



HUMAN
RIGHTS
CAMPAIGN®

Senate Judiciary Committee
900 Court Street, NE
Salem, Oregon 97301

February 16, 2021

Re: SUPPORT for SB 704, Testimony from the Human Rights Campaign in support of the bill to ban the so-called LGBTQ “panic defense”

Dear Chair Prozanski 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 704, a vital measure that will help 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.

HRC 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.

The so-called LGBTQ “panic defense,” sometimes called the “gay or transgender panic defense,” allows 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

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>.

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, nearly 20% 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 of law is a direct attack to 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

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).