



# Senate

General Assembly

**File No. 829**

January Session, 2019

Substitute Senate Bill No. 58

*Senate, April 29, 2019*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING GAY AND TRANSGENDER PANIC DEFENSE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-13 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) In any prosecution for an offense, it shall be an affirmative  
4 defense that the defendant, at the time [he] the defendant committed  
5 the proscribed act or acts, lacked substantial capacity, as a result of  
6 mental disease or defect, either to appreciate the wrongfulness of his  
7 conduct or to control his conduct within the requirements of the law.

8 (b) (1) It shall not be a defense under this section if such mental  
9 disease or defect was proximately caused by the voluntary ingestion,  
10 inhalation or injection of intoxicating liquor or any drug or substance,  
11 or any combination thereof, unless such drug was prescribed for the  
12 defendant by a prescribing practitioner, as defined in subdivision (22)  
13 of section 20-571, and was used in accordance with the directions of  
14 such prescription.

15       (2) No defendant may claim as a defense under this section that  
16 such mental disease or defect was based solely on the discovery of,  
17 knowledge about or potential disclosure of the victim's actual or  
18 perceived sex, sexual orientation or gender identity or expression,  
19 including under circumstances in which the victim made an  
20 unwanted, nonforcible, romantic or sexual advance toward the  
21 defendant, or if the defendant and victim dated or had a romantic  
22 relationship.

23       (c) As used in this section, (1) the terms mental disease or defect do  
24 not include [(1)] (A) an abnormality manifested only by repeated  
25 criminal or otherwise antisocial conduct, or [(2)] (B) pathological or  
26 compulsive gambling, and (2) "gender identity or expression" means  
27 gender identity or expression, as defined in section 53a-181i.

28       Sec. 2. Section 53a-16 of the general statutes is repealed and the  
29 following is substituted in lieu thereof (*Effective October 1, 2019*):

30       In any prosecution for an offense, justification, as defined in sections  
31 53a-17 to 53a-23, inclusive, shall be a defense. Justification as a defense  
32 does not include provocation that resulted solely from the discovery  
33 of, knowledge about or potential disclosure of the victim's actual or  
34 perceived sex, sexual orientation or gender identity or expression,  
35 including under circumstances in which the victim made an  
36 unwanted, nonforcible, romantic or sexual advance toward the  
37 defendant, or if the defendant and victim dated or had a romantic  
38 relationship. As used in this section, "gender identity or expression"  
39 means gender identity or expression, as defined in section 53a-181i.

40       Sec. 3. Section 53a-18 of the general statutes is repealed and the  
41 following is substituted in lieu thereof (*Effective October 1, 2019*):

42       (a) The use of physical force upon another person which would  
43 otherwise constitute an offense is justifiable and not criminal under  
44 any of the following circumstances:

45       (1) A parent, guardian or other person entrusted with the care and

46 supervision of a minor or an incompetent person, except a person  
47 entrusted with the care and supervision of a minor for school purposes  
48 as described in subdivision (6) of this section, may use reasonable  
49 physical force upon such minor or incompetent person when and to  
50 the extent that he or she reasonably believes such to be necessary to  
51 maintain discipline or to promote the welfare of such minor or  
52 incompetent person.

53 (2) An authorized official of a correctional institution or facility may,  
54 in order to maintain order and discipline, use such physical force as is  
55 reasonable and authorized by the rules and regulations of the  
56 Department of Correction.

57 (3) A person responsible for the maintenance of order in a common  
58 carrier of passengers, or a person acting under his or her direction,  
59 may use reasonable physical force when and to the extent that he or  
60 she reasonably believes such to be necessary to maintain order, but he  
61 or she may use deadly physical force only when he or she reasonably  
62 believes such to be necessary to prevent death or serious physical  
63 injury.

64 (4) A person acting under a reasonable belief that another person is  
65 about to commit suicide or to inflict serious physical injury upon  
66 himself or herself may use reasonable physical force upon such person  
67 to the extent that he or she reasonably believes such to be necessary to  
68 thwart such result.

69 (5) A duly licensed physician or psychologist, or a person acting  
70 under his or her direction, may use reasonable physical force for the  
71 purpose of administering a recognized form of treatment which he or  
72 she reasonably believes to be adapted to promoting the physical or  
73 mental health of the patient, provided the treatment (A) is  
74 administered with the consent of the patient or, if the patient is a  
75 minor or an incompetent person, with the consent of his or her parent,  
76 guardian or other person entrusted with his or her care and  
77 supervision, or (B) is administered in an emergency when the  
78 physician or psychologist reasonably believes that no one competent to

79 consent can be consulted and that a reasonable person, wishing to  
80 safeguard the welfare of the patient, would consent.

81 (6) A teacher or other person entrusted with the care and  
82 supervision of a minor for school purposes may use reasonable  
83 physical force upon such minor when and to the extent [he] such  
84 teacher or other person reasonably believes such force to be necessary  
85 to (A) protect himself or herself or others from immediate physical  
86 injury, (B) obtain possession of a dangerous instrument or controlled  
87 substance, as defined in subdivision (9) of section 21a-240, upon or  
88 within the control of such minor, (C) protect property from physical  
89 damage or (D) restrain such minor or remove such minor to another  
90 area, to maintain order.

91 (b) No person is justified in using force upon another person which  
92 would otherwise constitute an offense based solely on the discovery of,  
93 knowledge about or potential disclosure of the victim's actual or  
94 perceived sex, sexual orientation or gender identity or expression,  
95 including under circumstances in which the victim made an  
96 unwanted, nonforcible, romantic or sexual advance toward the  
97 defendant, or if the defendant and victim dated or had a romantic  
98 relationship.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	53a-13
Sec. 2	October 1, 2019	53a-16
Sec. 3	October 1, 2019	53a-18

**Statement of Legislative Commissioners:**

In Section 2, Subsecs. (a) and (b) were merged for clarity.

**JUD**      *Joint Favorable Subst. -LCO*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill eliminates the use of gay and transgender panic as a criminal defense and does not result in a fiscal impact.

**The Out Years****State Impact:** None**Municipal Impact:** None

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**OLR Bill Analysis****sSB 58****AN ACT CONCERNING GAY AND TRANSGENDER PANIC DEFENSE.****SUMMARY**

This bill prohibits criminal defendants from claiming a defense based solely on the person's discovery or knowledge of, or the potential disclosure of, the victim's actual or perceived sex, sexual orientation, or gender identity or expression. This includes situations in which (1) the victim made an unwanted, nonforcible, romantic or sexual advance toward the defendant or (2) the defendant and victim dated or had a romantic relationship.

Specifically, the bill prohibits a defendant from asserting the following:

1. as an affirmative defense, that he or she lacked substantial capacity at the time of the conduct, due to mental disease or defect based solely on the above circumstances, to appreciate the wrongfulness of his or her conduct or to control that conduct in a lawful manner;
2. as a defense, that he or she was justified in committing the alleged conduct due to provocation based solely on the above circumstances; or
3. justification for using force against another person based solely on the above circumstances.

EFFECTIVE DATE: October 1, 2019

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 37 Nay 0 (04/10/2019)