

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting LGBTQ victims.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Adam Gomez</i>	<i>Hampden</i>	<i>2/12/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>3/1/2021</i>

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 870 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act protecting LGBTQ victims.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 265 of the General Laws is hereby amended by adding the following section:-

2 Section 60. (a) In any prosecution for an offense under this chapter, a defendant is not
3 justified in using force against another based on the discovery of, knowledge or belief about, or
4 the potential disclosure of the victim’s actual or perceived sex, sexual orientation, gender, gender
5 identity, gender expression, or sex assigned at birth, including, but not limited to, under
6 circumstances in which the victim made a nonviolent romantic or sexual advance toward the
7 defendant or in which the defendant and the victim dated or had a romantic or sexual
8 relationship.

9 (b) In any prosecution for an offense under this chapter, for the purposes of determining
10 sudden transport of passion, heat of blood, sudden combat or other similar, asserted mitigating
11 factor, any alleged provocation of the defendant by the victim is not objectively reasonable if it is

12 based on the discovery of, knowledge or belief about, or the potential disclosure of the victim's
13 actual or perceived sex, sexual orientation, gender, gender identity, gender expression, or sex
14 assigned at birth, including, but not limited to, under circumstances in which the victim made a
15 nonviolent romantic or sexual advance toward the defendant or in which the defendant and the
16 victim dated or had a romantic or sexual relationship.

17 (c) In any prosecution for an offense under this chapter, a defendant does not suffer from
18 a mental impairment affecting or impacting the defendant's mental state relating to any questions
19 of intent or knowledge based on the discovery of, knowledge or belief about, or the potential
20 disclosure of the victim's actual or perceived sex, sexual orientation, gender, gender identity,
21 gender expression, or sex assigned at birth, including, but not limited to, under circumstances in
22 which the victim made a nonviolent romantic or sexual advance toward the defendant or in
23 which the defendant and the victim dated or had a romantic or sexual relationship.

24 (d) In any prosecution for an offense under this chapter, if the defendant offers evidence
25 of the defendant's discovery of the victim's actual or perceived sex, sexual orientation, gender,
26 gender identity, gender expression or sex assigned at birth, the court shall instruct the jury to
27 disregard biases or prejudices regarding a person's actual or perceived sex, sexual orientation,
28 gender, gender identity, gender expression or sex assigned at birth in reaching a verdict.

29 (e) Notwithstanding the prohibitions in subsections (a) through (c), a court may admit
30 evidence, in accordance with Massachusetts law, of prior trauma to the defendant for the purpose
31 of excusing or justifying the conduct of the defendant or mitigating the severity of an offense.