



January 19, 2021

Senator William Smith, Jr. and Delegate Luke Clippinger
Chair, Judicial Proceedings and Chair, Judiciary
Miller Senate Office Building and House Office Building
Annapolis, MD 21401

Re: Support for SB46/HB231 Crimes – Mitigation – Race, Color, National Origin, Sex, Gender Identity, or Sexual Orientation

Dear Chairman Smith, Chairman Clippinger, and Respective Committee Members,

I am submitting this written testimony to offer my support for SB46/HB231 Crimes – Mitigation – Race, Color, National Origin, Sex, Gender Identity, or Sexual Orientation. This bill prohibits the discovery or perception of, or belief about, another person's race, color, national origin, sex, gender identity, or sexual orientation, whether accurate or not, as legally adequate provocation to mitigate murder to manslaughter or assault in the first degree to assault in the second degree or another lesser offense. As the prosecutor for Baltimore City my most important task is to serve justice for all, regardless of race, color, national origin, sex, gender identity, or sexual orientation.

Although it is estimated that there are approximately 14.6 million people in the US that identify as lesbian, gay, bisexual, transgender, queer and plus (LGBTQ+), the Federal Bureau of Investigation (FBI) statistics illustrate that this community remains the disproportionate target of crimes simply because of their sexual orientation or identification. Such crimes are defined as hate crimes, yet it remains in Maryland that one can use as defense for violent actions the justification of someone's sexual orientation or identification. In order to change this, my office supports SB46/HB231.

Such arguments as a justification for a violent act against another are termed "The LGBTQ+ panic defense strategy" or the "Gay Panic Defense". This is defined as a legal strategy that asks a jury to find that a victim's sexual orientation or gender identity/expression is to blame for a defendant's violent reaction, including murder. When a defendant 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.

Additionally, the FBI's 2019 Hate Crimes Statistics report highlights the Uniform Crime Reporting (UCR) Program's latest compilation about bias-motivated incidents throughout the nation. The 2019 data, submitted by 15,588 law enforcement agencies, provides information about the offenses, victims, offenders, and locations of hate crimes. According to the report, there were 7,103 single-bias incidents involving 8,552 victims. A percent distribution of victims by bias type shows that 57.6% of victims were targeted because of the offenders' race/ethnicity/ancestry bias; 20.1% were targeted because of the offenders' religious bias; 16.7% were victimized because of the offenders' sexual-orientation bias; 2.7% were targeted

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because of the offenders' gender identity bias; 2.0% were victimized because of the offenders' disability bias; and 0.9% were victimized because of the offenders' gender bias. There were 211 multiple-bias hate crime incidents, which involved 260 victims. This bill will ensure that crimes such as these are not justified with a defense that will only perpetuate and continue the status quo.

SB46/HB231 ensures that a defense based on race, color, national origin, sex, gender identity, and sexual orientation is no longer acceptable, and will ensure that some of our most marginalized and at risk residents know we support them.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Marilyn J. Mosby". The signature is written in a cursive style.

Marilyn J. Mosby
State's Attorney for Baltimore City