LB321
2021

LEGISLATURE OF NEBRASKA

ONE HUNDRED SEVENTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 321

Introduced by Cavanaugh, J., 9; Blood, 3; Cavanaugh, M., 6; Day, 49; Hansen, M., 26; Hunt, 8; Pansing Brooks, 28.

Read first time January 13, 2021

Committee:

A BILL FOR AN ACT relating to crimes and offenses; to prohibit a defendant's discovery of a victim's actual or perceived gender or sexual orientation as a defense to criminal offenses; to define terms; and to provide a duty for the Revisor of Statutes.

Be it enacted by the people of the State of Nebraska,

LB321
2021

Section 1. (1) In making a determination listed in subsection (2) of this section, a court or jury shall not consider evidence, nor shall it be a defense to a criminal offense or negate an element of a criminal offense, that the defendant's conduct resulted from the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender or sexual orientation.

(2) This section applies to determinations regarding:

(a) Whether the defendant acted with deliberation, premeditation, or malice, whether the defendant acted upon a sudden quarrel, or whether the defendant otherwise acted with the mental state that is an element of a criminal offense;

(b) Whether the defendant is not responsible by reason of insanity under section 29-2203 or was otherwise acting under diminished capacity; and

(c) Whether the defendant's use of force was justified under sections 28-1406 to 28-1416.

(3) This section applies notwithstanding the fact that:

(a) The victim made an unwanted but nonforcible romantic or sexual advance toward the defendant; or

(b) The defendant and victim dated or had a romantic or sexual relationship.

(4) For purposes of this section:

(a) Gender means sex and includes a person's gender identity and gender expression;

(b) Gender expression means a person's gender-related appearance and behavior, whether or not that appearance or behavior is different from that traditionally or stereotypically associated with the person's assigned sex at birth; and

(c) Gender identity means a person's internal sense of their own gender, regardless of the sex the person was assigned at birth.

Sec. 2. The Revisor of Statutes shall assign section 1 of this act

LB321
2021

to Chapter 29, article 1.