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I N   S E N A T E

June 18, 2012

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Introduced by Sen. STOROBIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to making certain crimes of murder in the second degree and aggravated murder punishable by death

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

1     Section 1. Section 60.06 of the penal law, as amended by chapter 482  
2     of the laws of 2009, is amended to read as follows:  
3     S 60.06 Authorized disposition; murder in the first degree offenders;  
4         aggravated murder offenders; certain murder in the second  
5         degree offenders; certain terrorism offenders; criminal  
6         possession of a chemical weapon or biological weapon offen-  
7         ders; criminal use of a chemical weapon or biological weapon  
8         offenders.  
9     When a defendant is convicted of murder in the first degree as defined  
10    in section 125.27 of this chapter, MURDER IN THE SECOND DEGREE AS  
11    DEFINED IN SUBDIVISION FIVE OF SECTION 125.25 OF THIS CHAPTER OR AGGRA-  
12    VATED MURDER AS DEFINED IN SUBDIVISION TWO OF SECTION 125.26 OF THIS  
13    CHAPTER, the court shall, in accordance with the provisions of section  
14    400.27 of the criminal procedure law, sentence the defendant to death,  
15    to life imprisonment without parole in accordance with subdivision five  
16    of section 70.00 of this title, or to a term of imprisonment for a class  
17    A-I felony other than a sentence of life imprisonment without parole, in  
18    accordance with subdivisions one through three of section 70.00 of this  
19    title. When a person is convicted of [murder in the second degree as  
20    defined in subdivision five of section 125.25 of this chapter or of] the  
21    crime of aggravated murder as defined in subdivision one of section  
22    125.26 of this chapter, the court shall sentence the defendant to life  
23    imprisonment without parole in accordance with subdivision five of  
24    section 70.00 of this title. When a defendant is convicted of the crime  
25    of terrorism as defined in section 490.25 of this chapter, and the spec-  
26    ified offense the defendant committed is a class A-I felony offense, or  
27    when a defendant is convicted of the crime of criminal possession of a  
28    chemical weapon or biological weapon in the first degree as defined in

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

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1 section 490.45 of this chapter, or when a defendant is convicted of the  
2 crime of criminal use of a chemical weapon or biological weapon in the  
3 first degree as defined in section 490.55 of this chapter, the court  
4 shall sentence the defendant to life imprisonment without parole in  
5 accordance with subdivision five of section 70.00 of this title;  
6 provided, however, that nothing in this section shall preclude or  
7 prevent a sentence of death when the defendant is also convicted of  
8 murder in the first degree as defined in section 125.27 of this chapter.  
9 [When a defendant is convicted of aggravated murder as defined in subdi-  
10 vision two of section 125.26 of this chapter, the court shall sentence  
11 the defendant to life imprisonment without parole or to a term of impri-  
12 sonment for a class A-I felony other than a sentence of life imprison-  
13 ment without parole, in accordance with subdivisions one through three  
14 of section 70.00 of this title.]  
15 S 2. This act shall take effect immediately and shall apply to  
16 offenses committed on or after such effective date.