ASSEMBLY, No. 2197

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman JOHN F. MCKEON
District 27 (Essex and Morris)
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

Co-Sponsored by:
Assemblywomen Vainieri Huttle, Lampitt, Assemblymen Burzichelli, Calabrese, Assemblywoman Jasey, Assemblymen Chiaravalloti, Zwicker, Assemblywoman Swain, Assemblyman Tully, Assemblywomen Quijano, Lopez, Assemblymen Houghtaling and Conaway

WITHDRAWN

SYNOPSIS

Prevents criminal defendant from asserting "gay and transgender panic" defense to murder charge in order to reduce charge to manslaughter committed in heat of passion.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

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

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

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

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

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

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

b. Criminal homicide constitutes manslaughter when:

(1) It is committed recklessly; or

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

The discovery of, knowledge about, or potential disclosure of the homicide victim's actual or perceived gender identity or expression, or affectional or sexual orientation, which occurred under any circumstances, including but not limited to circumstances in which the victim made an unwanted, non-forcible romantic or sexual advance toward the actor, or if the victim and actor dated or had a romantic or sexual relationship, shall not be reasonable provocation pursuant to this paragraph . As used herein, the terms "gender identity or expression" and "affectional or sexual orientation" shall have the same meaning as in section 5 of P.L.1945, c.169 (C.10:5-5)

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

Aggravated manslaughter under paragraph (2) of subsection a. of this section is a crime of the first degree. Manslaughter is a crime of the second degree.

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

WITHDRAWN

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.

2. This act shall take effect immediately.

STATEMENT

This bill would prevent a criminal defendant from being able to assert a so-called "gay and transgender panic" defense to a murder charge in order to reduce that charge to manslaughter committed in the heat of passion.

Under current law, a homicide which would otherwise be murder is reduced to manslaughter if the jury finds that the homicide was committed "in the heat of passion resulting from a reasonable provocation." N.J.S.2C:11-4, subsection b., paragraph (2). The bill is intended to prevent a defendant from seeking the reduction of a murder charge to a charge of manslaughter committed in the heat of passion when the act was allegedly provoked by the discovery of, knowledge about, or potential disclosure of the homicide victim's actual or perceived gender identity or expression, or affectional or sexual orientation.

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

The bill's provisions would prevent the use of the "gay and transgender panic" defense to seek a reduction to manslaughter under any circumstances, including but not limited to circumstances in which the homicide victim made an unwanted, non-forcible romantic or sexual advance toward the actor, or if the victim and actor dated or had a romantic or sexual relationship.

WITHDRAWN