

HB 238 - AS INTRODUCED

2021 SESSION

21-0168

04/08

HOUSE BILL **238**

AN ACT prohibiting provocations based on a victim's actual or perceived gender, gender identity, gender expression, or sexual orientation from being used as a defense in manslaughter cases.

SPONSORS: Rep. Query, Hills. 16; Rep. Levesque, Straf. 4; Rep. Weston, Graf. 8; Rep. Bunker, Rock. 18; Rep. Mullen, Hills. 7; Rep. Tanner, Sull. 9; Rep. Alexander Jr., Hills. 6; Rep. Toll, Ches. 16; Rep. Amanda Bouldin, Hills. 12; Sen. Perkins Kwoka, Dist 21

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits provocations based on a victim's actual or perceived gender, gender identity, gender expression, or sexual orientation from being used as a defense in manslaughter cases.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT prohibiting provocations based on a victim's actual or perceived gender, gender identity, gender expression, or sexual orientation from being used as a defense in manslaughter cases.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Homicide; Manslaughter. Amend the introductory paragraph in RSA 630:2, I to read as
2 follows:

3 I. A person is guilty of manslaughter when [~~he~~] **such person** causes the death of another:

4 2 New Paragraph; Homicide; Manslaughter; Certain Provocation Not Objectively Reasonable.
5 Amend RSA 630:2 by inserting after paragraph III the following new paragraph:

6 IV.(a) For the purpose of determining if the defendant was under the influence of extreme
7 mental or emotional disturbance caused by extreme provocation pursuant to paragraph I, the
8 provocation was not objectively reasonable if it resulted from the discovery of, knowledge about, or
9 potential disclosure of the victim's actual or perceived gender, gender identity, gender expression,
10 sex, or sexual orientation, including under circumstances in which the victim made an unwanted
11 nonforcible romantic or sexual advance towards the defendant, or if the defendant and victim dated
12 or had a romantic or sexual relationship. Nothing in this paragraph shall preclude the jury from
13 considering all relevant facts to determine whether the defendant was in fact provoked for purposes
14 of establishing subjective provocation.

15 (b) For the purpose of this paragraph, "gender" includes a person's gender identity and
16 gender-related appearance and behavior regardless of whether that appearance or behavior is
17 associated with the person's gender as determined at birth.

18 3 Effective Date. This act shall take effect January 1, 2022.