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I N   S E N A T E

June 30, 2010

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Introduced by Sens. GOLDEN, ALESI, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GRIFFO, HANNON, O. JOHNSON, LANZA, LARKIN, LAVALLE, LEIBELL, LIBOUS, LITTLE, MARCELLINO, MAZIARZ, McDONALD, NOZZOLIO, PADAVAN, RANZENHOFER, ROBACH, SALAND, SEWARD, SKELOS, VOLKER, WINNER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the correction law and the penal law, in relation to prohibiting good behavior allowances for certain offenses and increasing penalties for certain violent felonies

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

1     Section 1. Paragraph (c) of subdivision 1 of section 803 of the  
2     correction law, as added by chapter 3 of the laws of 1995, is amended to  
3     read as follows:

4     (c) A person serving a determinate sentence of imprisonment may  
5     receive time allowance against the term of his sentence not to exceed  
6     one-seventh of the term imposed by the court; PROVIDED HOWEVER, THAT NO  
7     PERSON CONVICTED OF A VIOLENT FELONY OFFENSE PURSUANT TO SECTION 70.02  
8     OF THE PENAL LAW SHALL BE ELIGIBLE FOR GOOD BEHAVIOR ALLOWANCES PURSUANT  
9     TO THIS SECTION OR ANY OTHER SECTION OF LAW.

10    S 2. Subdivision 3 of section 70.08 of the penal law is amended by  
11    adding a new paragraph (a-2) to read as follows:

12    (A-2) WHERE THE PREDICATE VIOLENT FELONIES ARE AT LEAST CLASS B OR  
13    ABOVE, A DEFENDANT CONVICTED OF AGGRAVATED ASSAULT UPON A POLICE OFFICER  
14    OR A PEACE OFFICER PURSUANT TO SECTION 120.11 OF THIS CHAPTER SHALL BE  
15    SENTENCED TO LIFE WITHOUT PAROLE PURSUANT TO SUBDIVISION FIVE OF SECTION  
16    70.00 OF THIS ARTICLE.

17    S 3. Subdivision 5 of section 70.00 of the penal law, as amended by  
18    chapter 482 of the laws of 2009, is amended to read as follows:

19    5. Life imprisonment without parole. Notwithstanding any other  
20    provision of law, a defendant sentenced to life imprisonment without  
21    parole shall not be or become eligible for parole or conditional  
22    release. For purposes of commitment and custody, other than parole and  
23    conditional release, such sentence shall be deemed to be an indetermi-

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

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1 nate sentence. A defendant may be sentenced to life imprisonment with-  
2 out parole upon conviction for the crime of murder in the first degree  
3 as defined in section 125.27 of this chapter and in accordance with the  
4 procedures provided by law for imposing a sentence for such crime. A  
5 defendant must be sentenced to life imprisonment without parole upon  
6 conviction for the crime of terrorism as defined in section 490.25 of  
7 this chapter, where the specified offense the defendant committed is a  
8 class A-I felony; the crime of criminal possession of a chemical weapon  
9 or biological weapon in the first degree as defined in section 490.45 of  
10 this chapter; or the crime of criminal use of a chemical weapon or  
11 biological weapon in the first degree as defined in section 490.55 of  
12 this chapter; provided, however, that nothing in this subdivision shall  
13 preclude or prevent a sentence of death when the defendant is also  
14 convicted of the crime of murder in the first degree as defined in  
15 section 125.27 of this chapter. A defendant must be sentenced to life  
16 imprisonment without parole upon conviction for the crime of murder in  
17 the second degree as defined in subdivision five of section 125.25 of  
18 this chapter or for the crime of aggravated murder as defined in subdi-  
19 vision one of section 125.26 of this chapter. A defendant may be  
20 sentenced to life imprisonment without parole upon conviction for the  
21 crime of aggravated murder as defined in subdivision two of section  
22 125.26 of this chapter. A DEFENDANT MUST BE SENTENCED TO LIFE WITHOUT  
23 PAROLE UPON A CONVICTION OF AGGRAVATED ASSAULT UPON A POLICE OFFICER OR  
24 A PEACE OFFICER PURSUANT TO SECTION 120.11 OF THIS CHAPTER, WHERE SUCH  
25 CONVICTION IS THE THIRD VIOLENT FELONY OFFENSE FOR WHICH THE DEFENDANT  
26 HAS BEEN CONVICTED.

27 S 4. This act shall take effect immediately; provided, that the amend-  
28 ments to paragraph (c) of subdivision 1 of section 803 of the correction  
29 law made by section one of this act shall not affect the expiration of  
30 such section and shall be deemed to expire therewith; provided, further  
31 however that the amendments to subdivision 3 of section 70.08 of the  
32 penal law made by section two of this act shall survive the expiration  
33 and reversion of such subdivision as provided in section 74 of chapter 3  
34 of the laws of 1995, as amended.