁶. Positive parenting information has continued to be provided by the Government through the *Strategies with Kids, information for Parents* (SKIP) initiative and by various non-government organisations⁷. The Office of the Children's Commissioner has recently updated its positive parenting resource *Choose to Hug* and included, in the most recent edition, information about the law⁸.

Groups opposed to the law change have promoted a petition that has forced a referendum to be held in 2009 on the question, *Should a smack as part of good parental correction be a criminal offence in New Zealand?* They have run a strong political and public campaign including regularly placing advertisements in newspapers, suggesting that there are cases where parents have been investigated and/or prosecuted unfairly. However, police data indicates that complaints about minor assaults and prosecutions for "smacking" have not increased to any significant extent⁹. For a summary of police data, see Appendix 1.

Since the law changed media interest in the petition and "smacking" has remained high and media comment has been, as it was during the years leading up to the law change, a mixture of informed and supportive viewpoints, misinformation and the views of people convinced children should be hit.

⁴ Wood, B., Hassall, I., Hook, G., & Ludbrook, R. (2008). *Unreasonable Force: New Zealand's journey towards banning the physical punishment of children*. (p. 74). Wellington: Save the Children.

⁵ Wood, B., Hassall, I., Hook, G., & Ludbrook, R. (2008). *Unreasonable Force: New Zealand's journey towards banning the physical punishment of children*. (pp 130-148). Wellington: Save the Children.

⁶ Bussmann, K. (2004) Evaluating the subtle impact of a ban on corporal punishment of children in Germany. *Child Abuse Review*, 13(5), 292-311.

⁷ www.familyservices.govt.nz/skip/

⁸ Office of the Children's Commissioner (2008). *Choose to Hug. Information and suggestions for parents*. Wellington: Author. Retrieved from http://www.occ.org.nz/_data/assets/pdf_file/0006/12_July_2008.

⁹ *Six Monthly Review of Police Activity Following the Enactment of the Crimes (Substituted Section 59) Amendment Act 2007*. Retrieved from <http://www.police.govt.nz/resources/2008/section-59-activity-review> 13 July 2008.

New Zealand's United Nations Convention on the Rights of the Child obligations

New Zealand ratified the United Nations Convention on the Rights of the Child (UNCROC) in 1993 and has obligations in regard to compliance with that convention. In repealing section 59 of the Crimes Act, New Zealand has achieved compliance with the 2003 UN Committee recommendation that *New Zealand amend legislation to prohibit corporal punishment in the home*¹⁰.

The Children's Commissioner's obligations

The Children's Commissioner has obligations under the Children's Commissioner Act 2003 to:

- raise awareness and understanding of the convention
- to undertake and promote research into any matter that relates to the welfare of children
- to act as an advocate for children's interests, rights, and welfare generally (except before any court or tribunal) and, in that regard, to advance and monitor the application of the convention by departments of State and other instruments of the Crown.

In light of these responsibilities and the specific provisions of Articles 19 (right to protection from all forms of violence) and 37 (right to protection from torture, degrading treatment, and deprivation of liberty) of the convention, it is appropriate to take the important step of beginning a process that would assist with monitoring the effects of New Zealand's law change on attitudes about physical punishment of children.

Monitoring the effects of the law change

New Zealand is now one of 25 countries around the world that have introduced legal measures to ban physical punishment of children. However, few countries that have changed their physical punishment law have measured the impact of their law on attitudes and behaviour. Sweden and Germany are the major exceptions. In Sweden, the decline in the use of physical discipline by adults and in the number of children ever experiencing physical discipline has been recorded¹¹ and provides evidence of law change (in combination with parent information and support) influencing attitudes.

Germany's physical discipline ban was introduced in 2000 and there has been some early evaluation of awareness of the provisions of the new law and of the impact of the new law on attitudes¹².

The New Zealand Police are currently monitoring the impact of the new law on complaints and prosecutions¹³.

