

FILE NO. 98-1752

RESOLUTION NO. 905-98

1 [Abolishing Homosexual Panic Defense]

2 DEPLORING THE USE OF A "HOMOSEXUAL PANIC" PSYCHIATRIC THEORY AS A  
3 DEFENSE AGAINST HATE CRIMES AND URGING THE CALIFORNIA STATE  
4 LEGISLATURE TO EXAMINE THE USE OF "HOMOSEXUAL PANIC" IN PSYCHIATRIC  
5 DEFENSES IN CRIMINAL PROCEEDINGS.

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7 WHEREAS, Recent vicious and violent crimes against homosexuals have been  
8 motivated by hatred and disdain of homosexuals; and,

9 WHEREAS, Perpetrators of such crimes have claimed that they "panicked" because of  
10 fear of the victim's sexual orientation; and,

11 WHEREAS, This psychiatric theory of "homosexual panic" has served as a defense to  
12 crimes which require a specific intent to do a criminal act, such as murder; and,

13 WHEREAS, The utilization of the psychiatric theory of "homosexual panic" as a  
14 defense has mitigated crimes such as murder to a lesser offense, such as manslaughter; and,

15 WHEREAS, In Contra Costa County defendant Joshua Puckett was convicted of a  
16 lesser offense than first degree murder after killing an openly homosexual man; and,

17 WHEREAS, Puckett's jury mitigated his crime from murder to a lesser offense based  
18 in part on the theory that he panicked because he feared a homosexual making sexual  
19 advances toward him; and,

20 WHEREAS, The alleged panic served as a reason for concluding that the assailant  
21 Joshua Puckett could not form the specific intent to commit murder; and,

22 WHEREAS, A diminished capacity defense based on a theory similar to homosexual  
23 panic was used to lessen the murderous crimes committed against Supervisor Harvey Milk  
24 and Mayor George Moscone to manslaughter; and,

25

SUPERVISORS  
\*\*LENO\*\*, BIERMAN, MEDINA, AMMIANO, YAKI, KATZ  
BOARD OF SUPERVISORS

1           WHEREAS, California voters eliminated this type of diminished capacity defense by  
2 state proposition in 1981; and,

3           WHEREAS, The state legislature's judiciary committees examine the status of state  
4 law with respect to criminal penalties and defenses; now, therefore, be it

5           RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
6 deplores the use of the psychiatric theory of "homosexual panic" as a method of defense to  
7 specific intent crimes such as murder; and, be it

8           FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
9 Francisco urges the state legislature to examine the propriety of a "homosexual panic" theory  
10 in criminal defense proceedings.

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# City and County of San Francisco

Veterans Building  
401 Van Ness Avenue, Room 308  
San Francisco, CA 94102-4532

## Tails

### Resolution

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**File Number:** 981752

**Date Passed:**

Resolution deploring the use of "Homosexual Panic" Psychiatric theory as a defense against hate crimes and urging the California State Legislature to examine the use of "Homosexual Panic" in psychiatric defenses in criminal proceedings.

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October 26, 1998 Board of Supervisors — SEVERED FROM FOR ADOPTION WITHOUT COMMITTEE REFERENCE AGENDA

October 26, 1998 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 10 - Ammiano, Bierman, Brown, Kaufman, Leno, Medina, Newsom, Teng, Yaki, Yee

Absent: 1 - Katz

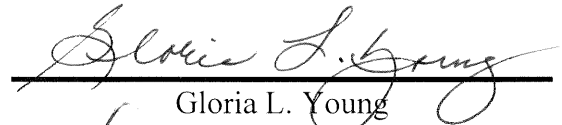
October 26, 1998 Board of Supervisors — ADOPTED AS AMENDED

Ayes: 10 - Kaufman, Leno, Medina, Newsom, Teng, Yaki, Yee, Ammiano, Bierman, Brown

Absent: 1 - Katz

File No. 981752

I hereby certify that the foregoing Resolution was **ADOPTED AS AMENDED** on October 26, 1998 by the Board of Supervisors of the City and County of San Francisco.

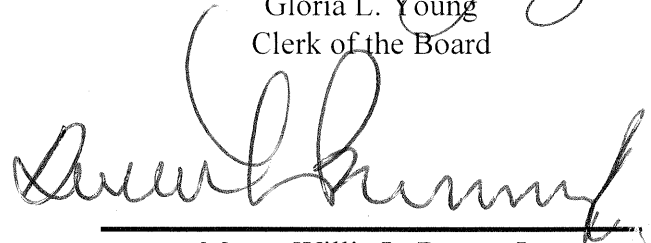


Gloria L. Young  
Clerk of the Board

NOV - 6 1998

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Date Approved



Mayor Willie L. Brown Jr.

File No. 981752 continued...