

STATE OF NEW YORK

1989

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. BARNWELL -- Multi-Sponsored by -- M. of A. KIM --
read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to allowing judges to impose
a sentence of imprisonment with or without parole for certain felony
offenses

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

1 Section 1. Subparagraph (ii) of paragraph (a) of subdivision 3 of
2 section 70.00 of the penal law, as amended by chapter 107 of the laws of
3 2006, is amended to read as follows:

4 (ii) For a class A-II felony, such minimum period shall not be less
5 than three years nor more than eight years four months, except that for
6 the class A-II felony of predatory sexual assault as defined in section
7 130.95 of this chapter or the class A-II felony of predatory sexual
8 assault against a child as defined in section 130.96 of this chapter,
9 such minimum period shall be not less than ten years [~~nor more than~~
10 ~~twenty-five years~~]. At sentencing, the presiding judge shall have the
11 option of imposing a sentence of life imprisonment with or without
12 parole if the defendant is found guilty of violating section 130.95 or
13 130.96 of this chapter.

14 § 2. Paragraph (a) of subdivision 1 of section 70.02 of the penal law,
15 as amended by chapter 189 of the laws of 2018, is amended to read as
16 follows:

17 (a) Class B violent felony offenses: an attempt to commit the class
18 A-I felonies of murder in the second degree as defined in section
19 125.25, kidnapping in the first degree as defined in section 135.25, and
20 arson in the first degree as defined in section 150.20; manslaughter in
21 the first degree as defined in section 125.20, aggravated manslaughter
22 in the first degree as defined in section 125.22, rape in the first
23 degree as defined in section 130.35, criminal sexual act in the first
24 degree as defined in section 130.50, aggravated sexual abuse in the

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

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1 first degree as defined in section 130.70, course of sexual conduct
2 against a child in the first degree as defined in section 130.75;
3 assault in the first degree as defined in section 120.10, kidnapping in
4 the second degree as defined in section 135.20, burglary in the first
5 degree as defined in section 140.30, arson in the second degree as
6 defined in section 150.15, robbery in the first degree as defined in
7 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of
8 subdivision five of section 230.34, sex trafficking of a child as
9 defined in section 230.34-a, incest in the first degree as defined in
10 section 255.27, criminal possession of a weapon in the first degree as
11 defined in section 265.04, criminal use of a firearm in the first degree
12 as defined in section 265.09, criminal sale of a firearm in the first
13 degree as defined in section 265.13, aggravated assault upon a police
14 officer or a peace officer as defined in section 120.11, gang assault in
15 the first degree as defined in section 120.07, intimidating a victim or
16 witness in the first degree as defined in section 215.17, hindering
17 prosecution of terrorism in the first degree as defined in section
18 490.35, criminal possession of a chemical weapon or biological weapon in
19 the second degree as defined in section 490.40, and criminal use of a
20 chemical weapon or biological weapon in the third degree as defined in
21 section 490.47. For those felony offenses defined in sections 130.35,
22 130.50, 130.70, 130.75 and 255.27 of this chapter, at sentencing, the
23 presiding judge shall have the option of imposing a sentence of life
24 imprisonment with or without parole.

25 § 3. This act shall take effect immediately.