

Illinois' statute essentially states that the discovery of a victim's sexual orientation or gender identity may not suffice for an assertion of the provocation defense and, more broadly, that any attempt to mitigate the crime of murder will fail if based solely upon similar discovery. With support from various public interest organizations and civil rights groups, the bill passed unanimously in both the State House and Senate and was subsequently signed into law by the Governor.¹³⁴ Illinois' law follows California's in that it prohibits provocation as a defense because of a victim's actual or perceived sexual orientation or gender identity, but the law has a broader scope than California's. In addition to prohibiting the use of provocation under such circumstances, Illinois also limits a defendant's ability to use the gay panic defense in any capacity to mitigate a charge of first degree murder. The Illinois law says that, unless there would be some applicable defense without the gay panic element, such a defense may not stand to mitigate the charge of first degree murder, constricting the criminal defendant's ability to escape justice for their crime.

C. Rhode Island

In July of 2018, the Rhode Island Governor, Gina Raimondo, signed House Bill 7066 into law, which in addition to banning use of the gay panic defense, wholly amended criminal trial procedure.¹³⁵

[Provocation was not objectively reasonable if it resulted from the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived *835 gender, gender identity, gender expression, or sexual orientation A defendant does not suffer from reduced mental capacity based solely on the discovery or, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation A person is not justified in using force against another based solely on the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation.¹³⁶

Rhode Island is a state that has no record of the defense's ever being used or attempted; however, the sponsors of the legislation voiced that the state "must specify that it is an invalid defense to ensure that it remains unused."¹³⁷ The Rhode Island statute, arguably, is the most encompassing law of the three states that have banned the gay panic defense. However, the law did not pass without resistance.¹³⁸ A Republican state representative, Justin Price, expressed concerns that such a ban would be harmful because it permits the withholding of information (the victim's sexual orientation or gender identity) from the jury and, thus, prevents them from making a sound decision.¹³⁹ Nevertheless, Rhode Island's statute bans the use of the "unrecognized" defense under each of the three official defenses through which it is typically brought: provocation, self-defense and diminished capacity.

D. Pending Legislation

Along with California, Illinois, and Rhode Island, similar legislation banning use of the gay panic defense is pending in New Jersey, Washington, and the District of Columbia.¹⁴⁰ Additionally, there is a pending federal bill that would prohibit such defenses in *836 federal criminal cases.¹⁴¹ The federal bill, in relevant part, states that "no nonviolent sexual advance or perception or belief, even if inaccurate, of the gender, gender identity or expression, or sexual orientation of an individual may be used to excuse or justify the conduct of an individual or mitigate the severity of an offense."¹⁴² This proposed legislation would be the broadest of the gay panic defense bans, as it widely prohibits the use of gay panic defense tactics on any level, for the reasons of excusing or justifying a defendant's conduct. The proposed federal ban would offer the greatest level of protections to victims, and could serve as an influential model for the states to adopt and follow. While successfully passing this bill at the federal level would eliminate this defense tactic in federal courts, state courts would not be bound by the law and state legislatures must act to codify their own individual bans.¹⁴³

VI. CONCLUSION

Today, in every state except Rhode Island, Illinois, and California, the "gay panic" defense exists as a fully-functional (but unofficial) defense for violent crimes in state and federal court. By asserting the gay panic defense, often as an undertone to a defense of insanity, diminished capacity or provocation, defendants shift the focus of the trial from their crime to the perceived or actual sexual orientation or gender identity of the victim. The defense plays on implicit bias and latent homophobia to shield the defendant from responsibility due to inaccurate, but existing notions that gay and transgender people are innate predators or sexual deviants.

The defense is an outdated technique that capitalizes on lingering bias against the LGBT community by reducing a defendant's perceived culpability or absolving offenders entirely. It is based on notions that LGBT victims are mentally ill, inferior, and frightening, despite the medical rejection of such notions and the ever-growing social progression contradicting such thought. Yet, the gay panic defense continues to insult the integrity of the criminal justice system. *837 Furthermore, the admissibility of the defense harms LGBT people in the very forum in which they, as victims, should be able to seek justice and protection.

The fact is, defenses based on the discovery of a victim's minority status are rarely given validity in courts of law, but the defense of gay panic has been allowed to disrupt our judicial system. A defendant's discovery that his victim was Muslim, or Jewish, or Hispanic, or poor would never serve as a defense through which a defendant would evade justice and walk free.

