



Questions and Answers on the Repeal of Section 59 of the Crimes Act 1961

1. What does repeal of Section 59 mean?

Repealing Section 59 means removing this section of the law from New Zealand's law books. Section 59 of the Crimes Act 1961 reads as follows:

'Every parent of a child and every person in the place of a parent of a child is justified in using force by way of correction towards the child, if the force used is reasonable in the circumstances.'

Section 59 provides a legal defense in situations when charges are brought against parents or caregivers for assaulting their child. Its repeal is not about criminalising ordinary parents. It will simply remove a legal defense that is used when parents seriously assault their children – a defense that is not available in situations of assault against adults, animals or any other group in our society.

2. Why is Plunket calling for repeal of Section 59?

Plunket is calling for repeal of Section 59 as a step towards addressing New Zealand's culture of violence against children. We are concerned that there are 20 new cases of substantiated child abuse and neglect everyday. New Zealand is among the top three countries in the OECD for child death by maltreatment. We have a serious problem to address and legal change is one step along the way.

In 2003, the Plunket conference supported a remit urging the Government to set a date for the repeal of Section 59 of the Crimes Act. The remit went on to say that Plunket was in agreement with the Government in its intent to offer parent education on alternatives to physical punishment for managing children's behaviour. Plunket recommended that the education programme take place before the repeal occurs.

At this year's Plunket National Conference, delegates voted in favour of the following remit:

"That the Royal NZ Plunket Society Inc advocate for the immediate repeal of section 59 of the Crimes Act 1961, supported by comprehensive positive parenting education programmes, in recognition of the international research demonstrating:

1. The harm to children caused by physical punishment;
2. The vastly increased likelihood of child abuse in homes where physical punishment is used;
3. The need for governments to convey consistent messages about the unacceptability of physical punishment; and
4. That physical punishment is less effective than positive parenting strategies for disciplining children."

3. Will repeal of Section 59 diminish parents' rights?

Yes, it will diminish the rights of parents and caregivers who abuse their children. Only an abuser needs Section 59. New Zealand doesn't need it. Ordinary parents don't need it.

4. If Section 59 is repealed, will I become a criminal if I smack my child?

Repeal of Section 59 is about removing a law – not creating a new one. It removes the legal defense for a parent to physically assault their child and acknowledges that just like adults and pets, children should be protected against assault.

Repeal of Section 59 is not about criminalising parents or introducing a new law against smacking. Just as jostling and shoving at a rugby match is technically assault, the police only take action when it goes too far.

5. What's wrong with smacking and physical punishment?

The vast majority of parents want the best for their children and they want to raise their children in a positive way. Physical punishment is *not* the most effective way to discipline children. Positive parenting strategies have been shown to be much more effective.

International research shows that physical punishment is harmful to children:

- it impairs parent-child relationships
- it undermines child mental health
- it creates fear and aggression in children
- it fails to effectively teach children lessons about their behaviour and results in lower moral internalisation about the consequences of their actions
- it increases the chances of child abuse (some research shows that children who are hit are 7 times more likely to be kicked or punched).

6. Have any other countries removed the legal defense for parents who assault their children?

16 countries around the world have removed their laws equivalent to Section 59. In some of those countries it has taken time for people to fully understand and support the law change – it's possible it will take time for that to happen in New Zealand too.

In an example of the difference that can be made, in Sweden, studies conducted at various points in time demonstrate that the prevalence, frequency and harshness of assaults against children have declined dramatically over the last two generations.

7. Surely changing the law won't change people's behaviour that much?

The strongest predictor of physical punishment is approval (that is, if the law says it's okay then people will do it). The repeal of Section 59 would give a clear message that our government does not believe hitting children is okay.

Ideally, repeal of Section 59 would be supported by a public education campaign, and the continuation of positive parenting education programmes to equip parents with alternatives to physical punishment.

8. What are the alternatives to smacking or physical punishment?

Remember: the behaviour that gets the most attention is the behaviour that will be repeated. If you focus on your child's good behaviour and ignore the bad, they will soon learn which behaviour delivers the best results – including the most attention!

Most children respond really well to:

- praise and encouragement
- small rewards for good behaviour
- routine
- clear boundaries and expectations
- removal of privileges.
- having a good example set for them
- communication about what is right and wrong
- consistent, authoritative discipline
- time out

9. What process is required to repeal Section 59?

A Bill needs to be passed through Parliament to become an Act and repeal the relevant section of the Crimes Act.

In June, Green MP Sue Bradford had her Bill (the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill), drawn from a ballot for debate in Parliament. Members of Parliament will first vote on whether the Bill should go to Select Committee for public scrutiny and consultation.

Plunket supports the Bill going to the Select Committee because it will provide an opportunity for public debate about the serious issue of violence against children and whether it is appropriate or necessary to retain the legal defense for parents who assault their child.

After the Select Committee hearing of submissions, a report will be prepared, making recommendations about the future of Section 59 and any amendments to the Bill. Members of Parliament will vote again to decide if the Bill should proceed to the next stage of debate.

For further information, visit:

Office of the Children's Commissioner: <http://www.occ.org.nz/>

The Children's Issues Centre: <http://www.otago.ac.nz/cic/>

EPOCH: <http://www.epochnz.org.nz/>