

HOUSE BILL NO. 552

INTRODUCED BY Z. ZEPHYR, C. KEOGH, J. COHENOUR, D. HAWK, C. KNUDSEN, G. NIKOLAKAKOS, A. BUCKLEY, M. MARLER, K. SULLIVAN, K. KORTUM, M. THANE, G. FRAZER, M. BINKLEY, M. YAKAWICH, J. GROSS, S. O'BRIEN, P. FLOWERS, E. MCCLAFFERTY, J. LYNCH, K. ABBOTT, P. TUSS, D. HARVEY, J. KARLEN, B. CARTER, M. ROMANO, L. SMITH, D. BAUM, S. HOWELL

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING PANIC DEFENSE IN CRIMINAL PROCEEDINGS; AND LIMITING ADMISSIBILITY OF EVIDENCE OF VICTIM IDENTITY TO PROVE CRIMINAL DEFENSES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Limitations on use of victim identity as evidence. (1) Evidence of the

defendant's discovery of, knowledge about, or the potential disclosure of the crime victim's actual or perceived sexual orientation or gender identity, including under circumstances in which the victim made a nonforcible, noncriminal romantic or sexual advance toward the defendant is inadmissible in a prosecution for any criminal offense to:

- (a) prove the defendant lacked a particular state of mind at the time that the offense was committed that is an essential element of the offense;
- (b) establish a finding that the defendant suffered from diminished capacity or a mental disease or disorder at the time that the offense was committed;
- (c) justify the defendant's use of force against another; or
- (d) otherwise mitigate the severity of the offense.

(2) Evidence of the defendant's perception or belief, even if inaccurate, of the gender, gender identity, or sexual orientation of a crime victim is inadmissible in a prosecution for any criminal offense to:

- (a) prove the defendant lacked a particular state of mind at the time that the offense was committed that is an essential element of the offense;
- (b) establish a finding that the defendant suffered from diminished capacity or a mental disease or disorder at the time that the offense was committed;

- 1 (c) justify the defendant's use of force against another; or
- 2 (d) otherwise mitigate the severity of the offense.
- 3 (3) If the defendant proposes for any purpose to offer evidence described in subsections (1) or (2),
- 4 the trial judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence
- 5 is being offered for an admissible purpose.

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7 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an

8 integral part of Title 46, chapter 16, part 2, and the provisions of Title 46, chapter 16, part 2, apply to [section 1].

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