

# ASSEMBLY, No. 1796

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Assemblyman TIM EUSTACE**

**District 38 (Bergen and Passaic)**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblywomen Caride, Vainieri Huttel, Lampitt and Assemblyman  
Burzichelli**

**SYNOPSIS**

Prohibits “gay panic” defense for murder; prevents reduction of murder charge to manslaughter committed in heat of passion under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 8/28/2019)**

1 AN ACT concerning homicide committed in the heat of passion and  
2 amending N.J.S.2C:11-4.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. N.J.S.2C:11-4 is amended to read as follows:

8 2C:11-4. Manslaughter. a. Criminal homicide constitutes  
9 aggravated manslaughter when:

10 (1) The actor recklessly causes death under circumstances  
11 manifesting extreme indifference to human life; or

12 (2) The actor causes the death of another person while fleeing or  
13 attempting to elude a law enforcement officer in violation of  
14 subsection b. of N.J.S.2C:29-2. Notwithstanding the provision of  
15 any other law to the contrary, the actor shall be strictly liable for a  
16 violation of this paragraph upon proof of a violation of subsection  
17 b. of N.J.S.2C:29-2 which resulted in the death of another person.  
18 As used in this paragraph, "actor" shall not include a passenger in a  
19 motor vehicle.

20 b. Criminal homicide constitutes manslaughter when:

21 (1) It is committed recklessly; or

22 (2) A homicide which would otherwise be murder under  
23 **[section]** N.J.S.2C:11-3 is committed in the heat of passion  
24 resulting from a reasonable provocation.

25 For purposes of determining the heat of passion under this  
26 paragraph, a provocation is not objectively reasonable if it is based  
27 on the discovery of, knowledge about, or potential disclosure of the  
28 homicide victim's actual or perceived gender identity or expression,  
29 or affectional or sexual orientation, including under circumstances  
30 in which the victim made an unwanted, non-forcible romantic or  
31 sexual advance toward the actor, or if the victim and actor dated or  
32 had a romantic or sexual relationship. As used herein, the term  
33 "gender identity or expression" shall have the same meaning as in  
34 subsection rr. of section 5 of P.L.1945, c.169 (C.10:5-5), and  
35 "affectional or sexual orientation" shall have the same meaning as  
36 in subsection hh. of that section.

37 c. Aggravated manslaughter under paragraph (1) of subsection  
38 a. of this section is a crime of the first degree and upon conviction  
39 thereof a person may, notwithstanding the provisions of paragraph  
40 (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an ordinary  
41 term of imprisonment between 10 and 30 years. Aggravated  
42 manslaughter under paragraph (2) of subsection a. of this section is  
43 a crime of the first degree. Manslaughter is a crime of the second  
44 degree.

45 (cf: P.L.2001, c.412, s.1)

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6       This bill would prohibit the use of a so-called “gay panic”  
7 defense for the commission of murder. The bill is intended to  
8 prevent a defendant from seeking the reduction of a murder charge  
9 to a charge of manslaughter committed in the heat of passion,  
10 allegedly provoked by the discovery of, knowledge about, or  
11 potential disclosure of the homicide victim’s actual or perceived  
12 gender identity or expression, or affectional or sexual orientation.  
13 Under current law, a homicide which would otherwise be murder is  
14 reduced to manslaughter if the jury finds that the homicide was  
15 committed “in the heat of passion resulting from a reasonable  
16 provocation.” N.J.S.2C:11-4, subsection b., paragraph (2).

17       A provoked, heat of passion manslaughter is graded as a crime of  
18 the second degree, ordinarily punishable by five to 10 years  
19 imprisonment, a fine of up to \$150,000, or both, while murder is a  
20 crime of the first degree, punishable by a term of imprisonment for  
21 a period ranging from 30 years to life, depending upon the  
22 circumstances of the act (see N.J.S.2C:11-3), a fine of up to  
23 \$200,000, or both.

24       The bill’s provisions would most notably prevent the use of the  
25 “gay panic” defense to seek a reduction to manslaughter under  
26 circumstances in which the homicide victim made an unwanted,  
27 non-forcible romantic or sexual advance toward the actor, or if the  
28 victim and actor dated or had a romantic or sexual relationship.