

STATE OF NEW YORK

8375

2019-2020 Regular Sessions

IN ASSEMBLY

June 15, 2019

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 affirmative defenses to
certain homicide offenses

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) (i) 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. Nothing contained in this paragraph
9 shall constitute a defense to a prosecution for, or preclude a
10 conviction of, manslaughter in the first degree or any other crime. (ii)
11 It shall not be a "reasonable explanation or excuse" pursuant to subpar-
12 agraph (i) of this paragraph when the defendant's conduct resulted from
13 the discovery, knowledge or disclosure of the victim's sexual orien-
14 tation, sex, gender, gender identity, gender expression or sex assigned
15 at birth; or

16 § 2. Paragraph (a) of subdivision 3 of section 125.26 of the penal
17 law, as added by chapter 765 of the laws of 2005, such subdivision as
18 renumbered by chapter 482 of the laws of 2009, is amended to read as
19 follows:

20 (a) (i) The defendant acted under the influence of extreme emotional
21 disturbance for which there was a reasonable explanation or excuse, the
22 reasonableness of which is to be determined from the viewpoint of a
23 person in the defendant's situation under the circumstances as the
24 defendant believed them to be. Nothing contained in this paragraph shall
25 constitute a defense to a prosecution for, or preclude a conviction of,

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

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1 aggravated manslaughter in the first degree, manslaughter in the first
2 degree or any other crime except murder in the second degree. (ii) It
3 shall not be a "reasonable explanation or excuse" pursuant to subpara-
4 graph (i) of this paragraph when the defendant's conduct resulted from
5 the discovery, knowledge or disclosure of the victim's sexual orien-
6 tation, sex, gender, gender identity, gender expression or sex assigned
7 at birth; or

8 § 3. Paragraph (a) of subdivision 2 of section 125.27 of the penal
9 law, as added by chapter 367 of the laws of 1974, is amended to read as
10 follows:

11 (a) (i) The defendant acted under the influence of extreme emotional
12 disturbance for which there was a reasonable explanation or excuse, the
13 reasonableness of which is to be determined from the viewpoint of a
14 person in the defendant's situation under the circumstances as the
15 defendant believed them to be. Nothing contained in this paragraph
16 shall constitute a defense to a prosecution for, or preclude a
17 conviction of, manslaughter in the first degree or any other crime
18 except murder in the second degree. (ii) It shall not be a "reasonable
19 explanation or excuse" pursuant to subparagraph (i) of this paragraph
20 when the defendant's conduct resulted from the discovery, knowledge or
21 disclosure of the victim's sexual orientation, sex, gender, gender iden-
22 tity, gender expression or sex assigned at birth; or

23 § 4. This act shall take effect immediately.