

1 SENATE BILL 213

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Jacob R. Candelaria

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10 AN ACT

11 RELATING TO CRIME; PROHIBITING A DEFENSE BASED ON A DEFENDANT'S
12 DISCOVERY OF, KNOWLEDGE ABOUT OR THE POTENTIAL DISCLOSURE OF A
13 VICTIM'S OR WITNESS'S GENDER, GENDER IDENTITY, GENDER
14 EXPRESSION OR SEXUAL ORIENTATION; PROHIBITING A DEFENSE BASED
15 ON THE EFFECT ON A DEFENDANT OF BEING ROMANTICALLY
16 PROPOSITIONED IN A NONVIOLENT OR NON-THREATENING MANNER BY A
17 PERSON OF THE SAME GENDER OR A PERSON WHO IS TRANSGENDER.

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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. A new section of Chapter 30, Article 1 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] DEFENSE BASED ON VICTIM'S GENDER, GENDER
23 IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION PROHIBITED.--

24 A. No evidence shall be admitted as a defense in a
25 criminal proceeding regarding the effect on the defendant of

.219002.1

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

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1 heterosexual, homosexuality or bisexuality, whether actual
2 or perceived."

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