

SENATE BILL 159

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Jacob R. Candelaria

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO CRIME; PROHIBITING A DEFENSE FOR FIRST DEGREE MURDER AND SERIOUS VIOLENT OFFENSES BASED ON A DEFENDANT'S DISCOVERY OF, KNOWLEDGE ABOUT OR THE POTENTIAL DISCLOSURE OF A VICTIM'S GENDER, GENDER IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 30, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DEFENSE BASED ON VICTIM'S GENDER, GENDER

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Amendments: new = →bold, blue, highlight←  
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IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION PROHIBITED.--

A. In any prosecution for first degree murder or a serious violent offense provided in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978, the defendant's discovery of or knowledge about, or potential disclosure of, the victim's actual or perceived gender, gender identity, gender expression or sexual orientation under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the defendant, or the defendant and victim were engaged in a personal, romantic or sexual relationship:

(1) may not be submitted as a justification for the conduct of the defendant; and

(2) does not constitute SJC→:

~~(a) sufficient provocation with respect to the conduct for which the defendant is being prosecuted;~~

~~(b) evidence of the defendant's diminished responsibility for the offense by reason of mental disease or defect; or~~

~~(c) evidence that the defendant acted in~~

←SJC SJC→a←SJC defense of the defendant's self or of another person.

B. For purposes of this section:

(1) "gender expression" means the external appearance of a person's gender identity, often expressed

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through the person's behavior, physical appearance or voice, which expression may or may not conform to socially defined behaviors and characteristics typically associated with masculinity or femininity;

(2) "gender identity" means a person's self-perception of the person's gender, whether that perception aligns with the sex assigned to the person at birth; and

(3) "sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality."