

Judiciary Committee

SENATE FAVORABLE REPORT

Bill No.: SB-58

Title: AN ACT CONCERNING GAY AND TRANSGENDER PANIC DEFENSE.

Vote Date: 4/10/2019

Vote Action: Joint Favorable

PH Date: 3/29/2019

File No.: 829

***Disclaimer:** The following SENATE FAVORABLE Report is prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose.*

SPONSORS OF BILL:

Judiciary Committee

REASONS FOR BILL:

Gay and transgender panic defense is a legal strategy which points to a victim's sexual orientation or gender identity as justification for a defendant's violent reaction. The purpose of this bill is to prohibit the use of gay and transgender panic as a criminal defense.

SUBSTITUTE LANGUAGE:

There is no substitute language from the 2019 raised bill.

RESPONSE FROM ADMINISTRATION/AGENCY:

None expressed.

PUBLIC OFFICIALS (SUPPORT):

Sen. Martin Looney, President Pro Tempore:

I am here to express my support for SB 58, AN ACT CONCERNING GAY AND TRANSGENDER PANIC DEFENSE. It is stunning that as of last year only three states (California, Illinois, and Rhode Island) have banned the use of Gay and Transgender panic as a criminal defense. According to the Williams Institute at the UCLA School of Law these defenses have been used in approximately half of the states.

The gay and trans panic defense is not used on its own; it is generally part of claims that the defendant, upon learning the victim's sexual orientation or gender identification, (1) became violent in the heat of the moment, (2) suffered a temporary mental breakdown/diminished capacity which drove the defendant to violence, or (3) believed that upon learning the sexual

orientation/gender identity of the victim, the defendant was in danger of immediate bodily harm. The result of the use of this defense has led to lesser charges and shorter sentences for some perpetrators of violent crimes. This is baffling since, as Rep. Joseph Kennedy (MA) commented, “murdering or assaulting anyone because of their sexual orientation or gender identity is not a defense – it is a hate crime.” Carried to its logical extreme, a defendant could seek to use irrational bigotry as a defense against charges of violence directed at any racial, ethnic, or religious group. The potential outcome could be complete evisceration of our hate crimes law. Connecticut should join California, Illinois, and Rhode Island and prohibit the use of this abhorrent defense.

PUBLIC OFFICIALS (OPPOSITION):

None expressed.

RESPONSE FROM PUBLIC (SUPPORT):

Commission on Human Rights and Opportunities, Commissioner Nicholas Kapoor:

In 1999, Matthew Shepard was beaten and tortured in Laramie, Wyoming. He died from this attack. Matthew Shepard was a college student at the University of Wyoming. He was 21 years old. His attackers, Aaron McKinney and Russell Henderson were put on trial for his murder. Their defense attorney, Jason Tangeman, admitted in his opening statement that his clients did in fact “beat Shepard and left him for dead” however such actions were not unreasonable because Shepard made sexual advances at them and sent the killers into a “fit of uncontrollable homicidal rage.” This is the gay panic defense and it has no place in our society.

I believe that the foremost responsibility of government is to protect its citizens. One way in which a government can protect its citizens is to not allow inane and prejudicial defenses of accused defendants seeking leniency for attacking LGBTQ+ citizens. Tomei, et. al. lay out a comprehensive overview of the gay panic defense, “gay panic refers to a heterosexual individual losing control and violently responding to unwanted sexual advances from a gay man. In court, the defendant may argue he was provoked by the gay advance or became temporarily insane as a result.” Williams also succinctly states this legal tool, the gay panic defense is “a defense used to mitigate or excuse the killing of another person based on that person’s actual or perceived sexual orientation or sexual identity.”

The study conducted by Tomei, et al. found in an experiment that “participants higher in homonegativity assigned higher victim blame, lower defendant responsibility, and more lenient verdicts in the gay panic conditions.” This implies that those who have personal beliefs that are negative in nature toward homosexual people believe that a particular homosexual person making an advance should be blamed more than the person who attacks that homosexual person. This is completely backwards. No one should be able to physically harm someone else because the knowledge that a person is gay made a potential attacked “snap” and became “temporarily insane.”

And so, I strongly urge you to support Senate Bill 58 to enhance the protections of the LGBTQ+ community in Connecticut, make justice more equitable and our lives safer in all of our communities.

Planned Parenthood of Southern New England, Inc.:

The gay and trans “panic” defense is a legal strategy which asks a jury to find that a victim’s sexual orientation or gender identity is to blame for the defendant’s violent reaction, including murder. It is not a free-standing defense to criminal liability, but rather a legal tactic which is used to bolster other defenses. When the defense is employed, the perpetrator claims that their victim’s sexual orientation or gender identity not only explain – but excuse – their loss of self-control and subsequent assault. By fully or partially acquitting the perpetrators of crimes against LGBTQ+ victims, these defenses imply that LGBTQ+ lives are worth less than others. In one of the most recognized cases in 1998, Matthew Shepard, a 21-year-old college student, was beaten to death by two men and the men attempted to use the gay “panic” defense to excuse their actions. These defenses are rooted in homophobia and transphobia and a policy to prohibit the use of this defense will be one way to remove bias from the courtroom.

Connecticut lawmakers have been a leader in securing legal rights and protections for LGBTQ people in our state over the last several decades. S.B. 58 prohibiting the use of the gay and transgender panic as a criminal defense is one more policy that will help further protect against the bias and discrimination LGBTQ people face in our state. In 2013, the American Bar Association unanimously approved a resolution calling for state legislatures to eliminate the gay and trans panic defenses through legislation. We would be following the states of California, Illinois, and Rhode Island who have banned such defenses and five other states have bills in their legislatures this year. Planned Parenthood supports SB 58 and will continue to fight for policies that protect the rights of all people to ensure our patients and our communities have what they need to live healthy, safer and self-determined lives. Thank you for your consideration of this bill.

The Connecticut TransAdvocacy Coalition

The Connecticut TransAdvocacy Coalition would like to urge the Joint Committee on Judiciary to vote in favor S.B. 58: An Act Concerning Gay and Transgender Panic Defense.

Every November 20th, the transgender community remembers those who were killed here in the U.S. and around the world just because they were transgender. Last year we remembered twenty-three transgender women who were killed here in the U.S.

All around the country, there are cases each year where the defendant tries to avoid long sentences by claiming “I lost it! I found out I was dating a transgender woman I killed her!” In many of those cases, they have been dating for months until his friends found out that he was dating a trans woman and he kills her in a fit of rage.

We are lucky so far that we didn’t have a murder here in Connecticut; but should we wait until that happens and the suspect tries a transgender or gay panic defense? Or should we be pro-active and stop the transgender or gay panic defense before it happens here?

It is ironic that a defendant can use their hate for transgender people and gay people as a defense. We ask that the Joint Committee on Judiciary vote in favor of SB 58 AAC Gay and Transgender Panic Defense. Don’t let justice be denied to transgender and gay victims.

RESPONSE FROM PUBLIC (OPPOSITION):

None expressed.

Reported by: Michael Holler

Date: April 29, 2019