



CO-SPONSORSHIP MEMORANDUM

DATE: Thursday, May 29th, 2025

TO: Members of the Wisconsin Legislature

From: Representatives Greta Neubauer, Ryan Spaude, Lee Snodgrass, Angelina Cruz, Christian Phelps, Amaad Rivera-Wagner, Angela Stroud, Randy Udell, Margaret Areny, Ryan Clancy
Senators Kelda Roys, Kristin Dassler- Alfhiem, Tim Carpenter, Mark Spreitzer, Melissa Ratcliff

RE: Co-Sponsorship of LRB 3124/1 and LRB 3389/1, relating to: eliminating criminal defenses of adequate provocation, self-defense, or not guilty by reason of mental disease or defect if the claim is based on the victim's gender identity or sexual orientation.

DEADLINE: Thursday, June 5th at 5:00 PM

Under Wisconsin's criminal statutes, defendants may assert specific defenses to criminal liability, including adequate provocation or self-defense. In some cases, defendants have asserted these defenses based on the gender or sexual identity of the victim, often called the "gay panic" or "trans panic" defense. This perpetuates the myth that LGBTQ+ people are inherently dangerous and places blame on the victim, rather than the perpetrator. LRB 3124/1 and LRB 3389/1 would eliminate the so-called gay and/or trans panic defenses in Wisconsin, stating that defendants cannot assert the defenses of adequate provocation, self-defense, or mental disease or defect if the claim is based on the discovery of, knowledge of, or potential disclosure of the victim's gender identity, gender expression, or sexual orientation.

If you would like to co-sponsor this bill, please reply to this email or contact my office before **Thursday, JUNE 5th at 5:00 PM.** Co-sponsors will be added to both the Assembly and Senate versions unless otherwise specified.

Analysis by the Legislative Reference Bureau

Current law provides specific defenses to criminal liability. For instance, a charge of first-degree intentional homicide may be mitigated to second-degree intentional homicide if, at the time of committing the crime, the defendant reasonably believes the victim has done something that adequately provokes the defendant to lack self-control completely. Another defense is the privilege of self-defense under which a person may threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by the other person. Under this bill, a defendant may not assert adequate provocation or self-defense as a defense if the criminal action in question resulted from the discovery of, knowledge about, or potential disclosure of the victim's gender identity or expression or sexual orientation, including under circumstances in which the victim made a romantic or sexual advance without use or threat of force or violence toward the defendant or in which the victim dated or had a romantic or sexual relationship with the defendant.

Under current law, a person is not responsible for criminal conduct if, when the person committed the conduct, he or she was suffering from a mental disease or defect so that he or she lacked substantial capacity either to appreciate the wrongfulness of the conduct or to conform his or her conduct to the requirements of law. To raise this defense, a defendant must plead not guilty by reason of mental disease or defect. Then, at the trial, if the defendant is found guilty of the crime, the court must determine if the person is not responsible for the crime due to mental disease or defect. If the person is found not responsible due to mental disease or defect, the person is committed to the Department of Health Services for treatment for a period that varies depending on the severity of the crime. Under this bill, mental disease or defect does not include a state that is brought on by or results from the discovery of, knowledge about, or potential disclosure of another's gender identity or expression or sexual orientation, including under circumstances in which the other person made a romantic or sexual advance without use or threat of force or violence toward the defendant or in which the other person dated or had a romantic or sexual relationship with the defendant.