A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 1 of Title 23 to limit criminal defenses and authorization for the use of force relating to a victim’s sexual orientation or gender identity.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Sexual Orientation and Gender Identity Panic Defense Prohibition Act of 2019”.

Sec. 2. Chapter 1 of Title 23 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding two new section designations to read as follows:

“23-115. Limit on defenses relating to a victim’s sexual orientation and gender identity.

“23-116. Criminal trial anti-bias jury instruction.”.

(b) New subsections 23-115 and 23-116 are added to read as follows:

“§ 23-115. Limit on defenses relating to a gender identity or expression or sexual orientation.

“(a) For a crime of violence, adequate provocation for a defense premised on “heat of passion” shall not exist if the defendant’s actions are related to the discovery of, knowledge about, or potential disclosure of the victim’s actual or perceived gender identity or expression, or
sexual orientation, including under circumstances in which the victim made an unwanted, non-
forcible romantic or sexual advance toward the defendant, or if the defendant and victim dated or
had a romantic relationship.

“(b) A defendant does not suffer from reduced mental capacity based solely on the
discovery of, knowledge about, or potential disclosure of the victim’s actual or perceived gender
identity or expression, or sexual orientation, including under circumstances in which the victim
made an unwanted, non-forcible romantic or sexual advance toward the defendant, or if the
defendant and victim dated or had a romantic relationship.

“(c) A person is not justified in using force against another based solely on the discovery
of, knowledge about, or potential disclosure of the victim’s actual or perceived gender identity or
expression, or sexual orientation, including under circumstances in which the victim made an
unwanted, non-forcible romantic or sexual advance toward the defendant, or if the defendant and
victim dated or had a romantic relationship.

“(d) For purposes of this section:

“(1) “Crime of violence” shall have the same meaning as provided in D.C.

“(2) “Gender identity or expression” shall have the same meaning as provided in
D.C. Official Code § 2-1401.02(12A).

“(3) “Sexual orientation” shall have the same meaning as provided in D.C.
Official Code § 2-1401.02(28).

“§ 23-116. (a) In any criminal trial or proceeding, upon the request a party, the court shall
instruct the jury substantially as follows: “Do not let bias, sympathy, prejudice, or public opinion
influence your decision. Bias includes bias against the victim or victims, witnesses, or defendant
based upon his or her disability, gender, nationality, race or ethnicity, religion, gender identity or expression, or sexual orientation.”.

Sec. 3. Fiscal impact statement


Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of a veto by the Mayor, action by the Council to override the veto). A 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.