



**H.128- An act relating to limiting criminal defenses based on victim identity**  
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**House Judiciary Committee- February 11, 2021**

Thank you for the invitation to testify today. The Vermont Network wholeheartedly supports the intent S.128. We are proud to stand with our member organization, The Pride Center of VT, in support of this bill. This is a proactive bill that is responding to gender-based violence. Domestic and sexual violence is often rooted in gender bias. Gender-based violence disproportionately impacts gender-oppressed people such as women and members of the LGBTQ community. This bill specifically addresses gender-based violence as it relates to LGBTQ individuals. This statutory change has been requested by the trans community here in Vermont as a measure that would make them feel more welcome and safe. This is an opportunity for Vermont to live into its values and stand up for our LGBTQ friends, family and neighbors.

We think that this bill can be strengthened by clarifying some language in Section 1 of the bill

*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.*

The language, "potential disclosure of the crime victim's actual or perceived sexual orientation or gender identity", is a bit unclear to me. Is this referring to the victim saying that he or she will tell people that the offender had sex with someone who is LGBTQ? More language may be needed here to clarify the intent of who is doing the disclosure and to whom.

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

If the intent of this language is that a defendant can't use a non-violent sexual advance as a justification for assault, regardless of the defendant's perception of the victim's gender or sexual orientation, it may be clearer if that is the intent of the language, then it should say something like:

A nonviolent romantic or sexual advance by a crime victim towards a defendant who has a perception or belief, even if inaccurate, of the gender, gender identity, or sexual orientation of a crime victim shall not be used to mitigate the severity of an offense by the defendant toward the crime victim.