

Changes at Stage 2: Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill

Bill Summary

December 2019



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1. What's in this paper?

Details of the changes made to the **Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill** at the Stage 2 proceedings.

Stage 3 proceedings started on 25 October 2019 and the Bill will be debated again by the whole Assembly in early 2020.

2. What are these 'stages' when the Assembly decides on new laws?

Usually there are four stages when the Assembly looks at whether a Bill should become law. It takes a few months and happens roughly in the following order:

Stage 1: this is when a Committee is chosen to look at what the Bill is trying to do, whether a new law is needed to do it and whether the Bill has been written in the right way. It writes a report and the whole Assembly then votes on whether the Bill can carry on to the next stage.

Stage 2: this is where any Assembly Member or the Welsh Government can suggest changes to the wording of the Bill. The members of the chosen committee then look at these suggested changes and vote on whether to agree them or not.

Stage 3: This is similar to Stage 2 but all 60 Assembly Members are able to vote to agree or reject the changes that any Member can suggest.

Stage 4: This is when the whole Assembly votes on whether to pass the final wording of the Bill, including any changes agreed at both Stages 2 and 3. No changes to the wording can be made at this stage.

The last part of the process is when the Bill gets approved by the Queen and gets 'Royal Assent'. When this happens it is now the law in Wales.

You can find out the exact detail about these 'stages' on this [Assembly webpage](#).

3. What does this Bill do?

The Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill **does not create a new offence**. If it becomes law, it means that a parent, or any adult acting in the place of a parent, accused of assault or battery against a child would not be able to use the defence of reasonable punishment. At the moment, Section 58 of the **Children Act 2004** means 'reasonable punishment' can be used as a defence. If passed, this new law will mean that it will no longer be legal for children in Wales to be physically punished. Here is the Research Service [summary of the original Bill](#).

4. What's happened with this Bill up until now?

In March 2019, Julie Morgan AM, Deputy Minister Health and Social Care introduced the **Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill** ("the Bill").

Stage 1: Between April and June 2019, the Children, Young People and Education Committee took evidence and made 20 recommendations to Welsh Government in its **report in August 2019**. The majority of the Committee's members supported the Bill, with the report stating:

On balance, the majority of our Committee believes there is a strong argument that this Bill will reduce the risk of potential harm to children and young people.

However, amongst those who supported the Bill the Committee made twenty recommendations. Two of these were cited as 'crucial if the Bill is to benefit children and their families'. The report says:

Firstly a wide ranging awareness raising campaign is essential. This is fundamental to the success of this legislation and therefore, in our view, there must be a duty for Welsh Government to deliver this placed clearly on the face of the Bill.

Secondly there must be universal support available to parents across Wales. There is much more that must be done to help families with the inevitable challenges that parenting brings.

Here the Research Service's [summary of what the Committee said](#) and the Welsh Government's [response](#) to those recommendations.

The Assembly's [Constitutional and Legal Affairs Committee](#) and [Finance Committee](#) also reported on this Bill and you can read what was **said** when it was debated by the whole Assembly on 17 September 2019. The Welsh Government provided **some extra information to Assembly Members** shortly after that debate.

Stage 2: This started on 18 September 2019 and Stage 2 proceedings took place in the Children, Young People and Education Committee's meeting on 24 October 2019. You can [read](#) what was said in that meeting.

Stage 3: This started on 25 October 2019. The Stage 3 proceedings will take place in a meeting of the whole Assembly in early 2020. Exactly when will be published on this [Assembly's Business Statement](#).

Stage 4: has not been reached yet.

5. What changes were agreed at Stage 2 of the process?

These are links to the relevant documents. The:

- [Original Bill](#)
- [Amended Bill](#): this includes the changes (called 'amendments') made at Stage 2. Lines in the right margin show where the wording has been changed.
- [Details of what the suggested changes were](#) and the Welsh Government's [table](#) explaining in more detail the changes it wanted to make.
- [Order in which the suggested changes were debated](#)
- How each of the CYPE Committee members [voted](#) on each suggested change.

5.1. AGREED: Duty to Promote Public Awareness

Agreed: Welsh Government **amendment 1**, (tabled in response to a recommendation in the CYPE Committee's Stage 1 report):

Promoting public awareness of the coming into force of section 1:

The Welsh Ministers must take steps before the coming into force of section 1 to promote public awareness of the changes to the law to be made by that section.

Also **agreed** was Welsh Government **amendment 4** which means this duty comes into force the day after Royal Assent.

