



Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East Wing
11 Bladen Street
Annapolis, MD 21401

February 1, 2021

Re: SUPPORT for SB 0046, Testimony from the Human Rights Campaign in support of the bill to ban the LGBTQ “panic defense”

Dear Chair Smith and Members of the Committee:

The Human Rights Campaign (HRC), on behalf of its more than three million members and supporters nationwide, thanks you for the opportunity to submit testimony on SB 0046, a vital measure that will ensure victims of violent crimes and their families obtain equal justice regardless of their sexual orientation or gender identity. We urge you to swiftly pass this important legislation.

The Human Rights Campaign is America’s largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer (LGBTQ) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBTQ people and realize a world that achieves fundamental fairness and equality for all. As an advocate for LGBTQ individuals, HRC believes that a perpetrator’s realization of a victim’s actual or perceived sexual orientation or gender identity should never be available as a legal defense for violent crimes.

So-called LGBTQ “panic defenses,” sometimes called “gay and transgender panic defenses,” allow a criminal defendant to justify violent crimes on the purported grounds that the defendant’s shock at discovering the victim’s sexual orientation or gender identity caused the defendant’s violent reaction. These panic defenses are typically used to bolster other defenses like provocation or diminished capacity and, if successful, lessen a defendant’s charge or sentence. These panic defenses legitimize dangerous prejudices against LGBTQ individuals and characterize their very existence as “reasonable grounds” for violence. In essence, the availability of these so-called “defenses” sends the harmful message that the lives of LGBTQ people are worth less than the lives of others.

While it might be tempting to dismiss these defenses as relics from a less tolerant era, they have been used to drastically reduce the sentences of violent perpetrators as recently as April 2018.¹ The continued use of these defenses is especially alarming in the face of a rise in hate-motivated crimes against LGBTQ individuals. The National Coalition of Anti-Violence Programs recently reported that hate-motivated homicides of LGBTQ individuals has steadily increased since 2012 and has increased 86% between 2016 and 2017.² According to the latest Federal Bureau of Investigation statistics, over 19% of all hate crimes reported in 2019 were based on the victim's sexual orientation or gender identity.³ Additionally, HRC recorded more violent deaths of transgender and gender non-conforming people in 2020 than in any year since we began tracking this violence in 2013.⁴

In 2013, the American Bar Association (ABA) passed a resolution declaring that “an individual’s sexual orientation or gender identity does not trigger in another person a medical or psychological panic, does not constitute legally adequate provocation, and does not make a person more threatening.”⁵ The ABA urged legislatures to prohibit the use of LGBTQ panic defenses in order to prevent discrimination against and protect LGBTQ individuals.

In short, LGBTQ panic defenses send the destructive message that LGBTQ victims are less worthy of justice and their attackers justified in their violence. Their continued availability in state courts is a direct attack on the dignity and safety of LGBTQ residents.

Thank you for the opportunity to submit testimony in favor of this critical bill to help ensure justice for LGBTQ victims of violence.

Sincerely,



Sarah Warbelow
Legal Director
Human Rights Campaign

¹ Julie Compton, *Alleged 'gay panic defense' in Texas murder trial stuns advocates*, NBC News (May 2, 2018). <https://www.nbcnews.com/feature/nbc-out/alleged-gay-panic-defense-texas-murder-trial-stuns-advocates-n8705711>.

² Nat'l Coal. of Anti-Violence Programs, *A Crisis of Hate: A Report on Lesbian, Gay, Bisexual, Transgender and Queer Hate Violence Homicides in 2017 6-7* (2018).

³ Federal Bureau of Investigation, *2019 Hate Crime Statistics: Victims* (2020), available at <https://ucr.fbi.gov/hate-crime/2019/topic-pages/victims>

⁴ Human Rights Campaign Found., *An Epidemic of Violence: Fatal Violence Against Transgender and Gender Non-Conforming People in the United States in 2020* (2020).

⁵ Am. Bar Ass'n, *Resolution 113A 14* (2013).