

By: Hinojosa

H.B. No. 73

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on the use of a victim's gender identity or sexual orientation as the basis for a defense in the trial of a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Penal Code, is amended by adding Chapter 10 to read as follows:

CHAPTER 10. LIMITATION OF DEFENSE BASED ON VICTIM IDENTITY

Sec. 10.01. DEFINITIONS. In this chapter:

(1) "Gender identity" means the actual or perceived gender-related identity, expression, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.

(2) "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality.

Sec. 10.02. LIMITATION OF DEFENSE BASED ON VICTIM IDENTITY.

(a) This section applies in the prosecution of any offense under this code.

(b) The use of force against another is not justified and an actor does not reasonably believe that the use of force is immediately necessary if the use of force occurs in response to:

(1) the actor's discovery or knowledge of, or the victim's disclosure or potential disclosure of, the gender identity or sexual orientation of the victim; or

1 (2) a nonviolent romantic or sexual advance made by
2 the victim toward the actor.

3 (c) A defendant may not raise the issue that the defendant
4 demonstrated a lower degree of culpability than that charged if the
5 defendant's claim of a lower degree of culpability is based on:

6 (1) the defendant's discovery or knowledge of, or the
7 victim's disclosure or potential disclosure of, the gender identity
8 or sexual orientation of the victim; or

9 (2) a nonviolent romantic or sexual advance made by
10 the victim toward the defendant.

11 (d) When determining whether a defendant committed an
12 offense under the immediate influence of sudden passion arising
13 from an adequate cause, it is not an adequate cause that the offense
14 resulted from:

15 (1) the defendant's discovery or knowledge of, or the
16 victim's disclosure or potential disclosure of, the gender identity
17 or sexual orientation of the victim; or

18 (2) a nonviolent romantic or sexual advance made by
19 the victim toward the defendant.

20 (e) This section applies regardless of whether a
21 defendant's knowledge, discovery, or belief regarding the victim's
22 gender identity or sexual orientation was accurate.

23 SECTION 2. The change in law made by this Act applies only
24 to an offense committed on or after the effective date of this Act.
25 An offense committed before the effective date of this Act is
26 governed by the law in effect on the date the offense was committed,
27 and the former law is continued in effect for that purpose. For

1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

4 SECTION 3. This Act takes effect September 1, 2021.