

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 128  
3 entitled “An act relating to limiting criminal defenses based on victim identify”  
4 respectfully reports that it has considered the same and recommends that the  
5 bill be amended by striking out all after the enacting clause and inserting in  
6 lieu thereof the following:

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

8 § 6566. DEFENSE BASED ON VICTIM IDENTITY PROHIBITED

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

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

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

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

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

17 (1) evidence of [a nonviolent] OR [an unwanted, nonforcible] romantic  
18 or sexual advance by a crime victim towards the defendant; or

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

1           (c) On or before January 1, 2022 and annually thereafter, the Executive  
2           Director of the Department of State’s Attorneys and Sheriffs shall submit to  
3           the House and Senate Committees on Judiciary a report that details, for the  
4           prior year, any convictions in the Criminal Division of the Superior Court of  
5           crimes committed that were motivated by the victim’s gender, gender identity  
6           or expression, or sexual orientation. The report shall include demographic  
7           information about the defendants and victims, including race, ethnicity, age,  
8           and gender.

9           Sec. 2. EFFECTIVE DATE

10           This act shall take effect on passage.

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(Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_  
FOR THE COMMITTEE