¹⁰ Office of the United Nations High Commissioner for Human Rights (2003, October). *Concluding observations: New Zealand*. Retrieved 12 July 2008 from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.216.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.216.En?Opendocument)

¹¹ Durrant, J. E. (1999). 'Evaluating the success of Sweden's corporal punishment ban', *Child Abuse and Neglect*, 23(5), 435 - 448.

¹² Bussman, K.D. 'Evaluating the subtle impact of a ban on corporal punishment of children in Germany', *Child Abuse Review* 13 (2004), pp. 292–311.

A recent New Zealand Health Survey asked questions about parental use of physical discipline, the answers to which might form an appropriate benchmark for future monitoring¹⁴. A summary of the results from the New Zealand Health Survey can be found in Appendix 2. In view of the recent Ministry of Health research it was considered unnecessary to ask further incidence questions at this time.

The Children's Commissioner believed that it would also be important to track both rates of use of physical discipline and attitudes towards use of physical discipline over time, in order to monitor social change.

Because the Crimes (Substituted Section 59) Amendment Act 2007 had been in force only a year at the time of this study, the commissioner also had an interest in gaining information about public awareness of the new law, knowledge of its provisions and attitudes toward it.

The Children's Commissioner organises research

With all the above issues in mind the commissioner, in May 2008, commissioned UMR Research to include some questions about attitudes to physical discipline and the law in their regular omnibus survey.

The objective of the research was to establish benchmarks around public awareness and attitudes over time.

The survey was completely independent of the Office of the Commissioner.

3 Methodology

UMR Research obtained relevant information using quantitative methods in an omnibus telephone survey, conducted from 3 to 7 July 2008, at UMR Research's national interview facility in Auckland. This telephone (omnibus) survey involved putting questions to a nationally representative sample ($n = 750$) of New Zealanders aged 18 years and older. UMR's omnibus survey included several survey modules for different clients and therefore, was more cost-effective than a stand-alone survey because standard demographic data on age, region, gender, income, occupation and ethnicity could be asked at no additional cost.

Of this sample, 359 were male and 391 were female (with margins of error of 5.2 percent and 5.0 percent respectively). While it was a nationally representative sample of the general population, the Maori sample ($n = 82$) was slightly under-representative of the Maori population and the Pacifica sample more so ($n = 35$). The margin of error for a 50 percent figure at the '95 percent confidence level' is ± 3.6 percent¹⁵.

¹³ *Six month review of Police activity following the enactment of the Crimes (Substituted section 59) Amendment Act 2007* retrieved from <http://www.police.govt.nz/resources/2008/section-59-activity-review>. 12 July 2008

¹⁴ Ministry of Health. (2008) *A Portrait of Health – Key results of the 2005/2006 New Zealand Health Survey*. Wellington. Ministry of Health. P 48.

¹⁵ Margin of Error: Technically, the maximum margin of error for any percentage is the radius of the confidence interval when $p = 50\%$. Put another way, if we have 50% of the population saying x then we can expect that in 95 surveys out of a hundred we will get the same result within the margin of error. That is, all results will be between 46.4% and 53.6% (Margin of error is $\pm 3.6\%$ for a sample of $n=750$).

4 Results

4.1 Key findings from the questions included in the omnibus survey

Further details of the findings of the omnibus questions are given in Appendix 5. The questions included in the omnibus survey aimed to draw out New Zealand adults' perspectives about (1) children's right to equal protection; (2) the place of physical punishment in child discipline; and (3) knowledge of, and attitudes towards, the new law as at July 2008. The results will be useful as benchmarks for monitoring attitudes over time.

4.1.1 Attitudes towards children's entitlement to protection from assault

The question asked was, *Should children be entitled to the same protection from assault as adults?* This question was asked twice, once at the beginning of the questions in the phone survey and once at the end. The question was asked twice to see if opinions differed after the respondents had been given information about the new law and its provisions.

