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SENATE BILL 213

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

INTRODUCED BY

Jacob R. Candelaria and Leo Jaramillo and Carrie Hamblen  
and Brittney Barreras

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

underscored material = new  
~~[bracketed material]~~ = delete

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

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

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

12 C. As used in this section:

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

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

25 (3) "sexual orientation" means

underscoring material = new  
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1 heterosexual, homosexuality or bisexuality, whether actual  
2 or perceived."

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