

1 SENATE BILL 159

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

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

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

18 SECTION 1. A new section of Chapter 30, Article 1 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] DEFENSE BASED ON VICTIM'S GENDER, GENDER
21 IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION PROHIBITED.--

22 A. In any prosecution for first degree murder or a
23 serious violent offense provided in Subparagraphs (a) through
24 (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA
25 1978, the defendant's discovery of or knowledge about, or

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underscoring material = new
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1 potential disclosure of, the victim's actual or perceived
2 gender, gender identity, gender expression or sexual
3 orientation under circumstances in which the victim made an
4 unwanted nonforcible romantic or sexual advance toward the
5 defendant, or the defendant and victim were engaged in a
6 personal, romantic or sexual relationship:

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

9 (2) does not constitute:

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

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

15 (c) evidence that the defendant acted in
16 defense of the defendant's self or of another person.

17 B. For purposes of this section:

18 (1) "gender expression" means the external
19 appearance of a person's gender identity, often expressed
20 through the person's behavior, physical appearance or voice,
21 which expression may or may not conform to socially defined
22 behaviors and characteristics typically associated with
23 masculinity or femininity;

24 (2) "gender identity" means a person's self-
25 perception of the person's gender, whether that perception

underscoring material = new
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1 aligns with the sex assigned to the person at birth; and

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

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