

Is spanking legal in Canada?

Are teachers allowed to hit me?

My parent hit me,
what can I do?



A legal guide about physical punishment for
children and young people

**JUSTICE
FOR CHILDREN
AND YOUTH**

Is it illegal to hit someone else?

Yes, it is an assault under the *Criminal Code of Canada* to use force on another person without that person's permission. Hitting another person is an assault no matter how hard or soft you hit. However, there are some exceptions. For example: if someone pushed you away from danger she would not be charged with assault or if you used force to defend yourself against an attacker, you would not be charged with assault.

Using physical force on children is another exception:

Section 43 of the *Criminal Code of Canada* allows the use of some physical force if the purpose is for disciplining a child (someone under the age of 18). Only parents, teachers or people who are in the place of a parent (for example, a step-parent) can be excused if they use reasonable force on a child for discipline.

The Supreme Court of Canada studied this law and made rules on when and what is legal when disciplining a child. This pamphlet explains what the Court decided, which is the current law in Canada.

Can teachers hit me?

No, teachers can only use reasonable force to restrain or guide a student. Teachers must only use the necessary force required to remove a student from the classroom or to make a student obey instructions. They cannot use physical punishment to discipline or correct behaviour.

Who is a person standing in the place of a parent?

A person who has taken on "ALL of the obligations of parenthood" for a child is considered to be standing in the place of a parent. Babysitters, nannies and, in many cases, even step-parents, do not fall within this category and are not allowed to hit children for discipline.

What is reasonable force?

The law allows for corrective force that is "transitory and trifling", which means minor corrective force or the mildest forms of assault. The police must use this definition as a guide in deciding whether to charge a parent with assault.

Parents cannot:

- Use force that causes harm or might cause bodily harm,

- Use force because they are angry, frustrated, have lost their temper or because they have an “abusive personality”,
- Use force on a child under 2 years old or on a teenager,
- Use any object – like a belt or ruler or hairbrush,
- Hit a child on the head,
- Do anything degrading, inhumane or harmful – this might include something like taking clothes off or spanking in public, or
- Use force on children who have disabilities which make it hard for them to learn.

If a parent or person in the place of a parent does something on this list, that person will be found guilty of criminal assault in court.

Does this mean spanking is legal?

Spanking means different things to different people. It can also have different effects on different children. It is illegal if:

- it is done in a way that is degrading or harmful;
- there is potential for bodily harm; and
- it is done because the parent is angry and frustrated or lost his or her temper.

Will these rules always apply?

The United Nations Committee on the Rights of the Child told Canada to stop allowing parents and teachers to use force on children for discipline. The Committee wants to eliminate the use of physical punishment on children and is asking governments around the world to change laws that allow it.

More and more scientific research is showing that physical punishment is harmful to children. Some countries have banned all forms of physical and humiliating punishment. International law and expert opinions have an effect on what our courts think is reasonable. In other words, what the Supreme Court stated was legal today might not be legal tomorrow, because international law is changing and research will continue to show more evidence that it is harmful.

My parent hits me, what can I do?

- Speak to an adult you trust about what is happening to you;
- Call the police; and/or
- If you are under 16 and being physically injured or hurt in some other way, you can also call a child welfare agency (some of their numbers are on page 7 of this pamphlet) and a social worker will talk to you to see if you are being abused. If you are in danger, a worker will come to see you right away or help you contact someone such as the police.

If I tell someone I`m being abused, will they tell someone else?

- In Ontario, Nova Scotia, Newfoundland and Saskatchewan: if you tell a person things which make them suspect that you are being abused, and you are under 16, they must report this to a child welfare agency or the police.
- In Quebec, Alberta, Manitoba, Prince Edward Island, the Northwest Territories & Nunavut: this must be reported if you are under 18.
- In British Columbia and New Brunswick: the age limit is 19.
- In the Yukon: there is no such legal requirement.

**If you are not sure what to do, you can call the
Kids Help Phone: 1-800-668-6868
www.kidshelpphone.ca**

They provide counseling that is free, anonymous and confidential.
It is available 24 hours a day for people under 18 in Canada.

Hitting children hurts them.
Whether the hitting is legal or illegal, it does not
teach children anything useful and it puts them
at risk of harm in the present and in the future.

Justice for Children and Youth supports the
repeal of section 43 of the *Criminal Code of
Canada* and advocates for the end to the use of
physical punishment of children.

We believe that physical and humiliating
punishment is a form of violence against children.
It is unacceptable and violates children's rights.

Toronto phone numbers:

Toronto Police Service.....	416-808-2222
For Emergency call 911	
Toronto Children's Aid Society	416-924-4646
Catholic Children's Aid Society of Toronto	416-395-1500
Jewish Family & Child Services of Toronto	416-638-7800
Native Child & Family Services.....	416-969-8510

Other websites:

www.oacas.org --- listing of all children's Aid Societies in Ontario

www.repeal43.org ---- information about advocating for a change in our laws

www.cfc-efc.ca --- Child and Family Canada

www.endcorporalpunishment.org --- information on global progress toward elimination of corporal punishment

www.investinkids.ca --- parenting information

www.positivediscipline.com --- parenting info

www.parenthelpline.ca --- resources for parents

This pamphlet is produced by Justice for Children and Youth.
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Speak to a lawyer or legal worker about specific questions.
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