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Assemblywoman Sally Lieber Introduces Bill to Prevent Anti-Transgender Bias in Court

AB 1160 would prevent defendants from “blaming the victim” in homicide trials

San Francisco -- Assemblywoman Sally Lieber (D-San Jose) has introduced legislation, sponsored by our partners at Equality California, that would end the practice of “blaming the victim,” frequently used by defendants and their attorneys in homicide trials when the victim (or victims) is gay, lesbian, bisexual, and/or transgender. As was recently demonstrated in a jury decision in Elizabethtown, KY, defendants who are allowed to play to the anti-LGBT bias of jurors can too often secure a conviction for manslaughter instead of murder.

Assemblywoman Lieber’s bill clarifies the definition of manslaughter in California so that discovery of, knowledge about, or disclosure of the victim’s sexual orientation, gender, race or religion can not support a finding of voluntary manslaughter. “We should not allow criminal defendants to blame their victims,” says Lieber. “We prohibit discrimination based on race, religion, gender, and sexual orientation in nearly all areas of public life. Why should we allow killers to use bias and intolerance as a justification for murder?”

California’s transgender community and allies asked the same question last year when defense attorneys in the trial of Gwen Araujo’s killers repeatedly attempted to play on the presumed anti-transgender bias of jurors. “In Gwen’s trial, we saw defense attorneys try to justify their clients’ actions by claiming that Gwen deceived them about her identity and stole their heterosexuality,” said Christopher Daley, Director of the Transgender Law Center. “Assemblywoman Lieber’s bill will make clear that such shameful, harmful tactics have no place in our courtrooms.”

Recognizing that this bill comes too late for her daughter, whose case will be retried later this year, Gwen’s mother, Sylvia Guerrero, is a key supporter of the bill. “My family had to sit through a five week trial in which we were told again and again that Gwen was to blame for her own murder. It’s difficult to describe the kind of pain these outrageous arguments caused us and the fear and anxiety that we have that a new jury will be swayed by these hateful claims. No family deserves to suffer this way after losing someone to a brutal murder. I’m very grateful that Assemblywoman Lieber is making sure that no other family in the state will have to.”

Text of AB 1160 can be found at: www.leginfo.ca.gov/pub/bill/asm/ab_1151-1200/ab_1160_bill_20050222_introduced.html