



STATE OF MICHIGAN

GRETCHEN WHITMER, Governor

## MICHIGAN CIVIL RIGHTS COMMISSION

# RESOLUTION

## RESOLUTION IN SUPPORT OF BANNING THE GAY PANIC DEFENSE

**WHEREAS** the Michigan Civil Rights Commission is a public body established under Article V, Section 29 of the Michigan constitution, which vests the commission with the power “to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by [the] constitution, and to secure the equal protection of such civil rights without such discrimination”; and

**WHEREAS** the Michigan Elliott Larsen Civil Right Act prohibits discrimination based on sexual orientation and gender identity; and

**WHEREAS** the right of LGBTQ+ citizens to enjoy the same rights and privileges as other citizens of Michigan and to feel safe and secure in their person is of paramount importance; and

**WHEREAS** there exists an historic legal defense grounded in irrational fear and prejudice towards the LGBTQ+ community, commonly known as the “gay panic defense”, which is based on the morally offensive notion and repugnant implication

that violent conduct towards individuals based on their sexual orientation and gender expression can be excused and accepted under certain circumstances; and

**WHEREAS** the “gay panic defense” has been used to excuse the most heinous crimes and reduce charges for crimes of violence committed against LGBTQ+ individuals based on their gender expression and/or sexual orientation; and

**WHEREAS** there is a groundswell of individuals and organizations in support of state and federal bans on the use of the “gay panic defense”, including the LGBTQ+ Bar which notes that invocation of this defense “*reinforce[s] the dangerous and discredited belief that LGBTQ+ lives are worth less than others*”, and the American Bar Association, which issued a unanimous resolution as early as 2013 that called on “*federal, tribal, state, local, and territorial governments*” to forbid the use of the “gay panic defense”; and

**WHEREAS** to-date only a total of 17 states have taken affirmative steps to ban the use of the “gay panic defense”; and

**WHEREAS** based on current statistics approximately 56% of the LGBTQ+ population lives in states that do not prohibit the use of legal defenses that claim a victim’s sexual orientation and/or gender identity contributed to the defendant’s illegal conduct; and

**WHEREAS** the Michigan Civil Rights Commission has historically and consistently acknowledged that the people of the State of Michigan have recognized the inherent value and dignity of its citizens and the need to protect the diversity of our citizenry through adoption of Article I, Section 2 and Article V, Section 29 of the Michigan Constitution, and the enactment and subsequent expansion of the protections provided under the Elliott-Larsen Civil Right Act; and

**WHEREAS** the Michigan judicial and legislative branches of state government have acknowledged the right of an individual to be protected from discrimination based on their gender identity and sexual orientation, in that the Michigan State Legislature enacted an amendment to the Elliott-Larsen Civil Right Act, which supports the inherent right of citizens to name and express their sexual orientation and gender identity and prohibits discrimination and harassment based on these protected classifications; and in *Rouch World, LLC v Department of Civil Rights*, the

Michigan Supreme Court affirmed the conclusions reached by the Michigan Civil Rights Commission in interpretive statement 2018-1, finding that “Discrimination on the basis of sexual orientation necessarily constitutes discrimination because of sex” and is a violation of the Elliott-Larsen Civil Rights Act; and

**WHEREAS** these unequivocal expressions and declarations affirming the inherent dignity of LGBTQ+ people serve as foundational principles against attempts to sanction, excuse or facilitate violence based on sexual orientation or gender identity as evinced by the “gay panic defense”; and

**WHEREAS** the lives of LGBTQ+ Michiganders have value, and they are deserving of support and continued protection from assaults on their dignity and humanity through violence or its sanction; and

**THEREFORE, IT IS RESOLVED** that the Michigan Civil Rights Commission supports legislative efforts to ban the “gay panic defense”, including House Bill 4718, and executive and judicial actions directed at eliminating this pernicious practice, in addition to responsible organized efforts to expose its detrimental impact; and

**IT IS FURTHER RESOLVED THAT** this resolution be provided to the Speaker of the House, Speaker Pro Tempore, Majority and Minority Leaders of the Michigan House of Representatives, Senate President, President Pro Tempore, Majority and Minority Leaders of the Michigan Senate, and Governor Gretchen Whitmer.



Passed on Monday the 29<sup>th</sup> day of April 2024, by the  
**MICHIGAN CIVIL RIGHTS COMMISSION**

Commissioner Gloria E. Lara, Chair  
Commissioner Luke Londo, Secretary  
Commissioner Zenna Faraj Elhasan  
Commissioner Rosann Barker

Commissioner David Worthams, Vice-Chair  
Commissioner Portia Roberson  
Commissioner Regina Gasco