



**Greg Smith SC MP**

Attorney General  
Minister for Justice

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## **MEDIA RELEASE**

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### **NEW BILL RAISES THE BAR ON PROVOCATION**

The revised partial defence of “extreme provocation”, introduced into Parliament today, will better reflect community attitudes towards cases in which an accused kills an intimate partner only to escape a murder conviction by claiming they had been provoked, Attorney General Greg Smith SC said today.

“This more limited partial defence of “extreme provocation” raises the bar on the circumstances when this defence can be used, so that it is only available in the most extreme cases,” Mr Smith said.

“Importantly, an accused can no longer use this excuse because their partner was unfaithful or wishes to end the relationship,” he said.

“Nor will provocation be available as a partial defence to someone who kills a person who merely made a non-violent sexual advance - whether heterosexual or homosexual - towards them.”

The bill meets the policy intent of the legislative recommendations of the Select Committee on Provocation which examined this complex issue.

“In recognition of work done by the Committee it will be introduced in the Upper House by its chair, Christian Democrat MLC the Rev Fred Nile. I thank the committee and the Rev Nile for their commitment to resolving the issue and reflecting community expectations in this complex area of the law.”

Under the bill ‘extreme provocation’ is only available as a partial defence if the provocative conduct of the deceased:

- was a serious indictable offence, and
- caused the accused to lose self control, and
- could have caused an ordinary person to lose self control to the extent of intending to kill or inflict grievous bodily harm

It enacts a Draft Exposure Bill which was released for public consultation in October.

“This bill ensures that provocation can no longer be used inappropriately to have a murder charged reduced to manslaughter, while ensuring the defence remains available to people who have suffered long standing domestic abuse and violence at the hands of their partners.”

“It does away with a law that was seen by many as being biased against women, and blaming the victim’s behaviour for the offender’s loss of self-control.”

“The new text will focus the jury on ordinary community standards by requiring them to consider what an ordinary person’s reaction could have been.”

“The bill also ensures provocation will also no longer be available as a defence to people who are intoxicated, unless the intoxication was not self induced.”

Currently, people can use provocation as a defence if:

- The words or conduct of the deceased caused the accused to lose self- control, and
- The conduct of the deceased could have induced an ordinary person, in the position of the accused, to have so far lost self control as to have formed an intent to kill, or inflict grievous bodily harm on the deceased.