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SENATE BILL 59

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

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO CRIME; PROHIBITING A DEFENSE BASED ON A DEFENDANT'S
DISCOVERY OF OR 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
IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION PROHIBITED.--

A. In any prosecution for a criminal offense
provided in Chapter 30 NMSA 1978, the defendant's discovery of
or knowledge about, or the potential disclosure of, the
victim's actual or perceived gender, gender identity, gender
expression or sexual orientation, including under circumstances

1 in which the victim made an unwanted non-forcible romantic or
2 sexual advance toward the defendant or the defendant and victim
3 were engaged in a personal, romantic or sexual relationship:

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

6 (2) does not constitute:

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

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

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

14 B. For the purposes of this section:

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

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

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