On initial questioning a solid majority of respondents (89 percent) agreed that children were entitled to the same protection from assault as adults (ratings were 7 to 10, on a 0 to 10 scale where 10 means 'strongly agree'). Of these respondents, 71 percent strongly agreed, using point 10 on the scale. The ratings were given before any prompting on issues related to last year's child discipline legislation was given.

Females were more likely than males to agree (92 percent and 83 percent respectively), and there was some evidence to suggest non-Māori and non-Pacific Island respondents were more likely to agree compared to Māori and Pacific people. Agreement levels were highest among supporters of the new legislation (96 percent of respondents who support the new legislation).

At the end of the interview respondents were asked again whether they agreed or disagreed that children should be entitled to the same protection from assault as adults. Opinions were much the same, with 84 percent agreeing with the statement (7-10 on the 0 to 10 scale), compared to 89 percent when it was first asked.

4.1.2 Awareness of the law change

The question asked was, *Are you aware that the law about physical punishment of children was changed last year?* Awareness of the law change was high, with 91 percent of respondents saying they were aware that the law about physical punishment of children was changed last year (2007).

Participants who knew about the law change were also asked how much they thought they knew about the law change. Those who were aware of the law change ($n = 681$) were asked to declare how much they knew about it. Seventy-two percent said they knew 'a lot' or 'a fair amount' about the legislation and 28 percent said they knew 'not that much' or 'hardly anything at all'. Knowledge of the legislation increased with age, with 81 percent of those aged 60-plus declaring 'a lot' or 'a fair amount' of knowledge compared to 62 percent of those under 30. Knowledge was also higher among respondents in the cities compared to respondents from provincial or rural areas.

Respondents who knew about the law change were then asked about their awareness of four provisions of the new law. Ninety-two percent were aware that it is now illegal to assault children (including smacking and hitting), 84 percent of respondents who knew about the law change were aware that parents are allowed to hold or restrain children to keep them safe, 81 percent were aware that the police can decide not to prosecute if they find the complaint to be minor, but only 34 percent were aware that the law is being monitored and a report will be given to Parliament in 2009 or 2010. Unsurprisingly, respondents with higher knowledge of the new law ('a lot' or 'a fair amount') were more likely to be aware of the new law provisions compared to those with little knowledge ('not much' or 'hardly anything').

4.1.3 Support for the new law

Before being asked to detail their knowledge of the provisions of the new law, participants were asked about their support for the new law. Responses were divided. Those who were aware of the law change ($n = 681$) were asked to use a 0 to 10 scale (where 10 means 'strongly support') to rate how much they support or oppose the law change. A majority (43 percent) said they firmly support it (7-10 on the scale), while 28 percent were firmly opposed (0-3 on the scale), 26 percent were neutral, (4-6 on the scale) and three percent were unsure.

Women were more supportive than men (47 percent and 38 percent respectively), as were older respondents compared to younger respondents (52 percent among those aged 60 plus, compared to 38 percent among those under 30). Respondents who were not living with dependent children were slightly more supportive compared to those who were (45 percent and 39 percent respectively).

4.1.4 Attitudes towards physical discipline

Respondents were asked their level of agreement with the statement, *There are certain circumstances when it is alright for parents to use physical punishment with children*. About three in five respondents (58 percent) agreed that there are certain circumstances when it is acceptable for parents to use physical punishment with a child (7 to 10 on a 0-10 scale). Twenty percent were neutral (4 to 6 on the scale) and 20 percent disagreed (0 to 3 on the scale). Males were more likely to agree with the statement (67 percent of male respondents) compared to females (52 percent of female respondents), as were respondents who lived with dependent children under 18 (62 percent of respondents living with dependent children) compared to those not living with dependent children (58 percent of respondents not living with dependent children).

Respondents were also asked to rate their response to the statement, *Physical punishment should be part of child discipline*. Opinions about whether physical punishment should be part of child discipline were evenly split, with 37 percent disagreeing (0 to 3 on the scale), 32 percent neutral (4 to 6 on the scale) and 30 percent agreeing (7 to 10 on the scale). Supporters of the new legislation were much more likely to disagree with the statement (59 percent of respondents who supported the new legislation) compared to those who oppose the new law (17 percent of respondents who oppose the law). Females were also much more likely to disagree compared to males (45 percent and 28 percent respectively).

