



Global Initiative to  
**End All Corporal Punishment  
of Children**

# **UNITED STATES OF AMERICA – COUNTRY REPORT**

## **Summary of necessary legal reform to achieve full prohibition**

### ***Settings where explicit prohibition is necessary***

home, schools, penal institutions, alternative care settings

### ***Is there a legal defence for corporal punishment which must be repealed?***

Yes – State laws confirm the right of parents to inflict physical punishment on their children and legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment in “disciplining” children necessitates a clear statement in law that all corporal punishment, however “light”, is prohibited and the repeal of all legal defences for its use.

### ***Other legislative measures necessary***

*Schools* – Legislation should explicitly prohibit corporal punishment in all schools, public and private.

*Penal institution* – Explicit prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

*Alternative care* – Explicit prohibition should be enacted in legislation applicable to all alternative care settings, including public and private day care, residential institutions, foster care, etc, in addition to the repeal of all legal defences for the use of corporal punishment by parents and carers.

# DETAILED COUNTRY REPORT

## Legality of corporal punishment

### Home

Corporal punishment is lawful in the home in all states. State laws confirm the right of parents to inflict physical punishment on their children and legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. In Minnesota, examination of several laws led some legal experts to conclude that corporal punishment is not permitted in that state, but according to the legislation a parent, legal guardian or caretaker may use reasonable force to restrain or correct a child (Sec. 609.379. [Cr.]) and the Minnesota Court of Appeal has overturned convictions for physical abuse involving corporal punishment.

### Schools

There is no prohibition at federal level of corporal punishment in all public and private schools. In 1977, the US Supreme Court found that the Eighth Amendment, which prohibits cruel and unusual punishment, did not apply to school students, and that teachers could punish children without parental permission (*Ingraham v Wright*, 430 U.S. 651 (1977)). Corporal punishment is unlawful in public schools in 31 states and the District of Columbia, though in some of these there is no explicit prohibition. Corporal punishment is unlawful in public and private schools in Iowa and New Jersey. It is lawful in public and private schools in 19 states.

### Penal system

Corporal punishment as a **sentence for crime** has been ruled unconstitutional by the Supreme Court, and no federal or state laws permit its use as a sentence of the courts.

The 1977 Supreme Court ruling (see above) stated that the Eighth Amendment protected convicted criminals from corporal punishment. However, we have been able to identify only around 30 states which have prohibited by law all corporal punishment as a **disciplinary measure** in juvenile detention. In many others, policy states that corporal punishment should not be used but this has not been confirmed in legislation. The American Correctional Association's standards for juvenile detention facilities call for "written policy, procedure, and practice [that] protect juveniles from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment". The comment to the standard states: "In situations where physical force or disciplinary detention is required, only the least drastic means necessary to secure order or control should be used." The National Juvenile Detention Association has passed a resolution which "opposes any policy or related procedure which advocates, promotes, or authorizes the use of offensive physical intervention techniques that allows staff to hit, kick, or strike juveniles". The Detainee Treatment Act (2005) prohibits cruel, inhuman or degrading treatment and punishment of any person under the physical control of the state.

### Alternative care

Corporal punishment is prohibited in all alternative care settings in 31 states. In the remaining 19 states and the District of Columbia, it is prohibited in some but not all such settings.

## Prevalence research

Sixty-five per cent of three year olds in a sample of nearly 2,000 families had been “spanked” by one or both parents in the previous month. The study examined the prevalence of corporal punishment and intimate partner aggression, with 49% of the families reporting both of these. In about 15% of these families, bilateral aggression or violence between the parents was combined with a single parent spanking the child.<sup>1</sup>

A study which tracked corporal punishment of 3-11 year olds from 1975 to 2002 found that 18% fewer children were slapped or spanked by caregivers in 2002 compared with 1975. However, in 2002, 79% of preschool-aged children were spanked, and nearly half of children aged eight and nine were hit with an object such as a paddle or switch.<sup>2</sup>

The CS Mott Children’s Hospital National Poll on Children’s Health 2010 presented various scenarios to over 1,500 parents of 2-17 year olds and asked how likely they were to use different discipline strategies. A third said they were very likely to spank (hit with a hand) or paddle (hit with a wooden paddle) their child. More parents of young children said they were very likely to spank (30% of parents of 2-5 year olds, 24% of parents of 6-12 year olds, 13% of parents of 13-17 year olds), while slightly more parents of older children said they were very likely to paddle their child (8% for 2-5 year olds, 10% for 6-12 year olds, 12% for 13-18 year olds).<sup>3</sup>

