

4445--A

2013-2014 Regular Sessions

I N   S E N A T E

April 1, 2013

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Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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:

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

3     (A-2) WHERE THE PREDICATE VIOLENT FELONIES ARE AT LEAST CLASS B OR  
4 ABOVE, A DEFENDANT CONVICTED OF AGGRAVATED ASSAULT UPON A POLICE OFFICER  
5 OR A PEACE OFFICER PURSUANT TO SECTION 120.11 OF THIS CHAPTER SHALL BE  
6 SENTENCED TO LIFE WITHOUT PAROLE PURSUANT TO SUBDIVISION FIVE OF SECTION  
7 70.00 OF THIS ARTICLE.

8     S 2. Subdivision 5 of section 70.00 of the penal law, as amended by  
9 chapter 482 of the laws of 2009, is amended to read as follows:

10     5. Life imprisonment without parole. Notwithstanding any other  
11 provision of law, a defendant sentenced to life imprisonment without  
12 parole shall not be or become eligible for parole or conditional  
13 release. For purposes of commitment and custody, other than parole and  
14 conditional release, such sentence shall be deemed to be an indetermi-  
15 nate sentence. A defendant may be sentenced to life imprisonment with-  
16 out parole upon conviction for the crime of murder in the first degree  
17 as defined in section 125.27 of this chapter and in accordance with the  
18 procedures provided by law for imposing a sentence for such crime. A  
19 defendant must be sentenced to life imprisonment without parole upon  
20 conviction for the crime of terrorism as defined in section 490.25 of  
21 this chapter, where the specified offense the defendant committed is a  
22 class A-I felony; the crime of criminal possession of a chemical weapon  
23 or biological weapon in the first degree as defined in section 490.45 of

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

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1 this chapter; or the crime of criminal use of a chemical weapon or  
2 biological weapon in the first degree as defined in section 490.55 of  
3 this chapter; provided, however, that nothing in this subdivision shall  
4 preclude or prevent a sentence of death when the defendant is also  
5 convicted of the crime of murder in the first degree as defined in  
6 section 125.27 of this chapter. A defendant must be sentenced to life  
7 imprisonment without parole upon conviction for the crime of murder in  
8 the second degree as defined in subdivision five of section 125.25 of  
9 this chapter or for the crime of aggravated murder as defined in subdi-  
10 vision one of section 125.26 of this chapter. A defendant may be  
11 sentenced to life imprisonment without parole upon conviction for the  
12 crime of aggravated murder as defined in subdivision two of section  
13 125.26 of this chapter. A DEFENDANT MUST BE SENTENCED TO LIFE WITHOUT  
14 PAROLE UPON A CONVICTION OF AGGRAVATED ASSAULT UPON A POLICE OFFICER OR  
15 A PEACE OFFICER PURSUANT TO SECTION 120.11 OF THIS CHAPTER, WHERE SUCH  
16 CONVICTION IS THE THIRD VIOLENT FELONY OFFENSE FOR WHICH THE DEFENDANT  
17 HAS BEEN CONVICTED.

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