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Support SB 554: Crimes - Mitigation - Sex, Gender Identity, or Sexual Orientation

The Issue:

- In cases of assault or murder of a member of the LGBTQ community, a defendant may use a discriminatory defense strategy sometimes called “gay or trans panic defense,” or more appropriately “LGBTQ+ panic defense,” to mitigate charges of murder to manslaughter or first degree assault to second degree assault.
- This defense tactic asserts the victim’s sexual orientation, gender identity or gender expression is to blame for a defendant’s violent reaction and, therefore, a lesser charge or penalty is warranted.
- When a perpetrator uses an LGBTQ+ panic defense, they are claiming that a victim’s sexual orientation or gender identity not only explains—but excuses—a loss of self-control and the subsequent assault.
- By fully or partially acquitting the perpetrators of crimes against LGBTQ+ victims, this defense implies that LGBTQ+ lives are worth less than others.
- Such defense strategies encourage discriminatory attitudes about members of the LGBTQ community, and fuel hate crimes and violence, that disproportionately target vulnerable members of our community.
- Unfortunately, this tactic has been used to mitigate the charges or sentences of hundreds of defendants, instilling a fear of violence among members of the LGBTQ community, and preventing LGBTQ victims and their families and friends from getting the justice they deserve.

What Does SB 554 Do?

- SB 554 prohibits the use an LGBTQ+ panic defense to mitigate penalties and charges for violence committed against members of the LGBTQ+ community, or those perceived to be part of this community:
 - Subsection (c) of section 2-207 of the criminal code would be added to indicate that “the discovery or perception of, or belief about, another person’s sex, gender identity, or sexual orientation, whether or not accurate, does not constitute legally adequate provocation to mitigate a killing from the crime of murder to manslaughter.”
 - Similarly, subsection (b) of section 3-209 would be modified with this same provision pertaining to mitigating the crime of first degree assault to second degree assault.

- The language of section 2-207 pertaining to murder charges already includes language, similar to the language and provisions proposed in this bill, to protect a spouse who is discovered by her partner having sex with someone else.. The same protections should be extended to the LGBTQ community.

How Does SB 554 Help?

- It prevents violent offenders from using discriminatory tactics in court to manipulate bias that may exist among judges and juries about sexual orientation and gender identity, to reduce penalties and charges.
- It sends a message to defendants, would-be assailants, their attorneys, and the public that they cannot rely on this defense to mitigate punishment for such acts.
- It will reassure members of the LGBTQ community, their friends and family, and our community, that discovery or perception of someone's sexual orientation or gender identity is never an excuse or mitigating circumstance for violent behavior.

Additional Background Information:

- Similar legislation has passed or been introduced across the country:
 - Similar legislation has already been passed in eight states: California, Illinois, New York, Rhode Island, Hawaii, Nevada, Connecticut, Maine, and New Jersey.
 - Similar legislation has been introduced in: the District of Columbia, Minnesota, Pennsylvania, Washington, Wisconsin, Texas, and New Mexico.
 - There is a federal bill that will be reintroduced this year that is also similar to this proposed legislation.
- The number of hate crime incidents targeting gays, lesbians, and bisexuals in the US in 2018 increased by nearly 6% over the previous year and the number of anti-transgender hate crime incidents increased by 41% during that same period, according to the FBI's newly released annual Hate Crime Statistics Report.
- According to the *State of Maryland 2018 Hate/Bias Report*, published by the State Police, 23 of the verified 100 incidents reported to law enforcement in 2018 related to gender identity and sexual orientation.
- Similar legislation pertaining to spouses who commit adultery was enacted:
 - In 1997, Delegate Joan Pitkin introduced the same provision to section 2-207 (HB754) to ensure that a crime of murder could not longer be reduced to a lesser charge or penalty simply because the defendant found his spouse committing adultery.
 - A loophole in Maryland law dating back to Colonial times allowed violent offenders to be tried on lesser charges and serve lighter sentences. A similar loophole exists today pertaining to violent behavior toward members of the LGBTQ community.
 - In 1997, Delegate Pitkin made the argument that antiquated and discriminatory treatment and beliefs, about women primarily, allowed violent spouses to get away with murder. A similar situation exists today for the LGBTQ community.
- One of the most recognized cases that employed the LGBTQ+ panic defense was that of Matthew Shepard. In 1998, Matthew Shepard, a 21-year-old college student, was beaten to death by two men. The men attempted to use the LGBTQ+ defense to excuse their actions. Despite widespread public protest, the defense is still being used today. Unfortunately, this is just one example among many since then of this type of crime and the discriminatory defense tactic that has been used to justify it.