In 2009, a study by the American Civil Liberties Union (ACLU) and Human Rights Watch looked at corporal punishment of disabled children in American schools. The report is based on data from 202 interviews with parents, students, teachers, administrators, and special education professionals, and statistics from the Office for Civil Rights at the US Department of Education. In 2006-7, disabled students constituted 13.7% of the total student population but made up 18.8% of the number of students who were “paddled” (beaten with a wooden paddle). In the states which use the most corporal punishment, disabled students were up to twice as likely as non-disabled students to experience this form of corporal punishment. Disabled students were also spanked, slapped, pinched, dragged across the floor and thrown to the floor.<sup>4</sup>

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<sup>1</sup> Taylor C. A. et al (2010), “Use of spanking for 3-year-old children and associated intimate partner aggression or violence”, *Pediatrics* 126, 415-424

<sup>2</sup> Zolotor, A. J. et al (2010), “Corporal punishment and physical abuse: population-based trends for three-to-11-year-old children in the United States”, *Child Abuse Review*, n/a. doi: 10.1002/car.1128, cited in “Spanking And Other Forms Of Corporal Punishment Of Children Are Still Common In The U.S. And Worldwide, Despite Bans In 24 Countries”, *Medical News Today*, 10 August 2010

<sup>3</sup> C.S. Mott Children’s Hospital (2010), *National Poll on Children’s Health*, 16 April 2010, 9(4)

<sup>4</sup> Human Rights Watch & American Civil Liberties Union (2009), *Impairing Education: Corporal Punishment of Students with Disabilities in US Public Schools*

In 2009, the US Government Accountability Office reviewed legislation on restraint and disciplinary techniques used in public and private schools and examined student death and abuse from these methods over the last 20 years. It discovered hundreds of allegations of death and abuse, nearly all of which involved disabled children. In several cases in which these techniques were proven to result in death or serious injury, the staff involved continued to be employed as educators.<sup>5</sup>

A joint report by Human Rights Watch and the American Civil Liberties Union published in 2008 highlighted the extent of corporal punishment of children in schools. 181 interviews were carried out with parents, teachers, students and administrators, including interviews with 34 young people aged under 18 and 37 former students aged 18-26. The report states that, according to the Office for Civil Rights at the US Department of Education, more than 200,000 students were punished at least once in the 2006-2007 school year and notes that actual totals may well be higher. African-American students and disabled students were punished more frequently than others. The interviews focussed on Mississippi and Texas, where corporal punishment is widely used. They found that corporal punishment is used in response to a wide range of behaviours, including minor misdemeanors such as drinking in class and dress code violations. Corporal punishment usually takes the form of “paddling” or hitting a student on the buttocks and upper thighs with a wooden paddle, and in several cases had caused serious injury.<sup>6</sup>

A telephone interview survey of 600 adults in each of the 50 states, carried out by SurveyUSA of Verona NJ in August 2005, found that overall almost three out of four (72%) supported the use of spanking as a disciplinary method (ranging from 55% in Vermont to 87% in Alabama), with almost one in four (23%) believing it acceptable for a teacher to spank a child (ranging from 8% in New Hampshire to 53% in Arkansas and Mississippi). Nearly one third (31%) believed it is acceptable to wash out a child’s mouth with soap (from 23% in Hawaii, Maryland and Massachusetts to 46% in Idaho).<sup>7</sup>

An ABC News telephone poll of a random national sample of 1,015 adults in 2002 found that overall 65% approved of spanking children, with 31% disapproving; 72% thought that teachers should not be permitted to spank children in school.<sup>8</sup>

## **Recommendations by human rights treaty bodies**

The USA has signed but not ratified the UN Convention on the Rights of the Child.

In ratifying the International Covenant on Civil and Political Rights, the US entered a reservation stating that “the United States considers itself bound by article 7 to the extent that ‘cruel, inhuman or degrading treatment or punishment’ means the cruel and unusual treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States”.

## **Universal Periodic Review**

The US was examined under the Universal Periodic Review process in 2010. No recommendations were made concerning corporal punishment of children.

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<sup>5</sup> United States Government Accountability Office (2009), *Seclusions and Restraints: Selected cases of death and abuse at public and private schools and treatment centers*

<sup>6</sup> Human Rights Watch & American Civil Liberties Union (2008), *A Violent Education: Corporal Punishment of Children in US Schools*

<sup>7</sup> SurveyUSA, Verona NJ, (August 2005), *Disciplining a Child 08/24/05*, [www.surveyusa.com/50StateDisciplineChild0805SortedbyTeacher.htm](http://www.surveyusa.com/50StateDisciplineChild0805SortedbyTeacher.htm), accessed 31 March 2010

<sup>8</sup> ABC News poll conducted by telephone, 25-29 October 2002; fieldwork by International Communications Research of Media, Pennsylvania

## State-by-state analysis of the legality of corporal punishment in the US

### Notes on schools:

(i) Unless noted otherwise, state level prohibitions apply only to public schools.

(ii) Unless noted otherwise, in states in which there is no state level prohibition of corporal punishment, such punishment is permitted unless banned by local boards. In most of these states, it is up to local boards and schools to establish policies regulating the use of corporal punishment.

State	Prohibited in the home	Prohibited in schools	Prohibited in penal system		Prohibited in alternative care settings
			As sentence for crime	As disciplinary measure	
Alabama	NO	NO	YES	NO <sup>9</sup>	SOME <sup>10</sup>
Alaska	NO	YES	YES	YES	YES
Arizona	NO	NO	YES	NO	YES
Arkansas	NO	NO	YES	NO	SOME <sup>11</sup>
California	NO	YES	YES	YES	YES
Colorado	NO	NO	YES	YES	YES
Connecticut	NO	YES <sup>12</sup>	YES	NO <sup>13</sup>	SOME <sup>14</sup>
Delaware	NO	YES	YES	NO	SOME <sup>15</sup>
District of Columbia	NO	YES	YES	NO <sup>16</sup>	SOME <sup>17</sup>
Florida	NO	NO	YES	YES	SOME <sup>18</sup>
Georgia	NO	NO	YES	NO <sup>19</sup>	YES
Hawaii	NO	YES	YES	YES <sup>20</sup>	YES
Idaho	NO	NO	YES	YES	SOME <sup>21</sup>
Illinois	NO	YES	YES	YES	SOME <sup>22</sup>
Indiana	NO	NO	YES	NO <sup>23</sup>	SOME <sup>24</sup>

<sup>9</sup> But policy states it should not be used

<sup>10</sup> Prohibited in all settings, but preschool programmes operated by churches or religious non-profit schools exempt from licensing

<sup>11</sup> Prohibited by licensing requirements in family day care and in day care centres, and in group homes/institutions and foster care homes licensed by the Arkansas Department of Human Services; not prohibited in private group homes/institutions licensed by the Arkansas Child Welfare Agency Review Board; child care facilities operated by churches possibly exempt from licensing requirements

<sup>12</sup> But no explicit prohibition

<sup>13</sup> Information unconfirmed

<sup>14</sup> Prohibited in all settings, but some religious based arrangements exempt from child care licensing

<sup>15</sup> Prohibited in family day care and in day care centres; in foster care, agency policy states corporal punishment should not be used but no prohibition in law (information unconfirmed)

<sup>16</sup> Policy states corporal punishment should not be used but no prohibition in law

<sup>17</sup> Prohibited in group homes/institutions and home foster care; in day care centres, policy states corporal punishment should not be used but no prohibition in law (information unconfirmed); not prohibited in family day care, but prohibition proposed

<sup>18</sup> Prohibited in all settings, but child care facilities in church or parochial schools exempt from licensing regulations

<sup>19</sup> Policy states corporal punishment should not be used but no prohibition in law

<sup>20</sup> Prohibited in Administrative Rules 17-201-19 (2000), but this provision repealed and prohibition in current law unconfirmed

<sup>21</sup> Prohibited in group homes/institutions and home foster care; not prohibited in family day care and day care centres

<sup>22</sup> Prohibited in all settings except church-sponsored part-day child care programmes for children over 3 years of age

<sup>23</sup> Information unconfirmed

State	Prohibited in the home	Prohibited in schools	Prohibited in penal system		Prohibited in alternative care settings
			As sentence for crime	As disciplinary measure	
Iowa	NO	YES <sup>25</sup>	YES	YES	YES
Kansas	NO	NO	YES	YES	YES
Kentucky	NO	NO	YES	YES	YES
Louisiana	NO	NO	YES	YES	SOME <sup>26</sup>
Maine	NO	YES <sup>27</sup>	YES	YES	YES
Maryland	NO	YES	YES	NO <sup>28</sup>	SOME <sup>29</sup>
Massachusetts	NO	YES	YES	NO <sup>30</sup>	SOME <sup>31</sup>
Michigan	NO	YES	YES	YES <sup>32</sup>	YES
Minnesota	NO	YES	YES	YES <sup>33</sup>	YES
Mississippi	NO	NO	YES	NO	SOME <sup>34</sup>
Missouri	NO	NO	YES	YES	SOME <sup>35</sup>
Montana	NO	YES	YES	YES	SOME <sup>36</sup>
Nebraska	NO	YES	YES	YES	YES
Nevada	NO	YES	YES	YES	YES
New Hampshire	NO	YES <sup>37</sup>	YES	NO <sup>38</sup>	YES
New Jersey	NO	YES <sup>39</sup>	YES	YES	YES
New Mexico	NO	YES <sup>40</sup>	YES	YES	YES
New York	NO	YES	YES	YES <sup>41</sup>	YES
North Carolina	NO	NO	YES	YES	SOME <sup>42</sup>
North Dakota	NO	YES	YES	NO <sup>43</sup>	YES

