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H.128

Introduced by Representatives Cordes of Lincoln, Small of Winooski, Austin  
of Colchester, Bluemle of Burlington, Briglin of Thetford,  
Burrows of West Windsor, Chase of Colchester, Cina of  
Burlington, Coffey of Guilford, Colburn of Burlington,  
Donnally of Hyde Park, James of Manchester, Killacky of  
South Burlington, Lippert of Hinesburg, Masland of Thetford,  
Morris of Springfield, Mrowicki of Putney, Mulvaney-Stanak  
of Burlington, Scheu of Middlebury, Sibia of Dover, Stebbins  
of Burlington, Surprenant of Barnard, Till of Jericho, Toleno of  
Brattleboro, Vyhovsky of Essex, and White of Bethel

Referred to Committee on

Date:

Subject: Crimes and criminal procedure; criminal defenses; victim identity

Statement of purpose of bill as introduced: This bill proposes to prohibit a  
defendant in a criminal proceeding from using information about the victim's  
actual or perceived gender identity to justify the criminal conduct of the  
defendant or mitigate the severity of the offense.

An act relating to limiting criminal defenses based on victim identity

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 13 V.S.A. § 6566 is added to read:

3 § 6566. DEFENSE BASED ON VICTIM IDENTITY PROHIBITED

4 (a) In a prosecution for any criminal offense, evidence of the defendant's  
5 discovery of, knowledge about, or the potential disclosure of the crime victim's  
6 actual or perceived sexual orientation or gender identity shall not be used:

7 (1) as a defense to defendant's criminal conduct;

8 (2) to establish a finding that defendant suffered from diminished  
9 capacity; or

10 (3) to justify defendant's use of force against another.

11 (b) A nonviolent romantic or sexual advance by a crime victim or a  
12 defendant's perception or belief, even if inaccurate, of the gender, gender  
13 identity, or sexual orientation of a crime victim shall not be used to mitigate  
14 the severity of an offense.

15 (c) On or before January 1, 2022 and annually thereafter, the Attorney  
16 General shall submit to the House and Senate Committees on Judiciary a report  
17 that details prosecutions in the Criminal Division of crimes committed that  
18 were motivated by the victim's gender, gender identity or expression, or sexual  
19 orientation. The report shall include demographic information about the  
20 defendants and victims, including race, ethnicity, age, and gender.

- 1      Sec. 2. EFFECTIVE DATE
- 2      This act shall take effect on passage.