



Honourable Yvette D'Ath MP
Attorney-General and Minister for Justice
Minister for Training and Skills

In reply please quote: 3399862

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Level 18 State Law Building
50 Ann Street Brisbane
GPO Box 149 Brisbane
Queensland 4001 Australia
Telephone +61 7 3719 7400
Email attorney@ministerial.qld.gov.au

Mr Neil Laurie
The Clerk of Parliament
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr ^{Neil}Laurie

I refer to Petition No. 2591-16 tabled in the Legislative Assembly on 1 September 2016, which requests legislative amendment to section 304 (Killing on provocation) of Queensland's Criminal Code.

The 'gay-panic defence' refers to the situation where the defendant claims to have been provoked to murder by a homosexual advance by the deceased. It is not a term used in the Criminal Code, but relates to the operation of the partial defence of provocation under section 304 of the Criminal Code.

Where a defendant has killed with the intent required for murder, the successful application of the partial defence of provocation under section 304 reduces the criminal responsibility of the defendant to manslaughter.

In providing my response under Standing Order 125, I want to firstly thank the petitioner for sharing his views on this issue, and to all 433 people who took the time to sign the petition.

During the 2015 State election, the Palaszczuk Government committed to law reform to exclude an unwanted sexual advance from the partial defence of provocation, other than in circumstances of an exceptional character. Work is currently underway in effecting this commitment.

Amendments to criminal defences, like section 304, are especially complex and technical. Accordingly, in May 2016 I commenced consultation with key legal stakeholders on a draft of the proposed amendment to ensure the proposal achieves this important reform.

I anticipate introducing the amendment to section 304 of the Criminal Code into the Legislative Assembly later this year.

Both past and present Queensland Labor Governments have demonstrated significant commitment to addressing the issue of the use of an unwanted sexual advance establishing a partial defence to murder.

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You may be aware that in November 2011, in response to public concerns, the former Attorney-General, the Honourable Paul Lucas, established an expert committee (the Committee) to consider this issue and to advise on possible changes to the defence of provocation under section 304.

The Committee recommended an amendment to exclude an unwanted sexual advance from the ambit of the defence, other than in exceptional circumstances. The former Labor Government announced its intention to give effect to the Committee's recommendation. However, with the change of Government in Queensland in 2012, the amendments were not progressed by the incoming Liberal National Party Government.

I trust this information is of assistance.

Yours sincerely

A handwritten signature in cursive script that reads "Yvette D'Ath". The signature is written in dark ink and is positioned to the left of the typed name.

YVETTE D'ATH MP
Attorney-General and Minister for Justice
Minister for Training and Skills