



SB0046 – Crimes – Mitigation – Sex, Gender Identity, or Sexual Orientation
Presented to Hon. Will Smith and Members of the Senate Judicial Proceedings Committee
February 4, 2021 11:00 a.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland urges the Senate Judicial Proceedings Committee **a favorable report on SB0046 – Crimes – Mitigation – Sex, Gender Identity, or Sexual Orientation**, sponsored by Senator Clarence Lam. Banning the use of the gay and trans bias panic defense positively supports individuals who identify as LGBTQ+ by ensuring that such a defense is not a justifiable reason for perpetrators to receive a lesser charge or sentence in murder or assault cases.

NARAL Pro-Choice Maryland is an advocate for reproductive health, rights, and justice for all Marylanders. Advocating for the betterment of every Marylander regardless of their sexual orientation, gender expression, or gender identity ensures that LGBTQ+ individuals' lives are equal. We at NARAL Pro-Choice Maryland recognize that LGBTQ+ members of the community will only be able to make informed and independent decisions about their own sexual and reproductive lives when allowed the freedom to not be disparaged or harmed. Individuals who identify as LGBTQ+ have faced higher rates of violence compared to their heterosexual and cisgender peers.¹ In 2018, 1445 of the 8819 victims of hate crimes were targeted because of their LGBTQ+ identity, with this number increasing yearly.² The gay and trans bias panic defense invokes the defenses of provocation, self-defense, and diminished capacity by pointing to a victim's sexual orientation or gender identity instead of the unlawful actions of the offender. This type of legal defense re-victimizes LGBTQ+ individuals, and has been used in over 25 states, with the most recent case in Texas in 2018.³ Due to the clear injustice of this legal strategy, the gay and trans panic defense has been eliminated in four states and is under review in five states, as well as at the federal level. Blaming panic based on the perception or belief of one being LGBTQ+ or the possibility of unwanted sexual contact or an attempted pass by the victim reinforces negative stereotypes that LGBTQ+ people are the ones whose behavior is deviant and should be feared.

In supporting the rights of LGBTQ+ individuals by creating an inclusive, understanding, and supportive community, Maryland allows for everyone to thrive in society. This goal can be realized when all people have the resources, as well as the social, political, and economic power to make autonomous decisions about their bodies, and live in safety, with dignity, and in good health. The potential for the gay and trans panic defenses to be used in Maryland is a blatant miscarriage of justice and a clear message to LGBTQ residents that their lives are not equal to those of other victims of violence.

The use of the gay and trans bias panic defense deprives victims, their family, and their community of dignity and justice. SB0046 advances the rights of LGBTQ+ individuals by declaring that such a legal defense is unjustified and should be barred from the courtroom. For these reasons, **NARAL Pro-Choice Maryland urges a favorable committee report on SB0046**. Thank you for your time and consideration.

¹ Jamie M. Grant, *et al.* Injustice at Every Turn: A Report of the National Transgender Discrimination Survey. (2011)

² Federal Bureau of Intelligence (2018). <https://ucr.fbi.gov/hate-crime/2018/tables/table-1.xls>

³ Dart, T. (2018, May 12). After decades of 'gay panic defence' in court, US states slowly begin to ban tactic. <https://www.theguardian.com/us-news/2018/may/12/gay-panic-defence-tactic-ban-court>