



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

September 18, 2020

Councilmember Charles Allen
Chair, Committee on the Judiciary and Public Safety
Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 110
Washington, DC 20004
callen@dccouncil.us

RE: Urging the DC Council to Pass Legislation to Ban the Use of So-Called Gay Panic and Trans Panic Defense in Court Cases

Dear Councilmember Allen:

At its regular meeting on September 9, 2020, the Dupont Circle Advisory Neighborhood Commission (“ANC 2B” or “Commission”) considered the above-referenced matter. With 8 of 8 Commissioners in attendance, a quorum at a duly-noticed public meeting, the Commission approved the following resolution by a vote of (8-0-0):

At our regularly scheduled meeting on August 14, 2019, ANC 2B unanimously passed the following resolution, and forwarded it to the Chair of the DC Council’s Committee on the Judiciary and Public Safety, Charles Allen, and to members of the DC Council:

WHEREAS, the gay and trans “panic” defense is a legal strategy which asks a jury to find that a victim’s sexual orientation or gender identity is to blame for the defendant’s violent reaction, including murder,

WHEREAS, when the defense is employed, the perpetrator claims that their victim’s sexual orientation or gender identity not only explains – but excuses – their loss of self-control and subsequent assault,

WHEREAS, by arguing to fully or partially acquit the perpetrators of crimes against LGBTQ victims because of victims’ sexual orientation or gender identity, these defenses imply that LGBTQ lives are worth less than others,

WHEREAS, the legislation being supported here would require that upon the request of either the prosecutor or the defendant, the court would instruct the jury against letting bias, sympathy, prejudice, or public opinion influence its decision. It also would establish limits on defenses that seek to excuse violence on the basis of a victim’s identity,

WHEREAS, in June of 2019 New York became the sixth state to ban the gay and trans “panic” defense, as millions of revelers, celebrated WorldPride in Manhattan – joining California, Illinois, Rhode Island, Nevada, and Connecticut as states that currently have this law, and

WHEREAS, the murders of Ashanti Carmon and Zoe Spears, two D.C. transgender women of color, within weeks of one another and other recent acts of violence against members of the LGBTQ community clearly underscore the need for this type of legislation.

THEREFORE, BE IT RESOLVED that ANC 2B urges the D.C. Council to reintroduce and support the “Secure A Fair and Equitable Trial Act of 2017” to ban the use of the “gay panic” or “trans panic” defense in D.C. Courts."

That was more than a year ago.

In October of 2019, the Committee on the Judiciary and Public Safety held a public hearing on hate crimes, with representatives of the ANC Rainbow Caucus, representatives of LGBTQ+ organizations, and members of the general public – including victims of hate crimes – testifying about the need for this legislation.

Since then, there has been no action.

Since 2019, New Jersey, Washington, Maine, and Colorado have banned the gay panic defense. Yet, DC has the largest LGBTQ population per capita and is falling woefully behind other jurisdictions in protecting this population.

In recent months, the U.S. Attorney’s Office reported an uptick in hate crimes, and the past month has seen hate crimes reported against members of the LGBT+ community, ranging from death threats to physical assault.

It must be pointed out that the most recent victims of locally-reported hate crimes against the LGBT+ community are persons of color, that the overwhelming majority of those killed nationwide are trans women of color, and that their lives matter.

ANC 2B once again calls on the DC Council to move with urgency to pass the Tony Hunter and Bella Evangelista Panic Defense Prohibition Act of 2019 or other comparable pending legislation banning the use of “gay panic” or “trans panic” defense in DC Courts, and to do so now, rather than wait to do it in response to another attack or another death.

Commissioners Mike Silverstein (2B06@anc.dc.gov) and Daniel Warwick (2B02@anc.dc.gov) are the Commission’s representatives in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Warwick". The signature is written in a cursive style with a large initial 'D'.

Daniel Warwick
Chair