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 Assembly, do enact as follows:

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

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

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

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

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

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