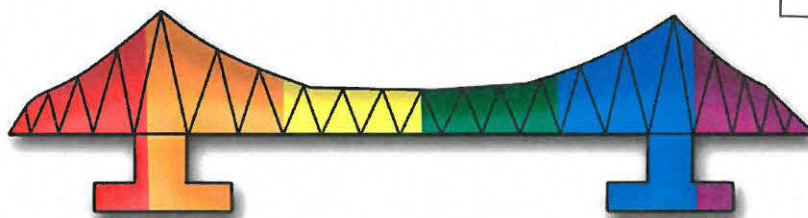


**From:** Brisbane Lesbian Gay Bisexual Transgender Intersex and Queer Action Group (BLAG)  
**Sent:** Friday, 13 January 2017 11:44 PM  
**To:** Legal Affairs and Community Safety Committee  
**Subject:** Submission: Parliamentary Committee Inquiry into the Criminal Law Amendment Bill 2016.

**Follow Up Flag:** Follow up  
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## Brisbane LGBTIQ Action Group

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
Brisbane QLD 4000

### **Submission: Parliamentary Committee Inquiry into the Criminal Law Amendment Bill 2016.**

Brisbane LGBTIQ Action Group is a group of Brisbane residents who are concerned by consistent research findings showing greater harm to Lesbian Gay Bisexual Transgender and Intersex (LGBTI) people, including far higher rates of mental health conditions and suicide, resulting from living with prejudice and discrimination. Our membership includes LGBTI people, family members of LGBTI people and other heterosexual citizens. We engage with government to raise awareness of, and inclusion for, LGBTI people. Our aim is for LGBTI people to be validated and recognised by society and government as full and equal citizens, which can assist in reversing the worse health and social outcomes many LGBTI people continue to experience.

This submission will only comment on the section of the bill relating to non-violent sexual advance, known as "Gay Panic", as LGBTI Queenslanders can feel vulnerable while this remains available as a partial defence to murder.

This Bill must be praised for following the recommendation of the "Expert Panel on Provocation" established by the previous Bligh government to examine potential changes to the Criminal Code. This Panel recommended that the Criminal Code should be amended so that a non-violent sexual advance could not establish provocation unless there were exceptional circumstances.

According to Attorney General the Hon. Yvette D'Ath MP in her introductory speech, this bill achieves this by "amending the Criminal Code to ensure that a person who commits murder cannot rely on an unwanted sexual advance, other than in exceptional circumstances, as a basis for the partial defence of provocation".

What is of particular relevance is the fact that a murder conviction in Queensland carries a mandatory sentence of life imprisonment. If a murder conviction is successfully downgraded to manslaughter, then the mandatory life prison sentence is avoided. Some alleged killers could try to avoid mandatory life imprisonment by claiming that the person they killed made an unwanted sexual advance, provoking them to murder that person.

Where the victim is of the same sex as the assailant/s, it follows that some alleged murderers may consider even

lying, to falsely claim the deceased tried to "hit on them" with a sexual advance, which they found so affronting that they killed the person. This has given rise to the so-called "Gay panic defence".

Queensland Catholic Priest, Fr Paul Kelly, began an e-petition titled "Stop allowing "gay panic" as an excuse for murder in Australia".

In his petition, Fr Kelly states:

***"I'm a Catholic Priest and 8 years ago a man called Wayne Ruks was bashed to death in my Maryborough churchyard (300kms north of Brisbane). Unbelievably, his killer's convictions were downgraded to manslaughter, and in the trial the circumstances surrounding the bashing referred to issues that can be described as "gay panic." "***

***"It's disgusting - this law, under the common law interpretation of the partial defence of Provocation, is still valid in both QLD and South Australia. In these two Australian states, if someone who you think is gay makes a pass at you, the sheer panic you could feel is partial justification for murder."***

***"I've made it my mission to see this revolting law abolished - it belongs in the dark ages. I have no words to describe how offensive, harmful and dangerous it is that two of our governments uphold that a person can be panicked enough by gay people to justify murder."***

Fr Kelly further adds:

***"I am also concerned that even when cases are not formally and specifically pleading the 'gay panic' defense, the mere bringing in of suggestions that the victim made a non-violent homosexual advance, (whether true or not), poisons the waters and taps into deep-seated homophobia and bigotry and ought not be brought up at all in any way in the hearing of a jury. The victim is not on trial here."***

Approximately 290,000 people have signed this petition agreeing with Fr Kelly's call to remove the "gay panic" defence <https://www.change.org/p/stop-allowing-gay-panic-as-an-excuse-for-murder-in-australia>

As one of only two Australian states with this partial defence of provocation (the other being South Australia), LGBTI Queenslanders can feel at risk if an assailant, fueled by prejudice, goes "poofster bashing" to intentionally harm and intentionally kill LGBTI people. As long as deep-seated homophobia and discrimination against people persists in some segments of society, LGBTI Queenslanders can feel vulnerable knowing this defence could potentially be used, perhaps even fictitiously, if ever they were to be the victim of a targeted gay-bashing resulting in their death.

In addition to making the law fairer, by removing the so-called Gay Panic defence this sends an important message to the community that LGBTI people are valued members of society and that discrimination is not acceptable.

Thank you for the opportunity to address this bill.

Many thanks

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