

General notes

H. 128 [An act relating to limiting criminal defenses based on victim identity](#)

Reps Cordes, Small sponsors

Intent

Strengthen laws to protect victims of identity-based crimes, whether actual or perceived, by limiting defenses based on victim identity and preventing use of provocation or diminished capacity by “panic”

Outline of key points

Gender, gender identity, gender expression / presentation, sexual orientation

Actual or perceived

Regardless if there was perceived or actual sexual advance or relationship

All hate crimes, not just murder

State bills

California

2014: [Legislation](#) amended the statutory definition of voluntary manslaughter. California AB2501 text of bill

http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_2501-2550/ab_2501_cfa_20140623_110700_sen_comm.html

Colorado

[2020: SB20-221](#), Enacted

The act states that, generally, evidence relating to the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted, nonforcible romantic or sexual advance toward the defendant or if the defendant and victim are or have been involved in an intimate relationship, is irrelevant in a criminal case and does not constitute sudden heat of passion in a criminal case. The act creates a protective hearing if a party claims that such evidence is relevant and wants to use it in a criminal case.

[Fact Sheet](#): Banning Gay and Trans Panic Defenses in Colorado

Connecticut

2019: SB-0058

Delaware

D.C.

[2017: B22-0102](#)

Hawaii

[2019: HB711](#), Enacted

Illinois

[2017: SB1761](#), Public Act 100-0460

General notes

Maine

[2019: LD1632](#), Enacted

Nevada

[2019: SB97](#), Enacted

New Jersey

[2020: A1796/S2609](#), Enacted, [Amended](#)

New York

[2019: A2707/S3293](#), [Senate](#), Enacted?

Rhode Island

2018: [H7066aa/S3014](#)

Washington

2020: [HB1687](#), Enacted

Sec. 1. A new section is added to chapter [9A.08 RCW](#) to read as follows: A defendant does not suffer from diminished capacity based on the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or in which the defendant and victim dated or had a romantic or sexual relationship.¹³

Sec. 2. A new section is added to chapter [9A.16 RCW](#) to read as follows: A person is not justified in using force against another based on the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or in which the defendant and victim dated or had a romantic or sexual relationship.

Resources

[The Gay/Trans Panic Defense: What It is, and How to End It](#)

Woods, Sears, Mallory, [MODEL LEGISLATION FOR ELIMINATING THE GAY AND TRANS PANIC DEFENSES](#), Williams Institute, Sept, 2016, pps 22

“ARTICLE 123 ELIMINATING THE GAY AND TRANS PANIC DEFENSES Section 101.

Restrictions on the Defense of Provocation For purposes of determining sudden quarrel or heat of passion, the provocation was not objectively reasonable if it resulted from the discovery of, knowledge about, or potential disclosure of the victim’s actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or if the defendant and victim dated or had a romantic or sexual relationship. Section 102.

Restrictions on the Defense of Diminished Capacity A defendant does not suffer from reduced mental capacity based on the discovery of, knowledge about, or potential disclosure of the victim’s actual or perceived gender, gender identity, gender expression, or sexual orientation,

General notes

including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or if the defendant and victim dated or had a romantic or sexual relationship. Section 103. Restrictions on the Defense of Self-Defense A person is not justified in using force against another based on the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted non forcible romantic or sexual advance towards the defendant, or if the defendant and victim dated or had a romantic or sexual relationship.”