Not Agreed: Five amendments tabled by Janet Finch-Saunders AM **1A, 1B, 1C, 1D and 1E**, which related to promoting public awareness.

5.2. AGREED: Duty to report on the effect of the legislation

Agreed: Welsh Government **amendment 2:**

Report on the effect of section 1

(1) The Welsh Ministers must, as soon as practicable after the expiry of the reporting period, prepare and publish a report on the effect of the abolition, by virtue of section 1, of the defence of reasonable punishment.

(2) In subsection (1), “reporting period” means the period of 5 years beginning with the day on which section 1 comes into force.’

Also **agreed** was Welsh Government **amendment 5** which would bring amendment 2 into force the day after Royal Assent.

Whilst amendment 2, which was agreed, refers to a reporting period after 5 years, the first report would not be due until 7 years after Royal Assent as section 1 of the Bill does not come into force until two years after Royal Assent.

Not moved: Suzy Davies AM did not move **amendment 2B** which aimed to reduce the reporting period from 5 to 3 years after the Bill comes into force. This was following commitment from the Deputy Minister to work with her to table a revised amendment at Stage 3 (see below). Suzy Davies AM **said** that ‘in view of the Deputy Minister’s reassurances, I won’t move this amendment today, but obviously **I reserve the right to bring something back if we can’t reach consensus**’.

Not agreed: Eight amendments from Janet-Finch Saunders AM and one amendment from Suzy Davies AM (**2A and 2C to 2K**). However the Deputy Minister said she wanted to work with them in respect of amendments 2B and 2D. She stated she ‘would be prepared to table an amendment at Stage 3 to place a duty on the Welsh Government to publish an interim report after three years, in addition to a final report after five years’ and was also ‘prepared to table a further amendment at Stage 3 to require the post-implementation review to be laid before the Assembly, in addition to the requirement for publication’.

5.3. AGREED: Regulation making-powers in the Bill

Agreed: Welsh Government **amendment 3** which in summary gives Welsh Ministers power to make ‘transitory, transitional or saving’ provision in connection with the removal of the defence. Also agreed was Welsh Government’s **amendment 6**, which means that these powers come into force the day after Royal Assent.

Not agreed: Suzy Davies AM explained that her **amendment 3A** was a ‘probing amendment’ to explore whether the Bill’s current regulation-making powers were sufficient ‘to get section 1 implemented’ given the amendments which had already been agreed (Section 1 removes the defence). The Deputy Minister did not support the amendment but **confirmed** she was **willing to discuss this before Stage 3** proceedings.

5.4. NOT AGREED: Duty to ensure sufficient funding

Not agreed: Janet Finch-Saunders AM’s amendments **11 and 12** which in summary were seeking to impose a duty on Welsh Ministers ‘**to ensure sufficient funding**’ to enable local authorities, health boards and ‘other relevant bodies’ to take ‘such action as it considers necessary as a consequence of the change in law’.

Rejecting these amendments, the Deputy Minister for Health and Social Services Julie Morgan AM, said that ‘what the amendments are proposing is outside the normal funding arrangements that operate within Government, and it’s not clear why, in the context of the evidence heard at Stage 1, such provisions are necessary’. She went on to **say** ‘I’ve asked officials to prepare a revised RIA, as recommended at Stage 2, and **I expect to share an updated RIA with you in advance of Stage 3**’. A ‘Regulatory Impact Assessment’ (RIA) is a document which is prepared alongside a Bill and should set out things like how much it will cost and whether it could have a positive or negative impacts on certain issues.

5.5. AGREED: Commencement

Agreed: Welsh Government **amendments 7 and 8** which in summary mean that Section 1 of the Bill, which removes the defence, will come into force two years after Royal Assent. Originally the Bill did not specify a date and allowed Welsh Ministers to decide at a later time.

Not agreed: Janet Finch-Saunders and Suzy Davies' amendments 9, 10 and 13 to 16.

Referring to these, the Deputy Minister **said**:

I've listened to the arguments put forward by Suzy Davies and Janet Finch-Saunders for the amendments in this group that they have tabled. These amendments are all about making the commencement of the Bill conditional on something else happening, whether it's waiting for the revision of Crown Prosecution Service guidance, or the establishment of a pathway for diversion from the criminal justice system, or for the provision of parenting support services. And, really, I don't think that we should be going down that road.

6. What next?

Stage 3 proceedings started on 25 October 2019. This is the time when any Assembly Member can suggest a further change to the version of the **Bill that now includes all changes made at Stage 2**.

These changes will be debated and voted on by the whole Assembly in early 2020. The exact date will be published on the **Assembly's Business Statement**.