

## **Testimony Favorable for House Bill 488: Crimes – Mitigation – Sex, Gender Identity, or Sexual Orientation**

Mr. Chair, Madam Vice Chair, and esteemed members of the Judiciary Committee: my name is Samantha Jones and I am the President of the LGBTQ Democrats of Montgomery County. My pronouns are she/her/hers. On behalf of our club, I am submitting this testimony **in full support of House Bill 488: Crimes – Mitigation – Sex, Gender Identity, or Sexual Orientation**.

This bill will prohibit the use of an appalling legal defense that dehumanizes the LGBTQ victims of homicide and assault for the crimes perpetrated against them. Current state law allows defendants in homicide and assault cases to utilize a panic defense in an attempt to mitigate their charges. Most commonly, panic defenses are used to prove the defendant was *provoked* into violence simply because of their victim's sexual orientation or gender identity, whether real or perceived. In other words, Maryland law lets defendants blame acts of inexcusable violence on their gay, lesbian, bisexual, transgender, non-binary, and other queer-identified victims.

What is particularly troubling about this panic defense is that implicitly stigmatizes LGBTQ people, a population that is already especially prone to hate-based violence. The FBI reported that in 2018, hate crimes directed at LGBTQ individuals increased by almost six percent, including a significant 42% increase in crimes directed against transgender individuals.<sup>1</sup> In the wake of the increasing trend of hate-based violence, it is disturbing that juries across the nation continue to acquit or mitigate defendants' charges through the use of an LGBTQ panic defense strategy.

Tragically, some of these hate-based crimes occur right here in Maryland. In 2019 alone, at least three transgender women were murdered in our state. The people who murdered Ashanti Carmon, Bailey Reeves, and Zoe Spears could all potentially legally claim the LGBTQ panic defense in their criminal trials, unless state law changes.

House Bill 488 will eliminate the option to use an LGBTQ victim's identity against them in homicide and assault cases, restoring justice for the victim. Nine other states have banned the use of the LGBTQ panic defense, including California, New Jersey, and New York. This year, seven states and the District of Columbia, in addition to Maryland, are considering legislation that would ban this panic defense. Both the American Bar Association and the National LGBT Bar Association favor a ban on the LGBTQ panic defense.<sup>2</sup>

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<sup>1</sup> Federal Bureau of Investigation, *Hate Crimes Statistics, 2018*, <https://ucr.fbi.gov/hate-crime/2018>

<sup>2</sup> American Bar Association, *ABA Resolution 113A*, <https://lgbtbar.org/wp-content/uploads/2014/02/Gay-and-Trans-Panic-Defenses-Resolution.pdf>; National LGBT Bar Association, *LGBTQ+ Panic Defense*, <https://lgbtbar.org/programs/advocacy/gay-trans-panic-defense/>.

As Maryland continues to make progressive changes to our criminal justice system, the time has come to fully recognize LGBTQ people as equal citizens under law. Therefore, the LGBTQ panic defense must be eliminated from our statutes.

On behalf of the LGBTQ Democrats of Montgomery County, I respectfully urge the Judiciary Committee to pass House Bill 488 and send it to the full House for consideration.

Thank you,

Samantha Jones, Esq.  
President  
LGBTQ Democrats of Montgomery County