



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: May 4, 2021
TO: Chair Bynum, House Committee on Judiciary
FROM: Kimberly McCullough, Legislative Director
SUBJECT: Supporting Senate Bill 704
Prohibit justifications of violence against LGBTQ Oregonians

The “gay/trans panic” defense has historically been used to justify harassment, assault and murder of LGBTQ community members. Defendants raised this defense to argue that, upon learning of their victim’s gender identity or sexual orientation, they were so distraught they could not restrain themselves from committing an act of violence. In essence, this defense has been used to justify violent hate crimes.

Senate Bill 704 officially proclaims that this abhorrent defense has no place in Oregon, clarifying that the use of a LGBTQ “panic defense” cannot be raised by a person accused of murder in the second degree and is not a recognized form of “extreme emotional duress” under Oregon law.

Senate Bill 704 aligns our criminal laws with the work this legislature has done to take a stand against hate crimes. In 2019, following the rise of hate crimes and bias incidents both in Oregon and nationally, the Oregon legislature passed Senate Bill 577. As part of Senate Bill 577, we updated Oregon’s bias crime laws (formerly called intimidation), created a victim-centered response hotline for reporting bias, created the requirement that law enforcement to refer all victims of bias incidents to support services, and streamlined data collection about bias occurring in Oregon. The Oregon Department of Justice houses and staffs a hotline to support victims, witnesses, and other reporters of bias crimes and bias incidents.

The data that we have collected from our Bias Response Hotline points to a startling presence of anti-LGBTQ bias crimes and incidents throughout Oregon. Since January 2020, there have been 287 reports of bias crimes or incidents perpetrated against LGBTQ community members.¹ Senate Bill 704 sends a strong message that these acts of violence and hatred are unacceptable.

¹ <https://www.doj.state.or.us/oregon-department-of-justice/bias-crimes/hotline-data/>

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Thirteen states, including Washington D.C., have already banned the use of this discriminatory legal defense. The Oregon Department of Justice urges the Oregon legislature to pass this bill and continue to lead by example on expanding equality for LGBTQ Oregonians. Let's send a message that violent hate crimes are never justified because of a person's sexual orientation or gender identity.

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