

90. Domestic discipline: s 280

90.1 Legislation

[Last reviewed: February 2025]

Criminal Code

[Section 280](#) – Domestic discipline

90.2 Commentary

[Last reviewed: February 2025]

Section 280 operates to excuse, and render lawful, the use of force against a child or pupil under the defendant's care where:

1. The defendant is a parent, or a person in the place of a parent, a schoolteacher or a master; and
2. The force was used by way of correction, discipline, management or control; and
3. The force used was not unreasonable under the circumstances.

It would be rare for there to be a dispute about the first matter, and the model direction below is drafted with a focus on the second and third considerations.

The prosecution may negative the operation of the defence by proving that the force was not used by way of correction, discipline, management or control. 'Correction' in scholarly setting goes beyond chastisement for a breach of the rules. The term may encompass the application of force to ensure the orderly movement of children (*Horan v Ferguson* [1995] 2 Qd R 490, 500).

The prosecution may also negative the defence by proving that the force used was not reasonable in the circumstances. What force was reasonable is a question for the jury to determine objectively. The jury are 'not required to make an assessment of an abstract community standard of reasonableness and then adopt it as the measure against which the reasonableness of the [defendant's] conduct was to be adjudged' (*R v DBG* [2013] QCA 370, [31]). The defendant's own views as to the appropriateness of the discipline they used are irrelevant to a consideration of whether the force used was objectively reasonable (*ACP v Queensland Police Service* [2019] QCA 9, [26]).

90.3 Suggested direction

[Last reviewed: February 2025]

Before you could find the Defendant guilty of [the alleged offence] you must be satisfied that what the Defendant did was unlawful. The Defendant's actions

would be unlawful if they were not authorised, justified or excused by the law. It is for the prosecution to prove, beyond reasonable doubt, that what the Defendant did was without legal authorisation, justification or excuse.

The law permits a parent [or a person in the place of a parent, school-teacher or master] to use force in some circumstances. A parent [or other designated person] may use force by way of correction, discipline, management or control towards a child under that person's care, as long as the force used was reasonable under the circumstances. We call this a defence, but it is not for the Defendant to prove that [he/she] was using lawful force for the purpose of discipline. It is for the prosecution to prove the defence does not apply in this case.

(Where appropriate): **It is accepted here that [the Defendant] is/was [the complainant's] parent [or other designated relationship].**

That leaves for your consideration two matters. If the prosecution proves either matter, it will have excluded the operation of this defence.

The first matter is whether the prosecution has proved that the force used by the Defendant was not by way of correction, discipline, management or control of [the complainant]. If the prosecution proves that the Defendant [describe the act alleged to constitute the offence] for some reason other than by way of correction, discipline, management or control, then this defence does not apply.

(Where appropriate, set out the competing contentions and evidence as to the purpose of the Defendant's use of force).

The second matter to consider is whether the prosecution has proved that the force used by the Defendant was not reasonable under the circumstances. The circumstances are the facts and circumstances surrounding and involving the incident that you accept based on your assessment of the evidence. The circumstances will include relevant prior interactions between the Defendant and complainant.

It is for you to decide what is reasonable on an objective view of the circumstances as you find them to be. If the prosecution proves that the force used by the Defendant was not reasonable under the circumstances, then this defence does not apply.

It is important when you consider these matters that you bear in mind that the Defendant does not have to prove that [he/she] used force by way of disciplining [or correcting etc] the complainant, or that the force used was reasonable. It is for the prosecution to disprove at least one of these matters.

If the prosecution has satisfied you beyond a reasonable doubt, either that the Defendant was not using force by way of disciplining [or controlling etc] the complainant or, alternatively, that the force used was not reasonable under the

circumstances, the prosecution has established that the Defendant's actions were not lawful on this basis.