




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 11 May 2016

MINISTERIAL STATEMENT

Criminal Code, Defence of Provocation

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (2.22 pm): Today I rise to update the House in relation to law reform to address the issue of an accused person attempting to rely on an unwanted sexual advance as partial defence to a charge of murder. Where it can be established that a defendant has killed with the intent required to satisfy a charge of murder, the successful application of the partial defence of provocation under section 304 of the Criminal Code reduces the criminal responsibility of the defendant to manslaughter. As the House is aware, the Queensland government committed during the 2015 state general election to amend that section to exclude an unwanted sexual advance from being able to establish a partial defence of provocation in the case of murder.

I am pleased to advise the House that this work is well underway and today I commenced targeted consultation with key legal stakeholders by circulating a draft amendment to section 304 of the Criminal Code for comment on whether the amendments achieve the policy intention. I want to thank in advance those stakeholders for their consideration of these amendments. I consider it absolutely essential to obtain their feedback in this matter. Their comments will be considered in developing the final amendments. I would welcome comments from the opposition as I know it had previously indicated support for such a proposal.

Amendments that touch on criminal defences are always highly complex and technical and must strike the right balance between protecting the community while also protecting the rights of the individual accused. The Palaszczuk government considers it imperative to ensure that the amendments responsibly and meaningfully deliver on this important shift in the criminal law, reflecting the changes in community expectations demanded by a modern, progressive society. Queensland's Criminal Code must not be seen to condone violence against the gay community or indeed any community. I anticipate introducing the proposed amendments to section 304 of the Criminal Code in the House later this year.