4.1.5 Discussion

Equal protection for children from assault

The positive responses to the question about children's entitlement to equal protection from assault were encouraging. Indications are that (at least conceptually) the survey respondents supported the notion of equal protection for children from assault. This finding appears to contradict the findings about levels of support for the use of physical discipline. The apparent contradiction may reflect the possibility that respondents did not associate the term "assault" with smacking.

The law

Knowledge of the law was reasonably high, and knowledge of detail perhaps higher than might have been expected when little has been done to explain the law to the public.

Only 28 percent were clearly opposed to the law and 43 percent clearly supported it.

Attitudes toward use of physical discipline

It was thought that the statement, *There are certain circumstances when it is alright for parents to use physical punishment with a child* would tap into public feelings about the perceived right of adults to choose for themselves how they discipline their children. The question was included because it was very similar to a question asked in the past by other researchers and therefore, provides a useful comparative measure of change over time.

In 1981, Jane Ritchie asked a sample of parents whether, *There are certain circumstances when it is all right for a parent to smack (or thrash) a child*. At that time 92 percent of men and 86 percent of women endorsed use of physical discipline for children in certain circumstances. In 1993, Dr Gabrielle Maxwell asked questions about physical punishment in a survey sponsored by the then Children's Commissioner, Dr Ian Hassall. At that time 87 percent of respondents thought that there were circumstances when it was all right for a parent to physically punish a child. In 2008, 58 percent of respondents in the omnibus survey clearly agreed with the statement. There is a positive trend away from physical discipline.

The second statement, *Physical punishment should be part of child discipline* was included to give some measure of views about the importance or place of physical punishment in child discipline and guidance. The fact that only 30 percent of respondents were sure of this is encouraging.

There were differences in the response rate to the two statements:

- *There are certain circumstances when it is alright for parents to use physical punishment with a child* (20 percent of respondents disagreed, 20 percent were neutral, and 58 percent agreed with the statement)
- *Physical punishment should be part of child discipline* (37 percent disagreed, 32 percent were unsure and 30 percent agreed).

This difference may indicate that regardless of whether or not participants consider physical punishment to be an appropriate part of discipline, retaining the option (or right as many see it) to use physical discipline is still important to many. In reality, parents do not have absolute rights to treat their children as they wish. Parents

largely accept, for example, that they are legally required to send their children to school or strap them in seat belts in cars. When it comes to physical punishment the ground shifts somewhat as traditional beliefs, their personal experiences and emotional responses come into play.

Age and gender differences

Two other trends are worthy of comment. Male respondents appear to be significantly more supportive of physical discipline and against the new law than female respondents. The issue is an important one to be taken into account.

Also of interest, in regard to support for the law, was the fact that older respondents (and those without dependent children) were more supportive of the new law than those with children.

5 Conclusions

Some important benchmarks have been established. These are:

- the extent to which adults support the proposition that children are entitled to the same protection from assault as adults
- the extent to which adults believe that there are circumstances in which it is all right for adults to physically punish a child
- the extent to which adults think physical punishment should be part of child discipline
- awareness of the 2007 law and knowledge of its provisions
- the extent to which adults support the child discipline law.

Most New Zealanders are aware that the law changed in 2007 and that it is illegal to smack or hit children. Awareness of the provisions of the law is higher than expected but there is still work to be done to help the public understand the law and to engage further support for the law. In the main, the findings are encouraging with information from the omnibus survey indicating that support for the new law is reasonably strong given the newness of the law and the controversy surrounding the change. There is a positive trend away from support for use of physical discipline.

This research confirms that attitudes and knowledge of the law are changing, even over a one-year period.

There are a number of other things required to continue improving our knowledge of how to discipline children, such as resources and training that explains the law and alternatives to physical punishment. There remain high levels of misunderstanding.

