

## PARENTAL DISCIPLINE

1. While parents have a general right to privacy in the manner in which they raise their children, that right must be balanced against the State's legitimate interest in preventing the mistreatment of children. *In re B.H.*, 389 Ill.App.3d 316, 320 (2009).
2. The parental right to discipline a child is not a statutory affirmative defense, but is embedded in the common law. *People v. Green*, 2011 IL.App(2d) 091123, 957 N.E.2d 1233.
3. The general rule arising from the common law is that parents may take reasonable steps to discipline their children when necessary. This rule, like self-defense, is a legal justification for an otherwise criminal act. *People v. Green*, 2011 IL.App(2d) 091123, 957 N.E.2d 1233.
4. Thus, in order to show that a parent was not justified in the discipline he or she used on a child, the State must prove the parent guilty beyond a reasonable doubt as to the affirmative defense as well as all the other elements of the offense. *People v. Green*, 2011 IL.App(2d) 091123, 957 N.E.2d 1233.
5. The factors a court uses to determine whether the parental discipline exceeds the bounds of reasonableness are not limited to the degree of injury inflicted upon the child, but also include the likelihood of future punishment that might be more injurious, the psychological effects of the discipline on the child, and whether the parent was calmly attempting to discipline the child or whether the parent was lashing out in anger. *People v. Green*, 2011 IL.App(2d) 091123, 957 N.E.2d 1233.

6. While the parental right to discipline is not a statutory affirmative defense, it has been held to be a legal justification for an otherwise criminal act. *People v. Green*, 2011 IL.App(2d) 091123, 957 N.E.2d 1233.
7. The State must prove the Defendant guilty beyond a reasonable doubt as to the justification together with all the other elements of the offense.
8. To sustain a conviction, where a claim of parental right to discipline has been asserted, the State's burden is to prove beyond a reasonable doubt that the discipline used exceeded the standards of reasonableness. *People v. Roberts*, 351 Ill. App.3d 684 (2004).
9. It is reasonableness, and not "without legal justification," that is the proper standard to apply in determining whether the parental discipline was justified. *People v. Roberts*, 351 Ill. App.3d 684 (2004).
10. The State is not required to prove that the minor sustained bodily injuries. The Second District Appellate Court stated "We decline to hold that, as a matter of law, when no bodily harm results from the parent's conduct, he or she cannot be found guilty of exceeding the bounds of reasonableness under the domestic battery statute as written." *People v. Green*, 2011 IL.App(2d) 091123, 957 N.E.2d 1233.