

Councilmember Charles Allen


Chairman Phil Mendelson

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 1 of Title 23 to limit criminal defenses and authorization for the use of force relating to a victim’s sexual orientation or gender identity.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Sexual Orientation and Gender Identity Panic Defense Prohibition Act of 2019”.

Sec. 2. Chapter 1 of Title 23 of the District of Columbia Official Code is amended as

follows:

(a) The table of contents is amended by adding two new section designations to read as

follows:

“23-115. Limit on defenses relating to a victim’s sexual orientation and gender identity.

“23-116. Criminal trial anti-bias jury instruction.”.

(b) New subsections 23-115 and 23-116 are added to read as follows:

“§ 23-115. Limit on defenses relating to a gender identity or expression or sexual orientation.

“(a) For a crime of violence, adequate provocation for a defense premised on “heat of passion” shall not exist if the defendant’s actions are related to the discovery of, knowledge about, or potential disclosure of the victim’s actual or perceived gender identity or expression, or

34 sexual orientation, including under circumstances in which the victim made an unwanted, non-
35 forcible romantic or sexual advance toward the defendant, or if the defendant and victim dated or
36 had a romantic relationship.

37 “(b) A defendant does not suffer from reduced mental capacity based solely on the
38 discovery of, knowledge about, or potential disclosure of the victim’s actual or perceived gender
39 identity or expression, or sexual orientation, including under circumstances in which the victim
40 made an unwanted, non-forcible romantic or sexual advance toward the defendant, or if the
41 defendant and victim dated or had a romantic relationship.

42 “(c) A person is not justified in using force against another based solely on the discovery
43 of, knowledge about, or potential disclosure of the victim’s actual or perceived gender identity or
44 expression, or sexual orientation, including under circumstances in which the victim made an
45 unwanted, non-forcible romantic or sexual advance toward the defendant, or if the defendant and
46 victim dated or had a romantic relationship.

47 “(d) For purposes of this section:

48 “(1) “Crime of violence” shall have the same meaning as provided in D.C.
49 Official Code § 23-1331(4).

50 “(2) “Gender identity or expression” shall have the same meaning as provided in
51 D.C. Official Code § 2-1401.02(12A).

52 “(3) “Sexual orientation” shall have the same meaning as provided in D.C.
53 Official Code § 2-1401.02(28).

54 “§ 23-116. (a) In any criminal trial or proceeding, upon the request a party, the court shall
55 instruct the jury substantially as follows: “Do not let bias, sympathy, prejudice, or public opinion
56 influence your decision. Bias includes bias against the victim or victims, witnesses, or defendant

57 based upon his or her disability, gender, nationality, race or ethnicity, religion, gender identity or
58 expression, or sexual orientation.”.

59 Sec. 3. Fiscal impact statement

60 The Council adopts the fiscal impact statements in the committee report as the fiscal
61 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
62 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

63 Sec. 4. Effective date.

64 This act shall take effect following approval by the Mayor (or in the event of a veto by
65 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
66 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
67 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
68 Columbia Register.