

Dr Marisa Paterson MLA

Minister for Police, Fire and Emergency Services

Minister for Women

Minister for the Prevention of Family and Domestic Violence

Minister for Corrections

Minister for Gaming Reform

Member for Murrumbidgee

RESPONSE TO QUESTION ON NOTICE**Questions on Notice Paper No 6****9 May 2025****Question No. 373****MR EMERSON:** To ask the Minister for the Prevention of Family and Domestic Violence —

1. How many times over the last five years has the common law defence of lawful chastisement (including alternative names for the defence such as lawful correction) been used successfully in the ACT as a defence to bar prosecution in cases involving serious allegations of violence (e.g. assault, assault occasioning bodily harm, assault occasioning grievous bodily harm).
2. How many children in the ACT have allegedly experienced serious offences (e.g. assault, assault occasioning bodily harm, assault occasioning grievous bodily harm) where the defendant was not prosecuted due to the application of this defence.
3. Has the Government commenced, or does the Government have any plans to commence, legislative reforms to ensure lawful chastisement is not available as a defence when children have been assaulted.

DR MARISA PATERSON MLA - The answer to the Member's question is as follows:

1. The use of the defence is not tracked in data collected by justice agencies or the ACT Government. However, a review of published cases (which are publicly available) indicates that, since December 2019, the defence of 'lawful chastisement' (including alternative names) has been raised by a defendant in three published criminal cases. Taking 'used successfully' to mean the defendant was found not guilty by virtue of the operation of the



defence, only one defendant has been found not guilty. It is noted that this issue may have been raised by defendants in other matters that have not been published.

2. As outlined above data about the use of the defence is not tracked in data held by ACT Government or ACT justice agencies.
3. The Government has not commenced legislative reforms to remove lawful chastisement as a defence to allegations of assault on children.

The Government is aware that the ACT Children and Young People Commissioner, as well as other State and Territory Children and Young People Commissioners, has advocated for the prohibition on corporal punishment to be extended beyond out of home care to all settings, including in the home.

The Government is also aware that the Queensland Law Reform Commission (QLRC) is considering the defence of domestic discipline as part of its review of particular criminal defences. The defence of domestic discipline contained in section 280 of the Queensland Criminal Code is similar to the common law defence of lawful chastisement in the ACT (although the defence of domestic discipline has a broader application than the ACT defence of lawful chastisement). The QLRC is due to finalise its report in December 2025. The Government will monitor the outcomes of the QLRC review and consider potential impacts for the ACT.

Approved for circulation to the Member and incorporation into Hansard.



Marisa Paterson MLA

Minister for the Prevention of Family and Domestic Violence

Date: 24 June 2025

This response required 7 hours and 30 minutes to complete, at an approximate cost of \$709.13