

SB-58: AN ACT CONCERNING GAY AND TRANSGENDER PANIC DEFENSE



Connecticut TransAdvocacy Coalition

P.O. Box 111
Farmington, CT 06034
(860) 255-8812
info@transadvocacy.org
www.transadvocacy.org
CTAC is a 501(c)3 Non-Profit

Honorable Senator Winfield Co-Chair
Honorable Representative Stafstrom Co-Chair
Joint Committee on Judiciary
Legislative Office Building, Room 2500
Hartford, CT 06106

March 29, 2019

Dear Co-Chairs and Committee Members,

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 case 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 (There was a transgender woman murder here in Connecticut in 2003, the victim was stabbed to death and her body set on fire.)?

In the Touro Law Review Blog

The so-called "gay panic" defense stems from a phenomenon originally coined by psychotherapist Edward J. Kempf in 1920, who claimed that in his studies of heterosexual-identifying males, they became agitated, enraged and panicked by their acute homosexual thoughts or ideas. The concerns for psychological breakdown described by Kempf were not out of touch with the times, given the classification of "homosexuality" as a medically-recognized disorder until 1973.

Today the gay panic defense continues to be used to influence jurors to mitigate a violent defendant's conviction or sentence based on the premise that the victim was romantically interested in the defendant of the same sex that, consequently, struck some panic within the defendant and caused him or her to react violently. The defense, based upon irrational "homophobia and transphobia, . . . send[s] the wrong message that violence against LGBT people is acceptable." In an era post-pathological homosexuality, cases such as these move the focus of the case from the defendant to the victim. In order for this defense

SB-58: AN ACT CONCERNING GAY AND TRANSGENDER PANIC DEFENSE

to work, defendants must prove that “the victim’s unwanted, nonviolent homosexual advance was characterized as an external stimulus causing the defendant’s homicidal reaction.”

And their conclusion was,

The gay panic defense is an outdated defense technique that abuses unfortunate lingering bias against the LGBT community to reduce a defendant’s perceived culpability or absolve them entirely. Alarming, the defense harms LGBT people in the very forum in which they, as victims, should be able to seek justice and protection.

The Williams Institute at the UCLA School of Law said this about gay/transgender panic defense,

“Gay panic” and “transgender panic” defenses have been asserted by defendants in criminal trials throughout the U.S. since the 1960s. In these cases, defendants have argued that their violent behavior was a rational response to discovering that the victim was LGBT. The defenses are rooted in irrational fears based on homophobia and transphobia, and send the message that violence against LGBT people is understandable and acceptable. When successful, these defenses have resulted in murder charges being reduced to manslaughter or another lesser offense.

In an article in a George Washington University Law School publication they write,

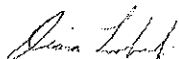
When a heterosexual man is charged with murdering a transgender woman with whom he has been sexually intimate, one defense strategy is to assert what has been called the trans panic defense. The defendant claiming this defense will say that the discovery that the victim was biologically male provoked him into a heat of passion causing him to lose self-control. If the jury finds that the defendant was actually and reasonably provoked, it can acquit him of murder and find him guilty of the lesser offense of voluntary manslaughter. The trans panic defense strategy is troubling because it appeals to stereotypes about transgender individuals as sexually deviant and abnormal.

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.

Sincerely,

Diana Lombardi



Executive Director

Board Members:

Natasha Lombardi -- President

Vu Trans -- Treasurer

Joleen Nevers

Lynne Alexander