If we do this, it will contribute to safer home environments for children and young people in New Zealand.

The following issues warrant action to build on the above and thus contribute to fewer children in New Zealand experiencing violence in the name of discipline and fewer children being taught that punishment, particularly verbal or physical hurt is a legitimate way for people to influence each other's behaviour.

1 Promoting positive non-violent discipline

Physical punishment is a health risk for children, but the good news is that there are more positive methods of control, already practiced by most parents, which work and do not have harmful long-term effects¹⁶.

Smacking, and other forms of punishment are still seen by many as an important part of discipline. The potential damage that can be caused by the use of physical punishment is apparently not well understood.

2 Addressing the perception that there is conflict between children's rights and family autonomy

There should in fact be no clash between children's rights to be safe and secure and their parents' wish to make their own decisions about how their children are treated. But separating the issue of adult power and ownership from what is best for children is difficult given the emotion driven issues involved.

While adults expect legislation to set and enforce standards for their protection and the protection of their property, for some, this expectation is seen as intrusion when it comes to their own children. Of course, there are many aspects of our lives, and indeed families' lives, in which the state sets standards in law and protects vulnerable citizens, for example, the wearing of seat belts, bicycle helmets, attendance at school, and partner violence.

Importantly, this is not just about a law change, but about changing views on whether children are independent rights holders like adults. These rights are in tandem with their parents or caregivers when younger, but change as they grow in capacity and maturity.

3 Engaging support for the law

There is a need for sustained efforts to engage further understanding and support for the law. This includes (1) addressing the belief in parental rights referred to above; (2) reassuring parents that their risk of being "criminalised" for a minor infringement of the law is minimal; and (3) promoting the law positively, as congruent with good parenting, as well as with international progress in ending the use of physical punishment of children. It is also part of progress toward being a non-violent society.

4 Monitoring the impact of the law over time

Finally, it will be important that the impact of the law on attitudes and behaviour is monitored over time, as will be monitoring support for the law.

¹⁶Smith, A.B., Gollop M.M., Taylor N.J., and Marshall K.A. (2005) *The Discipline and Guidance of Children: Messages from Research*. Wellington. Office of the Children's Commissioner. P 146.

Appendix 1: Summary of Police data

In the *Six Monthly Review of Police Activity Following the Enactment of the Crimes (Substituted Section 59) Amendment Act 2007*, which covered the six month period October 2007 to March 2008, the Police reported:

- A slight increase in child assault events police have attended
- An initial increase in smacking events and then a decrease to pre-enactment levels
- No prosecutions for “smacking” (13 events)
- Four prosecutions for minor acts of physical discipline (69 events)
- The 13 smacking events and 65 of the 69 minor acts of physical discipline were determined to be inconsequential and therefore not in the public interest to prosecute.

One prosecution was withdrawn due to completion of the Police Adult Diversion Scheme and at the time the Police report was released, three alleged offenders remained on bail and are yet to appear at the time of this report.

Appendix 2: New Zealand Health Survey

The New Zealand Health Survey

In 2006/2007 as part of the New Zealand Health Survey, primary caregivers were asked about their responses to child misbehaviour during the four weeks preceding a face-to-face interview with a researcher. They were shown a range of responses on a “show card”; one of these was “Physical punishment, such as smacking”.

Physical punishment was one of the least common forms of discipline to have been used in the previous four weeks with children aged from birth to 14 years. One in 10 children had experienced physical punishment in the previous four weeks. Children between two and four years of age were the most likely to experience physical punishment, with one in five having experienced physical punishment by their caregivers in the previous four weeks. One in 14 children less than two years of age experienced physical punishment by their primary caregiver in the previous four weeks.

The authors of the report cautioned that their method would undercount the use of physical punishment in the last four weeks because:

- Only the actions of the primary caregiver are counted, therefore excluding actions of other caregivers that look after the child;
- The primary caregiver may have forgotten;
- The caregiver may have failed to define some acts as physical punishment; and
- There may be social desirability bias or feelings of guilt.

