

STATE OF NEW YORK

5747

2023-2024 Regular Sessions

IN ASSEMBLY

March 23, 2023

Introduced by M. of A. SLATER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to sentencing for conviction of certain provisions of murder in the first degree

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

Section 1. Section 60.06 of the penal law, as amended by chapter 482 of the laws of 2009, is amended to read as follows:

§ 60.06 Authorized disposition; murder in the first degree offenders; aggravated murder offenders; certain murder in the second degree offenders; certain terrorism offenders; criminal possession of a chemical weapon or biological weapon offenders; criminal use of a chemical weapon or biological weapon offenders.

[~~When~~] Except as otherwise provided in this section, when a defendant is convicted of murder in the first degree as defined in section 125.27 of this chapter, the court shall, in accordance with the provisions of section 400.27 of the criminal procedure law, sentence the defendant to death, to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title, or to a term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title. When a person is convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter [~~or of the crime of~~], aggravated murder as defined in subdivision one of section 125.26 of this chapter, or murder in the first degree as defined in subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of subdivision one of section 125.27 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title. When a defendant is convicted of the crime of terrorism as defined in section 490.25 of this

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

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chapter, and the specified offense the defendant committed is a class A-I felony offense, or when a defendant is convicted of the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter, or when a defendant is convicted of the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title; provided, however, that nothing in this section shall preclude or prevent a sentence of death when the defendant is also convicted of murder in the first degree as defined in section 125.27 of this chapter. When a defendant is convicted of aggravated murder as defined in subdivision two of section 125.26 of this chapter, the court shall sentence the defendant to life imprisonment without parole or to a term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title.

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

(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) except as otherwise provided in clause (B) of this subparagraph, where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter ~~or~~, convicted of aggravated murder as defined in section 125.26 of this chapter, or convicted of murder in the first degree as defined in subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of subdivision one of section 125.27 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.

§ 3. Subdivision 5 of section 70.00 of the penal law, as amended by section 40-a of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

5. Life imprisonment without parole. Notwithstanding any other provision of law, a defendant sentenced to life imprisonment without parole shall not be or become eligible for parole or conditional release. For purposes of commitment and custody, other than parole and conditional release, such sentence shall be deemed to be an indeterminate sentence. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of murder in the first degree as defined in section 125.27 of this chapter and in accordance with the procedures provided by law for imposing a sentence for such crime; provided, however, that, a defendant shall be sentenced to life imprisonment without parole upon conviction of murder in the first degree as defined in subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of

1 subdivision one of section 125.27. A defendant who was eighteen years
2 of age or older at the time of the commission of the crime must be
3 sentenced to life imprisonment without parole upon conviction for the
4 crime of terrorism as defined in section 490.25 of this chapter, where
5 the specified offense the defendant committed is a class A-I felony; the
6 crime of criminal possession of a chemical weapon or biological weapon
7 in the first degree as defined in section 490.45 of this chapter; or the
8 crime of criminal use of a chemical weapon or biological weapon in the
9 first degree as defined in section 490.55 of this chapter; provided,
10 however, that nothing in this subdivision shall preclude or prevent a
11 sentence of death when the defendant is also convicted of the crime of
12 murder in the first degree as defined in section 125.27 of this chapter.
13 A defendant who was seventeen years of age or younger at the time of the
14 commission of the crime may be sentenced, in accordance with law, to the
15 applicable indeterminate sentence with a maximum term of life imprison-
16 ment. A defendant must be sentenced to life imprisonment without parole
17 upon conviction for the crime of murder in the second degree as defined
18 in subdivision five of section 125.25 of this chapter or for the crime
19 of aggravated murder as defined in subdivision one of section 125.26 of
20 this chapter. A defendant may be sentenced to life imprisonment without
21 parole upon conviction for the crime of aggravated murder as defined in
22 subdivision two of section 125.26 of this chapter.
23 § 4. This act shall take effect immediately.