

# Legislative Analysis



## PROHIBIT “GAY/TRANS PANIC” DEFENSE

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4718 as introduced**  
**Sponsor: Rep. Laurie Pohutsky**  
**Committee: Criminal Justice**  
**Complete to 9-25-23**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4718 would amend the Code of Criminal Procedure to prohibit the so-called “gay/trans panic” defense in Michigan. The bill would provide that knowing or learning about the gender, gender identity or expression, or sexual orientation of an individual is not a justification for using force against them and does not meet criteria necessary for the act to be considered voluntary manslaughter (as opposed to murder) or to raise a defense of insanity.

Specifically, the bill would provide that the following apply to the discovery of, knowledge about, or potential disclosure of a victim’s actual or perceived gender, gender identity, gender expression, or sexual orientation:

- The discovery, knowledge, or potential disclosure is not objectively reasonable provocation for purposes of determining whether a crime was committed because of a sudden quarrel or in a heat of passion.
- The discovery, knowledge, or potential disclosure does not cause a person to suffer from reduced mental capacity and cannot be the basis of a defense asserted under section 20a of Chapter VIII of the code (i.e., an insanity defense).<sup>1</sup>
- The discovery, knowledge, or potential disclosure does not justify a person’s use of force against the victim.

The above provisions would include circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the defendant or in which the defendant and victim had a *dating relationship* or sexual relationship.

*Dating relationship* would mean frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

Proposed MCL 768.21d

### FISCAL IMPACT:

The bill would have no fiscal impact on the state or on local units of government.

Legislative Analyst: Rick Yuille  
Fiscal Analyst: Robin Risko

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

<sup>1</sup> <http://legislature.mi.gov/doc.aspx?mcl-768-20a>