Victims of violent crimes deserve justice; however, the gay panic defense often re-victimizes them and allows offenders to receive reduced convictions and sentences based on the victim's sexual orientation or gender identity. Modern society has progressed to a point where it is absurd to hinder our justice system because of an obstacle rooted in aversion and fear of gay and transgender citizens. To prohibit the defense would be a proactive effort by state legislators that ought to be inspired by and modeled on the fashion of the three states which have passed legislation banning the defense. The gay panic defense is an affront to LGBT people in this country and a weakness within the criminal justice system that must be managed by states taking the initiative to protect all of its citizens. As Americans, we must remember the observation of Dallin H. Oaks, that

[O]ur procedures are not the ultimate goals of our legal system. Our goals are truth and justice ... truth and justice are ultimate values, so understood by our people, and the legal profession will not be worthy of public respect and loyalty if we allow our attention to be diverted from these goals.¹⁴⁴

The complexities involved with transitioning our legal system to represent our social understandings as modern Americans may be arduous, but in order to reach the paramount goal of justice, we must remove this blemish that remains.

Footnotes

^{a1} Juris Doctor Candidate, Touro Law Center; Bachelor of Arts, Political Science, Hartwick College, Oneonta, New York. I would like to first thank Professor Meredith Miller for her patience and guidance in bringing this work to fruition, as well as Madeleine Laser, Notes Editor, for her consistency, direction and encouragement through this process. I thank my mother and family for their support and curiosity, which inspired continued dedication to the topic. Finally, I would like to thank Ali and Aaron Goldsmith, who always inspire me, and who represent the very best of the legal profession and its core values of service, advocacy, and decency. I humbly dedicate this work to the immeasurable number of LGBT folks around the world who have suffered unthinkable injustice, fear, hate and violence in their everyday lives; and to the pioneers at Stonewall who risked it all.

¹ Jackie Salo, *Man Who Used 'Gay Panic' Defense for Killing Neighbor Avoids Prison*, N.Y. POST (Apr. 27, 2018), <https://nypost.com/2018/04/27/man-who-used-gay-panic-defense-for-killing-neighbor-avoids-prison/>.

2 *Id.*

3 Cleve R. Wootson, Jr., *A Former Police Employee Said He Killed a Man in 'a Gay Panic' - an Actual Legal Defense That Worked*, WASH. POST (Apr. 27, 2018), https://www.washingtonpost.com/news/post-nation/wp/2018/04/27/a-former-cop-said-he-killed-a-man-in-a-gay-panic-an-actual-legal-defense-that-worked/?hpid=hp_hp-top-table-main-gaypanic:live%3Ahomepage%2Fstory&utm_term=.5aafde75b8f6.

4 *Id.*

5 A.B.A. RES. 113A, at 6 (2013), <https://lgbtbar.org/wp-content/uploads/sites/6/2014/02/Gay-and-Trans-Panic-Defenses-Resolution.pdf>. What will be referred to as the gay panic defense throughout this Note actually encompasses both that and the trans panic defense, in which similar justification is offered for crimes resulting in the discovery or assumption of a victim's gender identity. "Gay panic defense" itself, for the purposes of the Note, will serve as an umbrella term comprising the two phenomena.

6 EDWARD J. KEMPF, *PSYCHOPATHOLOGY* 477 (1920), <https://archive.org/details/39002086348753.med.yale.edu>. For the purposes of this Note, the word "homosexual" will be used scarcely to refer to the intimacy between two same-sex partners or their sexual orientation. The word today exists with undertones of hate and prejudice that linger from the days of Kempf, in which such intimacy was viewed as a legitimate medical condition. In describing marriage, intimacy or relationship, "[substitute the word 'gay' ... and the terms suddenly become far less loaded, so that the ring of disapproval and judgement evaporates." Jeremy W. Peters, *The Decline and Fall of the 'H' Word*, N.Y. TIMES (Mar. 21, 2014), <https://www.nytimes.com/2014/03/23/fashion/gays-lesbians-the-term-homosexual.html>. For the purposes of this Note, the terms LGBT, gay or trans will be used in place of the word homosexual, often, if not always in reference to the broader lesbian, gay, bisexual, transgender community. "LGBT" will be used to describe the broader community of lesbian, gay, bisexual, transgender and queer-identifying individuals. The word transgender is commonly understood to be an umbrella term encompassing a wide range of gender identities falling outside of the binary male and female categories.

