STATE OF NEW YORK

5001

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to restricting the nature of extreme emotional disturbance as an affirmative defense to a charge of murder in the second degree

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision 1 of section 125.25 of the penal law, as amended by chapter 791 of the laws of 1967, is amended to read as follows:

(a) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. **A non-violent sexual advance or the discovery of a person's sexual orientation or gender identity does not constitute a "reasonable explanation or excuse" as used in this paragraph.** Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime; or

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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