



### **Victim Support Service (VSS)**

The vision of VSS is to see that all victims of crime in South Australia receive the support they need. Our purpose is to provide expert support to all victims of crime in South Australia. We do this by providing information, counselling and support to victims.

VSS is a statewide non-government community service organisation which provides free support, counselling and information services for adult crime victims, and advocates for victims' rights and community safety. We provide nearly 30,000 responses to victims each year.

VSS employs a team of staff drawn from the fields of psychology, social work and counselling deployed from one Adelaide office and seven country offices in South Australia. We provide a comprehensive range of practical and therapeutic services to all adult and older adolescents that have experienced crime, including information about a range of issues including victims of crime compensation, court support, training, counselling, brief intervention and assistance with preparation of Victim Impact Statements. This includes services for individual crime victims, their families, friends and the wider community.

VSS also advocates on behalf of individual clients, and for systemic changes to improve how the criminal justice and the health/welfare systems treat victims of crime.

### **Criminal Law Consolidation (Provocation) Amendment Bill**

The Victim Support Service (VSS) welcomes the referral of the *Criminal Law Consolidation (Provocation) Amendment Bill* (the Bill) to the Legislative Review Committee for inquiry and report.

VSS does not condone homophobic sentiments or violence.

As such, VSS commends the Honourable Tammy Franks MLC for seeking to prevent homophobic attitudes from serving as a basis for a criminal defence in South Australia.

In Tasmania, Victoria and Western Australia, the defence of provocation has been abolished.

In the Australian Capital Territory and the Northern Territory, the partial defence of provocation has been modified so that a non-violent sexual advance cannot constitute provocation on its own.

In South Australia, provocation remains a common law defence.

The purpose of the Bill is to amend the *Criminal Law Consolidation Act 1935* so that conduct of a sexual nature by a person towards another will not constitute provocation merely because the two people involved were the same sex.

VSS supports the removal of the homosexual advance test as a partial defence to murder.

However, VSS strongly believes there are circumstances where a defence of provocation *should* be applied, including but not limited to cases where:



- a) the accused has been a long-term victim of severe domestic or family violence perpetrated by the deceased; or
- b) the accused has been a long-term victim of repeated sexual abuse perpetrated by the deceased.

Further, the proposed insertion of section 11A in the *Criminal Law Consolidation Act 1935* should be expanded to reflect the following situations where the defence of provocation should *not* be made available, including where:

- c) the conduct of the deceased was a non-violent sexual advance to the accused (regardless of the sexual orientation of either the accused or the deceased);
- d) the accused was the perpetrator of domestic or family violence against the deceased; or
- e) the accused was the perpetrator of repeated severe sexual abuse of the deceased.