7 Jack Drescher, *Out of DSM: Depathologizing Homosexuality*, 5 BEHAVIORAL SCI. 565 (2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4695779>.

8 *Gay/Trans Panic Defense*, LGBT B., <https://lgbtbar.org/what-we-do/programs/gay-and-trans-panic-defense> (last visited Apr. 4, 2019).

9 JORDAN BLAIR WOODS ET AL., *MODEL LEGISLATION FOR ELIMINATING THE GAY AND TRANS PANIC DEFENSES* 3 (2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/2016-Model-GayTransPanic-Ban-Laws-final.pdf>.

10 David Alan Perkiss, *A New Strategy for Neutralizing the Gay Panic Defense at Trial: Lessons From the Lawrence King Case*, 60 UCLA L. REV. 778, 797 (2013).

11 Ellen M. Bublick, *Citizen No-Duty Rules: Rape Victims and Comparative Fault*, 99 COLUM. L. REV. 1413, 1463 (1999).

12 Aya Gruber, *Victim Wrongs: The Case for a General Criminal Defense Based on Wrongful Victim Behavior in an Era of Victims' Rights*, 76 TEMP. L. REV. 645, 647 (2003) (discussing victim-blaming in the context of domestic violence criminal prosecutions and that "[j]ustification defenses are the most obvious examples of formal victim blaming doctrines in criminal law. The doctrines of self-defense, defense of others, and defense of property base justification of an intentional killing exclusively on the victim's behavior.").

13 Perkiss, *supra* note 10, at 797.

14 Courtney A. Powers, *Finding LGBTs a Suspect Class: Assessing the Political Power of LGBTs as a Basis for the Court's Application of Heightened Scrutiny*, 17 DUKE J. GENDER L. & POL'Y. 385, 385 (2010).

15 *Id.* at 385, 390-91.

16 *Id.*

17 Jordan Blair Woods, *LGBT Identity and Crime*, 105 CAL. L. REV. 667, 719 (2017).

18 *Id.*

- 19 *Id.* at 719-20 (describing the increased crime rates where an individual falls under either: more than one category under the LGBT umbrella or the LGBT umbrella and another historically disadvantaged or minority group).
- 20 As of 2016, 4.1% of the United States population self-identified to fall somewhere along the LGBT spectrum, amounting to approximately 10 million Americans. Gary J. Gates, *In U.S., More Adults Identifying as LGBT*, GALLUP (Jan. 11, 2017), <https://news.gallup.com/poll/201731/lgbt-identification-rises.aspx>.
- 21 *See infra* note 75 (discussing the protection of privacy rights enumerated in the Due Process Clause of the Constitution).
- 22 *See infra* note 75.
- 23 *Developments in the Law: Sexual Orientation and the Law*, 102 HARV. L. REV. 1508, 1548 n.187 (1989).
- 24 As a result of public pressure, "rape shield laws" were passed to encourage women to come forward in reporting sexual assaults and "limited the admission of ... prior sexual history [as] evidence at trial. As a result, both the reporting and prosecution of opposite-sex rape increased." Elizabeth J. Kramer, *When Men are Victims: Applying Rape Shield Laws to Male Same-Sex Rape*, 73 N.Y.U. L. REV. 293, 296 (1998) (arguing that rape shield laws, historically used to protect female victims on trial against their male abusers, should be used to protect male victims from male abusers).
- 25 *See supra* note 8.
- 26 *See* Cynthia Lee, *The Gay Panic Defense*, 42 U.C. DAVIS L. REV. 471, 475 (2008) (describing the unofficial strategy of the defense and that "[t]here is no officially recognized 'gay panic' defense, but many use the term to refer to defense strategies that rely on the notion that a criminal defendant should be excused or justified if his violent actions were in response to a (homo)sexual advance.").
- 27 A.B.A. RES. 113A, *supra* note 5, at 1.
- 28 Paul H. Robinson & Markus D. Dubber, *The American Model Penal Code: A Brief Overview*, 10 NEW CRIM. L. REV. 319 (2007).
- 29 MODEL PENAL CODE § 3.04(1) (AM. LAW. INST. 2018).
- 30 *Id.* § 3.04(2)(b).
- 31 *Id.* § 3.04(2)(b)(ii)(a).
- 32 *Id.* § 210.3(1)(b).
- 33 *Id.*
- 34 *Id.* § 4.01(1).
- 35 *Id.*
- 36 Perkiss, *supra* note 10, at 797 (discussing the transition from the defense's roots in medical science to a contemporary legal defense).
- 37 Casey Charles, *Panic in the Project: Critical Queer Studies and the Matthew Shepard Murder*, 18 LAW & LITERATURE 225, 230 (2006).
- 38 *People v. Rodriguez*, 64 Cal. Rptr. 253 (1967).
- 39 Perkiss, *supra* note 10, at 797 (citing *Rodriguez*, 64 Cal. Rptr. 253 (1967)).
- 40 *See supra* note 38.
- 41 *Rodriguez*, 64 Cal. Rptr. at 255.
- 42 *Id.*
- 43 *Id.*

