



Human Rights Committee - Introduced

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Gay Panic Defense

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Position Statement:

The State of Iowa Youth Advisory Council supports legislation requiring the elimination of the gay and trans panic defense.

Position

It is the position of the State of Iowa Youth Advisory Council, the voice of Iowa's youth, that legislation pertaining to elimination of the gay and trans panic defense be enacted.

Rationale

The gay panic defense is an attempted legal defense, usually against charges of assault or murder. A defendant using the defense claims they acted in a state of violent temporary insanity because of unwanted same-sex sexual advances [4]. The defendant alleges to find the same-sex sexual advances so offensive and frightening that it brings on a psychotic state characterized by unusual violence. The Trans panic is a similar defense applied in cases of assault, manslaughter, or murder of a transgender individual, with whom the assailant(s) engaged in sexual relations unaware that the victim is transgender until seeing them naked, or further into or post sexual activity [6].

This defense tactic is utilized when unwanted advancements are made towards heterosexuals by members of the LGBTQ+ community; however, any justification for murdering or brutalizing a member of the LGBTQ+ community solely because of their sexuality or gender caused panic perpetuates homophobia and transphobia [5].

The most infamous example of the gay trans panic defense is the story of Matthew Shepard: beaten, tortured, and brutally murdered by two men. Being charged with murder, both of the assailant's attorneys argued that "temporary insanity by alleged sexual advances" by Sheperd prompted the murder [6]. Cases like these inspire and allow more hate crimes to happen. In Iowa, the panic defense has been used fairly recently. In 2015, Bruce Pollard walked into an Iowan Cinema X carrying a crowbar to strike a theatre manager in the head and strangle him. Pollard alleged he acted in self-defense after the manager sat "real close" to him in the movie theatre. He said he felt something on his leg and panicked, leading to his violent actions. Pollard was charged with 1st-degree murder warranting his attorneys to argue the gay panic defense [2].

While the gay and trans panic defense does not usually convince a judge or jury of a certain conviction, it still enables violence against the LGBTQ+ community as it suggests that being LGBTQ+ justifies being murdered or brutalized. In 2013, The American Bar Association introduced and unanimously approved a measure to end the gay and trans panic defense [1]. Since then, the gay panic defense has been banned within California, Rhode Island and Illinois and states such as New Jersey, Washington, and District of Columbia have made efforts to end the defense that are still pending [7].

Recommended Action

The recommended action supported by SIYAC is to ban the gay and trans panic defense in the State of Iowa. This can be accomplished by the passage of a bill that includes restrictions on the defense of provocation, defense of diminished capacity, and the defense of self-defense that don't allow for the use of gender or sexuality as a basis for determining sudden quarrel or heat of passion, reduced mental capacity, or using force against another person [3].

Regards,

Human Rights Committee
State of Iowa Youth Advisory Council

Sources:

[1] American Bar Association

[2] Iowa Court of Appeals

[3] UCLA Williams Institute - <https://williamsinstitute.law.ucla.edu/wp-content/uploads/2016-Model-GayTransPanic-Ban-Laws-final.pdf>

[4] Canadian Journal of Psychology

[5] The ABA Journal

[6] LGBT Bar Organization

[7] The United States Congress