

# STATE OF NEW YORK

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5001

2017-2018 Regular Sessions

## IN ASSEMBLY

February 6, 2017

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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 Assem-  
bly, do enact as follows:

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

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

14 § 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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