- 44 *Id.* at 254. *See also supra* note 32 (the defendant successfully mitigated his crime through the assertion that he was in some way provoked or under extreme emotional disturbance stemming from the victim's sexuality).
- 45 The mitigating factor is a topic of the law, which can have potentially impressive implications on a defendant's case, most particularly with regard to sentencing. Mitigating factors are typically used in sentencing when "the severity of the punishment necessarily depends on the culpability of the offender." *Atkins v. Virginia*, 536 U.S. 304, 319 (2002). Put differently, when a defendant's actions may be explained or to some degree justified, this is cause for consideration in sentencing and rulings by the judge. Mitigating factors are even statutory to a certain degree in most states. New York, for example, includes a catchall provision in the mitigating factor statute stating that a mitigating factor may include anything "concerning the crime, the defendant's state of mind or condition at the time of the crime, or the defendant's character, background or record that would be relevant to mitigation or punishment for the crime." N.Y. CRIM. PROC. LAW § 400.27(9)(f) (McKinney 2018).
- 46 *Gay and Lesbian Rights*, GALLUP, <https://news.gallup.com/poll/1651/gay-lesbian-rights.aspx> (last visited Apr. 4, 2019).
- 47 Chan Tov McNamarah, *Sexuality on Trial: Expanding Pena-Rodriguez to Combat Juror Queerphobia*, 17 *DUKEMINIER AWARDS J. SEXUAL ORIENTATION & GENDER IDENTITY L.* 393, 397-99 (2018).
- 48 *Id.* at 397.
- 49 *Id.* at 397-98 (emphasis added).
- 50 Eric Zorn, *Murder Defendant Gambles - and Wins*, CHI. TRIB. (July 17, 2009), <http://www.chicagotribune.com/news/ct-xpm-2009-07-17-0907160827-story.html>.
- 51 *Id.*
- 52 *Id.*
- 53 *Id.*
- 54 *Id.*
- 55 *Chicago Murder Acquittal Blamed on "Gay Panic"*, CRIME REP. (July 17, 2009), <https://thecrimereport.org/2009/07/17/chicago-murder-acquittal-blamed-on-gay-panic/>.
- 56 *Id.*
- 57 *Id.*
- 58 *Id.*
- 59 Louis Crompton, *Homosexuals and the Death Penalty in Colonial America*, 1 *J. HOMOSEXUALITY* 277, 277 (1976).
- 60 *Id.*
- 61 GEORGE CHAUNCEY, *GAY NEW YORK: GENDER, CULTURE AND THE MAKING OF THE GAY MALE WORLD 1890-1940*, at 1 (1994).
- 62 *Id.* at 1-2.
- 63 *Id.*
- 64 Richard Weinmeyer, *The Decriminalization of Sodomy in the United States*, 16 *AM. MED. ASS'N J. ETHICS* 916, 916-917 (2014).
- 65 *Bowers v. Hardwick*, 478 U.S. 186 (1986).
- 66 Georgia's sodomy statute, which particularly targeted gay men, stated the following:

(a) A person commits the offense of sodomy when he performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another. A person commits the offense of aggravated sodomy when he commits sodomy with force and against the will of the other person.

(b) A person convicted of the offense of sodomy shall be punished by imprisonment for not less than one or more than 20 years. A person convicted of the offense of aggravated sodomy shall be punished by imprisonment for life or by imprisonment for not less than one nor more than 20 years.

GA. CODE ANN. § 16-6-2 (1984).

