



THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of HB 488  
LGBTQ+ Panic Defense Prohibition**

This bill would prohibit the use of the “LGBTQ+ panic defense” to mitigate certain violent crime charges in criminal court proceedings in Maryland. The LGBTQ+ panic defense is a legal strategy that asks a jury to find that a victim’s sexual orientation or gender identity is to blame for the defendant’s violent action. Under the legislation, that defense would not constitute legally adequate provocation to mitigate a killing from murder to manslaughter or an assault from first degree assault to second degree assault or a lesser crime.

According to the “LGBTQ+ panic defense,” a person charged with an offense against a LGBTQ+ individual is blameless due to panic caused by discovering the victim’s gender identity or sexual orientation. The defense is rooted in irrational fears based on homophobia and transphobia. Its use sends the message that violence against LGBTQ+ people is acceptable and that their lives are worth less than others simply because of their sexual orientation or gender expression.

A 2013 American Bar Association resolution supporting elimination of the LGBTQ+ panic defense states: “When Matthew Shepard, age 21, made a pass at two men in a gay bar, he should have expected to be beaten, pistol-whipped, tied to a fence, and left to die. When Emile Bernard was stabbed, beaten and blinded after coming on to a hitchhiker, his assailant claimed he could not be guilty since the victim “was asking for trouble” by making sexual advances. These are actual defenses, offered by real defendants, in United States courts of law that have succeeded in mitigating or excusing real crimes, even today.”<sup>1</sup>

Dozens of murder charges have been acquitted in the U.S. under the LGBTQ+ panic defense and the defense has appeared in court opinions in approximately 25 states since the 1960’s.<sup>2</sup> Nine states (CA, CT, HI, IL, ME, NJ, NV, NY and RI) have enacted laws to prohibit the use of this defense.

Violence against LGBTQ+ individuals is too common. In 2019, at least 25 transgender people were killed in America—three of these killings occurred in Maryland.<sup>3</sup> Moreover, hate crimes committed against LGBTQ people are increasing in recent years.<sup>4</sup>

Prohibiting the use of this defense to mitigate violent crime in Maryland will better safeguard LGBTQ+ residents and help ensure that victims receive the justice they are due.

<sup>1</sup> American Bar Association, Resolution 113A, Adopted August 2013.

<sup>2</sup> “Model Legislation for Eliminating the Gay and Trans Panic Defenses,” 2016, The Williams Institute.

<sup>3</sup> <https://www.hrc.org/resources/violence-against-the-transgender-community-in-2019>

<sup>4</sup> FBI hate crime database, <https://ucr.fbi.gov/hate-crime/2018/topic-pages/incidents-and-offenses>