

# 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.