67 *Bowers*, 478 U.S. at 189.

68 *Id.* at 196.

69 *Id.* (reasoning that even though morality may have been the sole issue at stake in the case, laws are often born from morals, and that to undo such legislation where contrary to the Due Process Clause would be incredibly time consuming for the courts).

70 *Lawrence v. Texas*, 539 U.S. 558 (2003).

71 *Id.* at 562-63.

72 *Id.*

73 *Id.*

74 *Id.* at 563.

75 *Id.* at 564.

76 *Id.* at 578.

77 *Id.*

78 TEX. PENAL CODE ANN. § 21.06(a) (West 2003).

79 *Id.* § 21.01.

80 Bobby Blanchard, *Why Does the Texas Criminal Code Still Ban "Homosexual Conduct"?*, TEX. TRIB. (Mar. 27, 2017), <https://www.texastribune.org/2017/03/27/why-does-texas-criminal-code-still-ban-homosexual-conduct/>.

81 *12 States Still Ban Sodomy a Decade After Court Ruling*, USA TODAY (Apr. 21, 2014), <https://www.usatoday.com/story/news/nation/2014/04/21/12-states-ban-sodomy-a-decade-after-court-ruling/7981025/>.

82 *Id.*

83 *See Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

84 133 S. Ct. 2675 (2013).

85 *Id.* at 2679.

86 1 U.S.C. § 7 (1996).

87 *Windsor*, 133 S. Ct. at 2679.

88 *Id.*

89 *Id.* at 2695.

90 *Id.*

91 *Id.* at 2679.

- 92 *Id.* at 2603.
- 93 *Id.* at 2601-02.
- 94 HATE IN AMERICA: A TOWN ON FIRE (Peacock Productions 2016).
- 95 *Yonaty v. Mincolla*, 945 N.Y.S.2d 774 (App. Div. 3d Dep't 2012); *see also* Samuel Brenner, "Negro Blood in His Veins": *The Development and Disappearance of the Doctrine of Defamation Per Se By Radical Misidentification in the American South*, 50 SANTA CLARA L. REV. 333, 340 (2010) (describing the fact that historically, common law courts have recognized specific categories of defamation, which are considered defamation *per se*, or "by itself," among these were specifically: representations of criminal conduct, sexual misconduct, loathsome disease, or negative representations affecting one's business, or profession).
- 96 *Yonaty*, 945 N.Y.S.2d at 776.
- 97 *Id.* at 777.
- 98 *Id.* at 778-79.
- 99 JAIME M. GRANT ET AL., INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 2 (2011), <https://www.ncgs.org/wp-content/uploads/2017/11/Injustice-at-Every-Turn-A-Report-of-the-National-Transgender-Discrimination-Survey.pdf>.
- 100 *See* Haeyoun Park & Iaryna Mykhyalyshyn, *L.G.B.T. People Are More Likely to Be Targets of Hate Crimes Than Any Other Minority Group*, N.Y. TIMES (June 16, 2016), <https://www.nytimes.com/interactive/2016/06/16/us/hate-crimes-against-lgbt.html> ("L.G.B.T. people are twice as likely to be targeted as African-Americans, and the rate of hate crimes against them has surpassed that of crimes against Jews."); *see also* Tim Fitzsimons, *Anti-LGBTQ Hate Crimes Rose 3 Percent in '17, FBI Finds*, NBC NEWS (Nov. 14, 2018, 11:58 AM), <https://www.nbcnews.com/feature/nbc-out/anti-lgbtq-hate-crimes-rose-3-percent-17-fbi-finds-n936166> (explaining that 60 percent of over 1,200 separate incidents targeted gay men).
- 101 WOODS ET AL., *supra* note 9.
- 102 Interview with Professor Jeremy Wisniewski, Professor of Philosophy and Logic, Hartwick College, Oneonta, New York (Mar. 13, 2019).
- 103 *Id.*
- 104 *Id.*
- 105 *Supra* note 8.
- 106 *Victim Blaming Law and Legal Definition*, USLEGAL.COM, <https://definitions.uslegal.com/v/victim-blaming/> (last visited Apr. 4, 2019).
- 107 Anne M. Coughlin, *Interrogation Stories*, 95 VA. L. REV. 1599, 1607 (2009) ("In recent decades, legislators across the country have moved to eliminate victim-blaming elements from the law ... to sharply limit the use of victim-blaming as the forensic tactic-of-choice for lawyers.").
- 108 *See* FED. R. EVID. 412.
- 109 Richard Klein, *An Analysis of Thirty-Five Years of Rape Reform: A Frustrating Search for Fundamental Fairness*, 41 AKRON L. REV. 981, 990 (2008).
- 110 *Id.*
- 111 46 P.3d 309 (Wyo. 2002).
- 112 *Id.* at 314.
- 113 *Id.* at 309.

