S T A T E O F N E W Y O R K

7402

2009-2010 Regular Sessions

I N A S S E M B L Y

April 6, 2009

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

AN ACT to amend the penal law, in relation to making rape in the first degree a class A-I felony with a penalty of life imprisonment without parole

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The closing paragraph of section 130.35 of the penal law, as amended by chapter 1 of the laws of 2000, is amended to read as follows:

Rape in the first degree is a class [B] A-I felony.

S 2. Subdivision 5 of section 70.00 of the penal law, as amended by chapter 765 of the laws of 2005, 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. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of terrorism as defined in section 490.25 of this chapter, where the specified offense the defendant committed is a class A-I felony; 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] 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 OR THE CRIME OF RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35 OF THIS CHAPTER; provided, however, that nothing in this

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

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subdivision shall preclude or prevent a sentence of death when the defendant is also convicted of the crime of murder in the first degree as defined in section 125.27 of this chapter. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or for the crime of aggravated murder as defined in section 125.26 of this chapter.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.