**Media Release - Wednesday, 26 May 1999**

**Self-Induced Intoxication A Decision for the Jury Only**

The all party Victorian Law Reform Committee, today released its final report on its inquiry into criminal liability for self-induced intoxication - the so-called "Drunk's Defence". The Committee has found that the 'defence' is not the main problem - public acceptance of heavy alcohol consumption and the strong link between alcohol and violence needs to be addressed as a matter of urgency.

The Committee which is made up of Liberal, Labour and National Party members was unanimous in its conclusions which achieve a careful balance, on the one hand preserving fundamental legal principles which lie at the heart of the criminal justice system and on the other hand addressing community concern about the acquittal of intoxicated offenders.

**The Committee has recommended that the High Court's decision in O'Connor's case continue to state the law in Victoria. That is, evidence of self-induced intoxication can be used in determining questions of criminal intent and "voluntariness". However where indictable offences are concerned, 'the defence' of self-induced intoxication will be required to be heard before a judge and jury. To assist the jury in reaching a decision, evidence of prior conduct may be considered by the jury.**

The report is available for free download on the committee’s internet website - [www.parliament.vic.gov.au/lawreform](https://www.parliament.vic.gov.au/lawreform).

The Committee examined the law throughout Australia and found that the law concerning intoxication is different in every State. The Committee was particularly struck by the differences between the criminal law culture in Victoria, New South Wales and the Northern Territory. Of particular interest is the strong emphasis on 'law and order politics' in other states while Victoria has the lowest rate of crime in Australia.

The Chairman of the Intoxication Subcommittee, Mr Andrighetto said: "The Committee has recommended that the High Court's decision in O'Connor's case continue to state the law in Victoria, but has also come up with novel and innovative procedural changes which will, if accepted, prevent the Nadruku decision from occurring in Victoria in the future".

Mr Andrighetto said: "The Committee has recommended that any person relying on the defence of self-induced intoxication will be forced to convince a jury of his or her peers and will not be able to run the case in the Magistrates' court. To assist the jury in reaching its decision, the Committee has also recommended that evidence of prior conduct be allowed to be considered by the jury. The overwhelming evidence received by the Committee revealed that a few magistrates have been inappropriately prepared to accept the 'drunk's defence', despite prior inconsistent behaviour. A properly instructed jury is very unlikely to accept the argument that a person was so drunk that he did not know what he was doing."

Mr Victor Perton, MLA, the Chairman of the Law Reform Committee said: "I am delighted in the unanimity of the Committee - Liberal, Labor and National. Considered bipartisan deliberations have developed a formula which will help guide our criminal justice system into the new millennium. In recommending that the O’Connor principles should continue to be relevant in criminal trials in Victoria, the Committee has concluded that it is of absolute importance for the Victorian criminal system to continue to be based on sound, legal principles."

Mr Perton, said: "The Committee members were shocked to learn that up to 90% of those involved in violence were effected to some extent by alcohol or drugs. Bearing this in mind the Committee has recommended not only a greater use of rehabilitation and treatment programs but also a much greater emphasis on anger management training".

Mr Perton said: "It is absolutely crucial that intoxicated offenders who behave violently learn how to deal with that anger in a more appropriate manner".

Mr Andrighetto noted that the Committee's investigations indicated that cases involving self-induced intoxication sometimes resulted in unnecessary and time-wasting appeals, particularly in South Australia. To overcome this problem the Committee has adopted the recent South Australian amendment, recommending changes to the grounds of appeal, which will, if accepted, prevent any future costly and unnecessary appeals.

Mr Andrighetto said: "The Committee members have found this inquiry challenging and rewarding. The Committee is satisfied that its recommendations resolve a controversial and difficult problem, through innovative procedural changes, without eroding fundamental legal principles which are at the heart of the criminal justice system and which allow those who come within its bounds to be treated fairly and justly".

Mr Florian Andrighetto, MLA, Chairman, Intoxication Subcommittee; Mr Tony Robinson, MLA, ALP member, Intoxication Subcommittee and Mr Victor Perton, MLA, Chairman, Law Reform Committee are available for media comment.

A press brief is available and a media briefing will be held at 11.00 am in Meeting Room 2, Ground Floor, Parliament House, Spring Street, Melbourne.