<sup>24</sup> Prohibited in day care centres and home foster care; not prohibited in group homes/institutions, but strongly discouraged through training and legal interpretation; prohibited in family day care by agency policy (information unconfirmed); possibly not prohibited in unlicensed child care programmes with religious affiliation

<sup>25</sup> Prohibited in public and private schools

<sup>26</sup> Prohibited in home foster care, Class A (federally funded) day care and residential centres and emergency shelters; not prohibited in family day care, Class B day care and residential centres

<sup>27</sup> But no explicit prohibition

<sup>28</sup> Policy states corporal punishment should not be used (information unconfirmed) but no prohibition in law

<sup>29</sup> Prohibited in all state-regulated child care facilities but possibly lawful in private facilities; nursery schools and child care centres operated by tax-exempt religious organisations exempt from licensing standards

<sup>30</sup> Information unconfirmed

<sup>31</sup> Prohibited in family day care, day care centres and group homes/institutions; discouraged in home foster care through training and legal interpretation but no prohibition in law

<sup>32</sup> Information unconfirmed

<sup>33</sup> Information unconfirmed

<sup>34</sup> Prohibited in family day care, day care centres, home foster care and licensed group homes/institutions; not prohibited in unlicensed group homes/institutions

<sup>35</sup> Prohibited in all settings, but child care facilities of religious organisations exempt from licensing

<sup>36</sup> Prohibited in family and group day care centres; in home foster care prohibited in agency policy and law states that foster parents may not use “unusual, severe, cruel, capricious, humiliating or unnecessary punishment” and foster parents must show evidence of being able to care “without recourse to physical punishment”

<sup>37</sup> But no explicit prohibition

<sup>38</sup> Information unconfirmed

<sup>39</sup> Prohibited in public and private schools

<sup>40</sup> Prohibition will take effect from 1 July 2011

<sup>41</sup> Information unconfirmed

<sup>42</sup> Prohibited in family day care, group homes/institutions, home foster care and in licensed day care centres; permitted in religious-sponsored day care centres; religious child care facilities, including summer day camps, exempt from licensing

State	Prohibited in the home	Prohibited in schools	Prohibited in penal system		Prohibited in alternative care settings
			As sentence for crime	As disciplinary measure	
Ohio	NO	YES	YES	YES	YES
Oklahoma	NO	NO	YES	YES	YES
Oregon	NO	YES	YES	YES	YES
Pennsylvania	NO	YES	YES	YES	YES
Rhode Island	NO	YES	YES	???	YES
South Carolina	NO	NO	YES	NO <sup>44</sup>	SOME <sup>45</sup>
South Dakota	NO	YES <sup>46</sup>	YES	YES <sup>47</sup>	YES
Tennessee	NO	NO	YES	NO <sup>48</sup>	SOME <sup>49</sup>
Texas	NO	NO	YES	YES	YES
Utah	NO	YES	YES	YES	SOME <sup>50</sup>
Vermont	NO	YES	YES	??? <sup>51</sup>	YES
Virginia	NO	YES	YES	YES	SOME <sup>52</sup>
Washington	NO	YES	YES	??? <sup>53</sup>	YES
West Virginia	NO	YES	YES	YES	YES
Wisconsin	NO	YES	YES	YES	YES
Wyoming	NO	NO	YES	NO <sup>54</sup>	YES

*Report prepared by the Global Initiative to End All Corporal Punishment of Children*  
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<sup>43</sup> Law prohibits only “excessive corporal punishment”

<sup>44</sup> Information unconfirmed; law prohibits “excessive corporal punishment”

<sup>45</sup> Prohibited in home foster care and in group homes/institutions for children in state custody or placed by public agencies; permitted in family day care and in day care centres; bible schools and child care programmes of churches and other religious organisations not publicly funded exempt from prohibition in licensing requirements

<sup>46</sup> But no explicit prohibition

<sup>47</sup> Information unconfirmed

<sup>48</sup> Permitted in schools for children in detention run by the penal system but prohibited out of school hours

<sup>49</sup> Prohibited in family day care, day care centres, child welfare licensed group homes/institutions and foster care; permitted in Residential Child Care Agencies group homes/institutions (information unconfirmed); child care centres run by religious schools exempt

<sup>50</sup> Prohibited in all settings, but parochial institutions providing educational care exempt from licensing

<sup>51</sup> Prohibited by law for adult inmates, but possibly only discouraged by policy for juveniles

<sup>52</sup> Prohibited in family day care, day care centres and home foster care; permitted by law in seven licensed group homes/institutions, though policy in all seven states corporal punishment should not be used

<sup>53</sup> Prohibited by law for adult inmates, but possibly only discouraged by policy for juveniles

<sup>54</sup> Information unconfirmed; law prohibits “excessive or unreasonable” corporal punishment