

# STATE OF NEW YORK

1152

2021-2022 Regular Sessions

## IN ASSEMBLY

January 7, 2021

Introduced by M. of A. SEAWRIGHT, SIMON, EICHENSTEIN, DICKENS, GALEF --  
read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to rebuttable presumptions in  
hate crimes

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

1 Section 1. Subdivision 2 of section 485.05 of the penal law, as  
2 amended by chapter 8 of the laws of 2019, is amended to read as follows:

3 2. (a) Proof of race, color, national origin, ancestry, gender, gender  
4 identity or expression, religion, religious practice, age, disability or  
5 sexual orientation of the defendant, the victim or of both the defendant  
6 and the victim does not, by itself, constitute legally sufficient  
7 evidence satisfying the people's burden under paragraph (a) or (b) of  
8 subdivision one of this section.

9 (b) If it is established that (i) a person has committed a specified  
10 offense, as defined in subdivision three of this section, and (ii) the  
11 people have established a defendant's pattern of prior prejudice regard-  
12 ing race, color, national origin, ancestry, gender, gender identity or  
13 expression, religion, religious practice, age, disability or sexual  
14 orientation, and (iii) the offense committed by such defendant was  
15 against the same protected class as the defendant's established prior  
16 prejudice then the people may request the court find a rebuttable  
17 presumption that such person committed a hate crime pursuant to subdivi-  
18 sion one of this section.

19 § 2. This act shall take effect on the ninetieth day after it shall  
20 have become a law.

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

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