Honourable Senators,

I kindly invite you to review the attached legal opinion cited as,
Stewart, Hamish, *"Parents, Children, and the Law of Assault",* (January, 2009). Dalhousie Law Journal, Vol. 32, p. 1, 2009. Social Science Research Network abstract 1547490
Link here: https://ssrn.com/abstract=1547490

This summarizes as follows:

"There appears to be general agreement that a parent has the right to apply force to a child (with or without the child's consent) when it is necessary to protect the child, to protect others (such as a younger sibling), and to teach a child social values and behavioural limits."

"Neither the exercise of prosecutorial discretion nor the common law defences of necessity and de minimis ***would be adequate to protect parents*** *who were carrying out their duties."*

"the requirement of the rule of law suggests that the criminal liability of a parent who touches a child for a proper purpose should not depend on the vagaries of prosecutorial discretion (removal of objective tests) or on criminal law excuses (de minimis)."

I'm a scientist, not a lawyer, but I posit two questions for your consideration.

1) S-206 repeals S.43 and the SCOC 2004 definitions of it, which provide clear, specific and objective tests applicable to everyone, and replaces it with discretionary prosecution. This induces unequal treatments, as discretionary law always disproportionately harms minorities, the underprivileged and others lacking the social standing to be shielded from such prosecution or to possess the resources to adequately defend against it.

In Ontario, indigenous families are very disproportionately affected by the child protection industry apprehending children and vending them into the state care and foster care system. Why would the TRC support any law which result is certain to magnify harm on their communities? With the history of the "60s Scoop", would First Nations not be the first to oppose this bill, and a return to untenable apprehension rates, albeit by a different excuse?

2) The "transitory and trifling" force (or minor open-handed spanks on the seat) equates to de minimis force. For those that believe de minimis force is protected, and in the absence of S.43, would that not mean de minimis force used for consequential purposes formerly applicable to two to twelve year olds is now applicable to anyone under eighteen? Would it not also mean that educators who cannot currently use de minimis force only for consequential purposes would once again be allowed to do so, having repealed that definition?

I'm not suggesting I have the answers but I am asking that you consider the questions.
Respectfully,
Harold A. Hoff