

H.128: an act relating to limiting criminal defenses based on victim identity
Side by side comparison of House passed version and Senate passed amendment
April 23, 2021

As passed the House	As passed the Senate	Notes
<p>Sec. 1. 13 V.S.A. § 6566 is added to read:</p> <p><u>§ 6566. DEFENSE BASED ON VICTIM IDENTITY PROHIBITED</u></p> <p><u>(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:</u></p> <p><u>(1) as a defense to defendant’s criminal conduct;</u></p>	<p>Sec. 1. 13 V.S.A. § 6566 is added to read:</p> <p><u>§ 6566. DEFENSE BASED ON VICTIM IDENTITY PROHIBITED</u></p> <p><u>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:</u></p>	<p>Generally, the Senate version re-organizes the language from the House version; excludes nothing from House version; and adds one phrase: “or sentencing.”</p> <p>(a) and (b) from House version are combined in the Senate version to a single section.</p> <p>Senate version adds “or sentencing” to explicitly apply the section to the sentencing phase.</p> <p>Senate version incorporates subdivisions (a)(1)-(3) of House version into its lead-in language.</p>

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<p><u>(2) to establish a finding that defendant suffered from diminished capacity; or</u></p> <p><u>(3) to justify defendant’s use of force against another.</u></p> <p><u>(b) The following shall not be used to mitigate the severity of an offense:</u></p> <p><u>(1) evidence of a nonviolent romantic or sexual advance by a crime victim towards the defendant; or</u></p> <p><u>(2) evidence of defendant’s perception or belief, even if inaccurate, of</u></p>	<p><u>(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</u></p> <p><u>(2) evidence of the defendant’s perception or belief, even if inaccurate, of the gender, gender identity, or sexual orientation of a crime victim.</u></p>	<p>Senate version moves the lead-in language from House version (a) and (b) to subdivisions (1) and (2).</p> <p>Senate version moves the language regarding victim’s advance towards defendant to link it with evidence of discovery of victim’s protected status.</p>
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<u>the gender, gender identity, or sexual orientation of a crime victim.</u>		
<p>Sec. 2. EFFECTIVE DATE</p> <p><u>This act shall take effect on passage.</u></p>	<p><u>Sec. 2. EFFECTIVE DATE</u></p> <p><u>This act shall take effect on passage.</u></p>	