SENATE BILL 213

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO CRIME; PROHIBITING A DEFENSE BASED ON A DEFENDANT'S
DISCOVERY OF, KNOWLEDGE ABOUT OR THE POTENTIAL DISCLOSURE OF A
VICTIM'S OR WITNESS'S GENDER, GENDER IDENTITY, GENDER
EXPRESSION OR SEXUAL ORIENTATION; PROHIBITING A DEFENSE BASED
ON THE EFFECT ON A DEFENDANT OF BEING ROMANTICALLY
PROPOSITIONED IN A NONVIOLENT OR NON-THREATENING MANNER BY A
PERSON OF THE SAME GENDER OR A PERSON WHO IS TRANSGENDER.

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. No evidence shall be admitted as a defense in a
criminal proceeding regarding the effect on the defendant of

.219002.1
the discovery of, knowledge about or potential disclosure of a victim's or witness's actual or perceived:

(1) gender;
(2) gender expression;
(3) gender identity; or
(4) sexual orientation.

B. No evidence shall be admitted as a defense in a criminal proceeding regarding the effect on the defendant of being romantically propositioned in a nonviolent or non-threatening manner by a person of the same gender or a person who is transgender.

C. As used in this section:

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

(2) "gender identity" means a person's self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth; and

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