Views on the effectiveness of physical discipline are also of interest. In the health survey one in 22 parents (4.5%) considered physical punishment to be an effective form of discipline. Less than one in three parents who had used physical punishment in the previous four weeks considered it effective.

Appendix 3: The law

Crimes (Substituted Section 59) Amendment Act 2007

Commenced: 21 June 2007

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Crimes (Substituted Section 59) Amendment Act 2007.

2 Commencement

This Act comes into force one month after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Crimes Act 1961.

4 Purpose

The purpose of this Act is to amend the principal 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.

5 New section 59 substituted

Section 59 is repealed and the following section substituted:

59 Parental control

(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).

(4) To avoid doubt, it is affirmed that the Police have the discretion not to prosecute complaints against a parent of a child or person in the place of a parent of a child in relation to an offence involving the use of force against a child, where the offence is considered to be so inconsequential that there is no public interest in proceeding with a prosecution.

6 Amendments to Education Act 1989

(1) This section amends the Education Act 1989.

(2) Section 139A(1) and (2) of the Education Act 1989 are amended by omitting “, unless that person is a guardian of the student or child”.

7 Chief executive to monitor effects of this Act

(1) The chief executive must, in accordance with this section, monitor, and advise the Minister on, the effects of this Act, including the extent to which this Act is achieving its purpose as set out in section 4 of this Act, and of any additional impacts.

(2) As soon as practicable after the expiry of the period of 2 years after the date of the commencement of this Act, the chief executive must:

(a) review the available data and any trends indicated by that data about the matters referred to in subsection (1); and

(b) report the chief executive's findings to the Minister.

(3) As soon as practicable after receiving the report under subsection (2), the Minister must present a copy of that report to the House of Representatives.

(4) In this section, chief executive and Minister have the same meanings as in section 2(1) of the Children, Young Persons, and Their Families Act 1989.

Appendix 4 Response rate

The Response Rate measures the percentage of qualified or eligible respondents completing the survey. For this survey the response rate was 31 percent.

Response Rate =

$$\frac{\text{Completes}}{\left(\text{Completes} \right) + \left(\frac{\text{Completes}}{\text{Completes} + \text{Not Qualified}} \times \left(\text{Not Contacted} + \text{Refused} \right) \right)}$$

FORMULA DEFINITIONS	
Completes	<i>Completed Interviews</i>
Refusals and Mid Terminates	Respondents who end the interview before completion; regardless of qualification
Not Qualified and Over Quota	Respondents who do not meet the screening criteria; and those respondents who would have qualified but their quota group was full
Not Contacted	Applies to all final dispositions that do not fit any other categories. For example, answering machine, wrong number, etc

Fieldwork report

Method: Telephone
Sample size: 750

The **Total numbers called** are called number in the sample.

The **Total Eligible Households** are numbers that were identified as NOT being Business, Fax, Exchange, or Disconnected.

The **Language Problems** are numbers where the respondent was unable to cooperate in the interview because of language problems; for example, English may not have been the respondent's first language and their inability to understand English was evident.

The **Refused** are numbers where the respondent refused to take part in the survey.

The **Not Suitable** numbers where there is not a suitable person in the household to do the survey with; for example, if female quotas in an area are filled then a number becomes Not Suitable if there is not a male in the household to do the survey with.

The **Abandoned Interviews / Stopped interviews** are numbers where the respondent initially cooperated but refused later in the interview or the respondent could not be re-contacted after an interview was suspended.

The **Appointments not kept** are numbers where the respondent made a time with an interviewer to re-contact them at a different time to do the survey; in some cases the respondent cannot be re-contacted or the quotas have been filled.

RESPONSE RATE ANALYSIS	
Total numbers called	21650
Less Business numbers/Fax	350
Less Exchange/Disconnected	2790
Total Eligible Households	18510
No Answer/Answering Machine	3815
Engaged	261
Language Problems	190
Refused	8673
Not Suitable	4282
Abandoned Interviews / Stopped Interviews	56
Appointments not kept	113
Completed Interviews	750

Appendix 5 Quantitative Tables (Topline).

