SENATE DOCKET, NO. 1183 FILED ON: 2/12/2021

SENATE . . . . . No. 956

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting LGBTQ victims.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	
Adam Gomez	*Hampden*	*2/12/2021*
Brendan P. Crighton	*Third Essex*	*3/1/2021*
Julian Cyr	*Cape and Islands*	*3/3/2021*
Mark C. Montigny	*Second Bristol and Plymouth*	*3/5/2021*
Jason M. Lewis	*Fifth Middlesex*	*3/5/2021*
Michael O. Moore	*Second Worcester*	*3/9/2021*
Elizabeth A. Malia	*11th Suffolk*	*3/16/2021*
Walter F. Timilty	*Norfolk, Bristol and Plymouth*	*3/19/2021*

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By Ms. Comerford, a petition (accompanied by bill, Senate, No. 956) of Joanne M. Comerford, Adam Gomez, Brendan P. Crighton, Julian Cyr and other members of the Senate for legislation to protect LGBTQ victims. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *870* OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act protecting LGBTQ victims.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 265 of the General Laws is hereby amended by adding the following section:-

Section 60. (a) In any prosecution for an offense under this chapter, a defendant is not justified in using force against another based on the discovery of, knowledge or belief about, or the potential disclosure of the victim's actual or perceived sex, sexual orientation, gender, gender identity, gender expression, or sex assigned at birth, including, but not limited to, under circumstances in which the victim made a nonviolent romantic or sexual advance toward the defendant or in which the defendant and the victim dated or had a romantic or sexual relationship.

(b) In any prosecution for an offense under this chapter, for the purposes of determining sudden transport of passion, heat of blood, sudden combat or other similar, asserted mitigating factor, any alleged provocation of the defendant by the victim is not objectively reasonable if it is based on the discovery of, knowledge or belief about, or the potential disclosure of the victim's actual or perceived sex, sexual orientation, gender, gender identity, gender expression, or sex assigned at birth, including, but not limited to, under circumstances in which the victim made a nonviolent romantic or sexual advance toward the defendant or in which the defendant and the victim dated or had a romantic or sexual relationship.

(c) In any prosecution for an offense under this chapter, a defendant does not suffer from a mental impairment affecting or impacting the defendant's mental state relating to any questions of intent or knowledge based on the discovery of, knowledge or belief about, or the potential disclosure of the victim's actual or perceived sex, sexual orientation, gender, gender identity, gender expression, or sex assigned at birth, including, but not limited to, under circumstances in which the victim made a nonviolent romantic or sexual advance toward the defendant or in which the defendant and the victim dated or had a romantic or sexual relationship.

(d) In any prosecution for an offense under this chapter, if the defendant offers evidence of the defendant's discovery of the victim's actual or perceived sex, sexual orientation, gender, gender identity, gender expression or sex assigned at birth, the court shall instruct the jury to disregard biases or prejudices regarding a person's actual or perceived sex, sexual orientation, gender, gender identity, gender expression or sex assigned at birth in reaching a verdict.

(e) Notwithstanding the prohibitions in subsections (a) through (c), a court may admit evidence, in accordance with Massachusetts law, of prior trauma to the defendant for the purpose of excusing or justifying the conduct of the defendant or mitigating the severity of an offense.