

# *New York State Unified Courts System*

## *Public Access Law Libraries*

Legal Research

### Burden of Proof – New York Resources

Go to [CourtHelp](#) for Court Forms and FAQs about: Abuse & Harassment • Appeals • Collecting a Judgment • Criminal • Families & Children • Guardianship • Homes & Evictions • Name Change • Problems With Money • Small Claims • When Someone Dies • [www.nycourts.gov/courthelp](http://www.nycourts.gov/courthelp)

This handout describes legal research materials available on-line and in print in New York Court Public Access Law Libraries.

The information provided should be considered a starting point in your research and should not be interpreted as a comprehensive review of the subject or issue in question

#### Definitions

burden of proof (18c) 1. A party's duty to prove a disputed assertion or charge; a proposition regarding which of two contending litigants loses when there is no evidence on a question or when the answer is simply too difficult to find. • The burden of proof includes both the burden of persuasion and the burden of production. BURDEN OF PROOF, Black's Law Dictionary (10th ed. 2014)

The term "burden of proof" embraces two distinct concepts: The burden of producing evidence, and the burden of persuasion. The party assigned the burden of producing evidence must establish a prima facie case, which means that once the party rests, the Trial Judge must be satisfied that there has been offered enough evidence to provide a rational basis upon which the trier of fact could reach a favorable result, giving the party "every favorable inference which could reasonably be drawn from the evidence submitted" by the party. Prince, Richardson on Evidence § 3-201 (2008)

#### Legal Research

Burden of proof research means understanding the legal concept and then finding the specific requirements for case type. Use the titles recommended below to understand the treatment of burden of proof in subject specific treatises.

#### Westlaw

Carmody Wait 2d, Ch 56 Presentation of the Case, Pt III Evidence, pt A: General: Burden of Proof §§ 56:11-24

New York Jurisprudence Index – Presumptions and Burden of Proof

New York Jurisprudence Evidence and Witnesses, Pt IV Burden of Proof, § § 161-173

New York Practice Series: Evidence in New York State and Federal Courts, Ch 3 Burden of Proof and Presumptions

New York Pattern Jury Instructions. Check Index and topic

[LexisAdvance](#)

Bender's New York Evidence, Ch 105 [Burden of Proof](#)

Prince, Richardson on Evidence, [Article III Presumptions and Burden of Proof](#)

Weinstein Korn & Miller, CPLR 3018

[E-Books](#)

New York Trial Notebook Ch 22, Proof: Order; Burdens and Standards

New York Civil Practice Before Trial – Index term

Understanding Evidence – basic text, good introduction for laymen

***Important Disclosures:***

**Legal Advice**

NY State Court System staff are pleased to provide you with basic legal information of relevance to New York State courts, caselaw, statutory and regulatory materials from standard legal reference sources. Our court employees, however, may not provide legal advice, interpret the law or assist with the processing of specific motions or cases.

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Jacqueline Cantwell