

Testimony of Mara Sybesma - SUPPORT HF4657
Minnesota Lavender Bar Association & National LGBTQ+ Bar Association
March 19, 2024

Thank you to Chair Moller and members of the Public Safety Finance and Policy Committee for the opportunity to present this testimony in support of HF4657.

Founded over thirty years ago, the National LGBTQ+ Bar Association is an official affiliate of the American Bar Association (ABA) and is the largest professional association for LGBTQ+ attorneys, judges, law students, and legal professionals in the United States. The organization proudly works with advocates and legislators across the country to ban the LGBTQ+ “panic” defense and raise awareness of its devastating consequences. The Minnesota Lavender Bar Association (MLBA) is the primary Association of attorneys in Minnesota supporting the LGBTQ+ Community. The MLBA was founded in 1996 as a special project of OutFront Minnesota’s Legal Program. The Association was started in response to the limited opportunities for LGBTQ+ lawyers and law students to network, learn together, and address homophobia within the profession. The MLBA was reorganized in 1999 as an independent, 501(c)(6) organization and is a proud affiliate member of the National LGBTQ+ Bar Association.

In 2013, the ABA unanimously approved a resolution introduced by the LGBTQ+ Bar calling for the end of this heinous excuse for legal defense.¹ HF4657 is a vital piece of legislation that, if passed, would ban the so-called LGBTQ+ “panic” defense, protecting the dignity of LGBTQ+ Minnesotans and sending a clear message that LGBTQ+ identities are not inherently dangerous. The LGBTQ+ “panic” defense, also referred to as the “gay panic defense” or “trans panic defense,” is a legal defense strategy that asks a jury to find the victim’s sexual orientation or gender identity to blame for the defendant’s violent actions. This strategy relies on the idea that violent offenses committed against LGBTQ+ people are blameless due to a “panic” the defendant experienced upon discovering the victim’s gender identity or sexual orientation. The LGBTQ+ “panic” defense is rooted in irrational homophobic and transphobic fears, and when employed it communicates that violence against LGBTQ+ people is acceptable and that their lives are worth less than others.

The LGBTQ+ “panic” defense is not a freestanding defense to criminal liability. Rather, it is a legal tactic that bolsters other defenses, such as insanity, provocation, or self-defense. When strategically applied to these common defenses, it is used to evade a guilty verdict or reduce criminal charges ranging from murder to assault.

While it can be difficult to track the success of the LGBTQ+ “panic” defense, we know that juries nationwide have reduced the charges or acquitted dozens of defendants for crimes ranging

¹ <https://lgbtbar.org/wp-content/uploads/2014/02/Gay-and-Trans-Panic-Defenses-Resolution.pdf>

from assault to murder due to the LGBTQ+ “panic” defense.² It is also important to recognize that this insidious defense does not need to be successful to be dangerous. The notion that a person can be so upset about learning another person’s sexual orientation or gender identity that they are justified in attacking or murdering them is simply outrageous and should not be given validity in a Minnesota courtroom. Every time a defendant presents a narrative blaming LGBTQ+ individuals for the violence they endure, including murder, they bolster harmful stereotypes and justify alarming rates of anti-LGBTQ+ violence in the United States.

HF4657 protects the dignity of LGBTQ+ Minnesotans without diminishing the rights of defendants. The defenses of provocation, diminished capacity, and self-defense would not be eliminated under this legislation. Only specific strategies that tell juries that anti-LGBTQ+ biases justify violence would be made unavailable. Specifically barring the LGBTQ+ “panic” defense in Minnesota’s criminal code is necessary to ensure insidious arguments that justify this targeted violence hold no weight in court.

Approximately 7.1%³ of adults identify as LGBTQ+ in the United States, including at least 4.1% of residents of Minnesota.⁴ While more people are openly expressing their identities in recent years, the LGBTQ+ community faces increasing rates of violence. From 2020 to 2021, anti-LGBTQ+ hate crimes rose by 70%.⁵ Alarming, the number of transgender people murdered in the United States nearly doubled between 2017 and 2021.⁶ These stark statistics demonstrate that the LGBTQ+ community, particularly transgender people of color, are in dire need of better protections. By eliminating the LGBTQ+ “panic” defense in Minnesota, HF4657 would do more than ensure that defendants who attack or kill LGBTQ+ people are accountable for the violence they inflicted. It would also send a clear message inside and outside of the courtroom that LGBTQ+ Minnesotans deserve equal dignity under the law, and that anti-LGBTQ+ violence committed against them will not be tolerated.

With HF4657, Minnesota can join a growing movement across the country of states affirming the dignity of LGBTQ+ people by banning the LGBTQ+ “panic” defense. Currently, eighteen states, including California, Illinois, Rhode Island, Connecticut, Hawaii, Maine, Nevada, New York, Colorado, New Jersey, Washington, Maryland, Oregon, Vermont, Virginia, New Mexico, New Hampshire, and Delaware, as well as the District of Columbia, have banned this defense.⁷

² <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Gay-Trans-Panic-Apr-2021.pdf>

³ <https://news.gallup.com/poll/389792/lgbt-identification-ticks-up.aspx>

⁴ <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT&area=27#density>

⁵ <https://www.themarshallproject.org/2023/03/25/asian-hate-crime-fbi-black-lgbtq>

⁶ <https://www.cbsnews.com/news/transgender-community-murder-rates-everytown-for-gun-safety-report/>

⁷ <https://lgbtbar.org/programs/advocacy/gay-trans-panic-defense/gay-trans-panic-defense-legislation/>

Similar legislation is pending in Arizona,⁸ Michigan,⁹ Pennsylvania,¹⁰ and Wisconsin.¹¹ And, in July of 2023, The LGBTQ+ Panic Defense Prohibition Act of 2023 was reintroduced by Senator Markey (D-MA)¹² in the United States Senate and by Congressman Pappas (D-NH)¹³ in the United States House of Representatives.

HF4657 will protect LGBTQ+ Minnesotans and ensure victims of violence receive the justice they deserve. The National LGBTQ+ Bar Association and the Minnesota Lavender Bar Association urge the committee to support this legislation and move quickly to join other states in eliminating the LGBTQ+ “panic” defense.

Thank you,

Mara Sybesma, Board Member of the Minnesota Lavender Bar Association

⁸ <https://legiscan.com/AZ/text/HB2790/id/2915192>

⁹ [http://www.legislature.mi.gov/\(S\(wlrafoealgwsx4gi0gwz10lc5\)\)/mileg.aspx?page=getObject&objectname=2023-HB-4718](http://www.legislature.mi.gov/(S(wlrafoealgwsx4gi0gwz10lc5))/mileg.aspx?page=getObject&objectname=2023-HB-4718)

¹⁰ <https://www.legis.state.pa.us/cfdocs/billinfo/BillInfo.cfm?year=2023&sind=0&body=H&type=B&bn=637>

¹¹ <https://docs.legis.wisconsin.gov/2023/proposals/reg/sen/bill/sb307>

¹² <https://www.congress.gov/bill/118th-congress/senate-bill/2279?s=8&r=3>

¹³ <https://www.congress.gov/bill/118th-congress/house-bill/4432>