

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: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to prohibit a
- 2 defendant's discovery of a victim's actual or perceived gender or
- 3 sexual orientation as a defense to criminal offenses; to define
- 4 terms; and to provide a duty for the Revisor of Statutes.
- 5 Be it enacted by the people of the State of Nebraska,

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

7 (2) This section applies to determinations regarding:

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

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

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

17 (3) This section applies notwithstanding the fact that:

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

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

22 (4) For purposes of this section:

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

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

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

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

1 to Chapter 29, article 1.