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# Gay panic defence: Bill introduced to Queensland Parliament



**Felicity Caldwell**

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The Queensland government has introduced a bill to abolish the controversial "gay panic" defence.

The homosexual advance defence, to use its legal term, has been used by people accused of murder to claim they were provoked due to an unwanted sexual advance.



Queensland's LGBTIQ community has been campaigning for the change. Photo: Glenn Hunt

The successful application of section 304 of the Criminal Code (killing on provocation) reduced the criminal responsibility to manslaughter, meaning the defendant avoided life in jail.

In introducing the Criminal Law Amendment Bill on Wednesday, Attorney-General Yvette D'Ath said she acknowledged the importance of the move to the LGBTIQ community.

"As it is to all Queenslanders who have voiced their criticism that such an advance could establish the partial defence," she said.

But Ms D'Ath said the change would not be limited to the gay community and would use the gender neutral phrase "unwanted sexual advance".



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"This properly reflects our society's expectations on the exercise of self-control," she said.

The bill will include an amendment to section 304 from the Queensland Criminal Code.

"The issue of killing on provocation is only relevant where a jury is satisfied beyond reasonable doubt that the defendant has killed with the intent required for murder," Ms D'Ath said.

"However, it is not a complete defence, it is only a partial defence."

But the changes will still allow for the partial defence to be used in "exceptional circumstances", for example if there had been a history of sexual assault or violence between the accused and the person killed.

But exceptional circumstances would be up to a judge to assess on a case-by-case basis.

Last week, a string of celebrities [banded together to urge the Queensland government to introduce the reforms before the end of 2016](#).

A petition calling for reforms to the gay panic defence, created by Catholic priest Father Paul Kelly, has more than 289,000 signatures.

Father Kelly created the petition after a man was bashed and killed in his church grounds at Maryborough in 2008.

Father Kelly said he was "very grateful" to Ms D'Ath for introducing the bill.

He said there was widespread support for the changes.

"It's been a long struggle but it's been worth it and I'm really appreciative of this," Father Kelly said.

When asked if the bill would have bipartisan support, Opposition Leader Tim Nicholls said the LNP would look at the legislation.

"Ian Walker, our (shadow) attorney-general has indicated in-principle that we support that change," he said.

"We are minded to support them but we need to see the details first."


Queensland and South Australia are the only jurisdictions in Australia not to have repealed the gay panic defence.

LGBTI Legal Service director Emile McPhee said he was very glad the government was progressing the reform.

"It is time that Queensland law recognised that 'gay panic' should not be a valid defence, and followed other states in overriding the precedent set in the 1990s," she said.

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"This also sends a welcome message of acceptance to the Queensland LGBTI community, showing that Queenslanders will not accept violence on the basis of sexuality."

Ms D'Ath's bill also proposes increasing penalties for misconduct with a corpse and allows trials for several people with offences arising from the same set of facts to be heard at the same time.

It would also allow a court to exclude the public from a court room while pre-recorded evidence from a child witness or special witness is played.

A parliamentary committee is due to report on the bill by February 21, 2017.

Ms D'Ath said she hoped Parliament would debate and vote on the legislation "very early in the new year".

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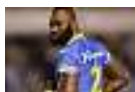
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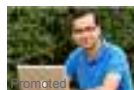
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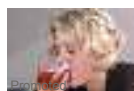
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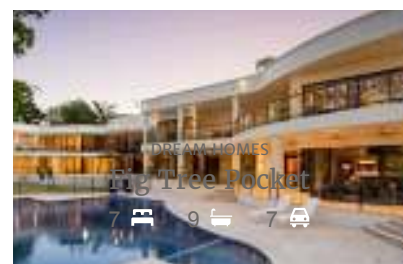
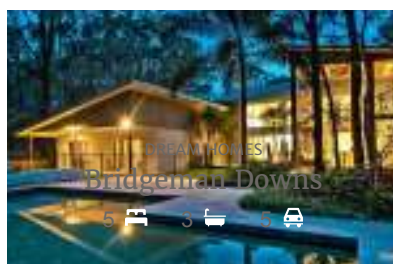
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