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

8078--A

2013-2014 Regular Sessions

I N A S S E M B L Y

June 18, 2013

Introduced by M. of A. PERRY -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to increasing penalties for certain violent felonies

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

Section 1. Subdivision 3 of section 70.08 of the penal law is amended by adding a new paragraph (a-2) to read as follows:

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

S 2. Subdivision 5 of section 70.00 of the penal law, as amended by chapter 482 of the laws of 2009, 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

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

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biological weapon in the first degree as defined in section 490.55 of this chapter; provided, however, that nothing in this 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 subdivision one of section 125.26 of this chapter. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter. A DEFENDANT MUST BE SENTENCED TO LIFE WITHOUT PAROLE UPON A CONVICTION OF AGGRAVATED ASSAULT UPON A POLICE OFFICER OR A PEACE OFFICER PURSUANT TO SECTION 120.11 OF THIS CHAPTER, WHERE SUCH CONVICTION IS THE THIRD VIOLENT FELONY OFFENSE FOR WHICH THE DEFENDANT HAS BEEN CONVICTED.

S 3. This act shall take effect immediately; provided, that the amendments to subdivision 3 of section 70.08 of the penal law made by section one of this act shall survive the expiration and reversion of such subdivision as provided in section 74 of chapter 3 of the laws of 1995, as amended.