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November 23, 2017

The Honourable George J. Furey, Q.C., Speaker of the Senate
Senate of Canada
Ottawa ON
K1A 0A4

Dear Senator:

**RE: Bill S-206 An Act to amend the Criminal Code (protection of
children against standard child-rearing violence)**

The Canadian Council of Child & Youth Advocates is an association of children's provincial and territorial advocates who have mandates to advance the rights of children and youth and to promote their voices. Advocates are all independent officers of the legislature in their respective jurisdictions. Through the Council, we identify areas of mutual concern, and work to develop ways to address issues at a national level.

We write to urge you to support passage of Bill S-206—unamended—to repeal section 43 of the *Criminal Code*, which permits disciplinary violence against children by caregivers.

A solid body of research has demonstrated that physical punishment is the most common form of violence experienced by children, and that it is strongly linked to broad and enduring personal and societal harm. Hitting children is a violation of their human rights. The right to live free of all forms of violence is strongly protected by the United Nations *Convention on the Rights of the Child*, the *Universal Declaration of Human Rights*, and the *Canadian Charter of Rights and Freedoms*.

Canadian adults rely on law to protect them from violence. Children have a right to the same protection in law. The message of section 43 undercuts public education about the harm of physical punishment and the need for alternative and positive child rearing discipline..

Section 43 is a relic Canadian statute. Fifty-three countries have now fully protected their children from all violence—by removal of historic legal defenses for caregiver assault or by outright prohibitions of such assault. Fifty- four more countries have committed to doing so; Canada is not among them.

Repeal of section 43 is one of the calls to action by the Truth and Reconciliation Commission of Canada. The Canadian Joint Statement on Physical Punishment of Children and Youth, which has been endorsed by more than 600 respected organizations, calls for the same legal protection of children from assault as relied upon by adults.

The narrowed scope of the section 43 defense (Supreme Court of Canada split decision on the s. 43 constitutional challenge, 2004) does not provide protection of all children from parental and caregiver hitting. The decision painted a confusing body and developmental map of the permitted assault of a child by a caregiver, which leaves children between the ages of 2 and 12 unprotected.

Canada has a well-deserved reputation for social justice and leadership in protecting vulnerable people. But Canada is way overdue in ensuring that our youngest and most vulnerable citizens have the same protection against violence that is taken for granted by adults.

We urge you to hasten repeal of section 43 by supporting passage of Bill S-206.

Respectfully,



Irwin Elman

President

Canadian Council of Child & Youth Advocates

(Provincial Advocate for Children and Youth of Ontario)

About the Canadian Council of Child and Youth Advocates

The Canadian Council of Child and Youth Advocates is an alliance of legislatively mandated advocates for the rights of children and youth. These advocates may operate under various titles (e.g. Advocate, Representative, Ombudsman, Commissioner), but all are official representatives in their particular provinces and territories. All CCCYA members are independent statutory officers who report directly to the Legislative Assembly of their respective jurisdictions. Each CCCYA member office is established by legislation to operate in a manner that is independent from government authority or control. Council includes members from the nine provinces and two territories of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan, and Yukon.