

1 H.128

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

12 Referred to Committee on

13 Date:

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

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

19 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
6 victim's actual or perceived sexual orientation or gender identity shall not be
7 used:

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

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

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

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

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

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~~Sec. 2. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

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

§ 6566. DEFENSE BASED ON VICTIM IDENTITY PROHIBITED

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

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

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

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

(b) The following shall not be used to mitigate the severity of an offense:

(1) evidence of a nonviolent romantic or sexual advance by a crime victim towards the defendant; or

(2) evidence of defendant's perception or belief, even if inaccurate, of the gender, gender identity, or sexual orientation of a crime victim.

Sec. 2. EFFECTIVE DATE

~~This act shall take effect on passage.~~

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

§ 6566. DEFENSE BASED ON VICTIM IDENTITY PROHIBITED

In a prosecution or sentencing for any criminal offense, the following shall not be used as a defense to the defendant's criminal conduct, to establish a finding that the defendant suffered from diminished capacity, to justify the defendant's use of force against another, or to otherwise mitigate the severity of the offense:

(1) evidence of the defendant's discovery of, knowledge about, or the potential disclosure of the crime victim's actual or perceived sexual orientation or gender identity, including under circumstances in which the victim made a nonforcible, noncriminal romantic or sexual advance toward the defendant; or

(2) evidence of the defendant's perception or belief, even if inaccurate, of the gender, gender identity, or sexual orientation of a crime victim.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.