114 *Id.* at 314-15.

115 *Id.* at 315.

116 *Id.* at 309.

117 U.S. CONST. amend. VI, which states:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

118 *Taylor v. Illinois*, 108 S. Ct. 646, 656 (1988).

119 *Id.*

120 *Id.*

121 *See* E. Donald Elliott, *The Evolutionary Tradition in Jurisprudence*, 85 COLUM. L. REV. 38, 40 (1985) (describing the theories of legal evolution).

The “social” approach to legal evolution ... is characterized by the assertion that law is not an autonomous system, but an integral part of the social life of a community. In these theories, it is not so much the law that evolves, as it is society. As the language, culture, political system, and economic structure of society evolve, the law changes with them.

See also Larry D. Barnett, *Social Productivity, Law, And The Regulation of Conflicts of Interest in the Investment Industry*, 3 CARDOZO PUB. L., POL’Y & ETHICS J. 793, 795 (2006) (describing the intricate relationship between law and society).

[L]aw must support social life ... when existing law fails to do so, the rules (and occasionally the concepts) of law change in order to furnish this support. Changes in law ... occur because the evolution of law cannot be divorced from, but must reflect, the evolution of society.

Id.

122 Assemb. B. 2501, ch. 684 (Cal. 2014) (emphasis added), amending CAL. PENAL CODE § 192.

123 Analogous to admission of rape victim’s sexual past, the gay panic defense similarly makes little sense. If, for example a man murdered a woman, he could never defend himself by asserting that she was wildly promiscuous or that her non-violent sexuality struck panic in him. The two are logically parallel to one another.

124 Assemb. B. 1160, ch. 550 (Cal. 2006).

125 *Gwen Araujo and the Justice for Victims Act*, TRANSGENDER L. CTR. (June 9, 2010), <https://transgenderlawcenter.org/archives/339>.

126 Assemb. B. 1160, *supra* note 124.

127 *See supra* note 121.

128 *See supra* note 122.

129 *See supra* note 119.

130 Assemb. B. 1160, *supra* note 124.

131 *Id.*

132 S.B. 1761, 100th Gen. Assemb. (Ill. 2017).

133 *Id.*

134 *Equality Illinois 2017 LGBTQ Legislative Agenda: Advancing and Defending LGBTQ Civil Rights*, EQUALITY ILL., <https://www.equalityillinois.us/2017-legis/> (last visited Apr. 4, 2019) (defining the complete agenda as “a package of bills to advance the

civil rights protections of LGBTQ Illinoisans in the criminal justice system, improve representation on public boards and commissions and assist transgender Illinoisans”).

135 H.B. 7066, ch. 125 (R.I. 2018).

136 *Id.*

137 Katherine Gregg, *R.I. House Votes to End 'Gay or Trans' Panic Defense*, PROVIDENCE J. (May 22, 2018), <https://www.providencejournal.com/news/20180522/ri-house-votes-to-end-gay-or-trans-panic-defense>.

138 Christianna Silva, *The "Gay Panic" Defense for Murder Could be on Its Way Out*, VICE NEWS (July 20, 2018), https://news.vice.com/en_us/article/ywkp9m/the-gay-panic-defense-for-murder-could-be-on-its-way-out.

139 *Id.*

140 *See supra* note 8.

141 Gay and Trans Panic Defense Prohibition Act of 2018, H.R. 6358, 125th Cong. (2018).

142 *Id.*

143 This is to say that at the federal level, as of this writing, the gay panic defense remains a permissible means through which to defend a case, and individual state bans have no bearing whatsoever on the defenses as used in federal courts proceedings. Similarly, the proposed federal legislation would impact only cases appearing in federal courts.

144 Dallin H. Oaks, *Ethics, Morality, and Professional Responsibility*, 1975 BYU L. REV. 591, 596, <https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1039&context=lawreview>.

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