CHILDREN ARE ENTITLED TO SAME PROTECTION FROM ASSAULT AS ADULTS	
<i>Using a scale of 0 to 10, where 0 means strongly disagree and 10 means strongly agree, to what extent do you disagree or agree that children are entitled to the same protection from assault as adults?</i>	
	JUL 08 %
0 – Strongly disagree	1
1	1
2	1
3	1
TOTAL DISAGREE (0-3)	4
4	1
5	3
6	1
TOTAL NEUTRAL (4-6)	5
7	3
8	8
9	7
10 – Strongly agree	71
TOTAL AGREE (7-10)	89
Unsure	2
Base: All, n=750	

AWARE LAW ABOUT PHYSICAL PUNISHMENT OF CHILDREN WAS CHANGED LAST YEAR	
<i>Are you aware that the law about physical punishment of children was changed last year?</i>	
	JUL 08 %
Yes	91
No	9
Unsure	-
TOTAL	100
Base: All, n=750	

KNOWLEDGE ABOUT LEGISLATION ABOUT PHYSICAL PUNISHMENT OF CHILDREN

Would you say you know a lot, a fair amount, not that much or hardly anything at all about the legislation?

	JUL 08 %
A lot	18
A fair amount	54
TOTAL 'A LOT' + 'A FAIR AMOUNT'	72
Not that much	23
Hardly anything at all	5
TOTAL 'NOT THAT MUCH' + 'HARDLY ANYTHING'	28
Unsure	-

Base: 91% of respondents, those who are aware that the law about physical violence of children was changed last year, n=681

SUPPORT OR OPPOSE LAW ABOUT PHYSICAL PUNISHMENT OF CHILDREN

Using a scale of 0 to 10, where 0 means strongly oppose and 10 means strongly support, to what extent do you oppose or support the law about physical punishment of children?

	JUL 08 %
0 – Strongly oppose	12
1	5
2	5
3	6
TOTAL OPPOSED (0-3)	28
4	4
5	16
6	6
TOTAL NEUTRAL (4-6)	26
7	6
8	11
9	5
10 – Strongly support	21
TOTAL SUPPORT (7-10)	43
Unsure	3

Base: 91% of respondents, those who are aware that the law about physical violence of children was changed last year, n=681

AWARE OF NEW LAW PROVISIONS

The following are provisions of the new law about physical punishment of children. Can you tell me whether you were aware that?

	JUL 08 %		
	Yes, Aware	No, Not Aware	Unsure
It is now illegal for adults to assault children, including smacking and hitting them, just as it is illegal for adults to assault other adults	92	7	1
Parents are allowed to hold or restrain their children to keep them safe, for example, to stop them running on the street or to prevent them from hurting themselves or others	84	16	-
Police can decide not to prosecute if they find the complaint to be of a minor nature	81	18	1
This law is being monitored and a report will be given to Parliament in 2009 or 2010	34	65	1
Base: All, n=750			

AGREE OR DISAGREE

Using a scale of 0 to 10 where 0 means strongly disagree and 10 means strongly agree, to what extent do you disagree or agree with the following statements? 5 is the mid-point. If you do not know enough just say so.

	JUL 08 %		
	Children are entitled to the same protection from assault as adults	There are certain circumstances when it is alright for parents to use physical punishment with a child	Physical punishment should be part of child discipline
0 – Strongly disagree	2	8	14
1	1	4	6
2	1	5	10
3	1	3	7
TOTAL DISAGREE (0-3)	5	20	37
4	1	1	4
5	6	14	21
6	3	5	7
TOTAL NEUTRAL (4-6)	10	20	32
7	4	10	6
8	12	16	8
9	9	6	3
10 – Strongly agree	59	26	13
TOTAL AGREE (7-10)	84	58	30
Unsure	1	2	1
Base: All, n=750			