

# STATE OF NEW YORK

7976

## IN SENATE

March 15, 2018

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

AN ACT to amend the penal law, in relation to sentencing for conviction of certain provisions of murder in the first degree

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 § 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~~] Except as otherwise provided in this section, when a defendant  
10 is convicted of murder in the first degree as defined in section 125.27  
11 of this chapter, the court shall, in accordance with the provisions of  
12 section 400.27 of the criminal procedure law, sentence the defendant to  
13 death, to life imprisonment without parole in accordance with subdivi-  
14 sion five of section 70.00 of this title, or to a term of imprisonment  
15 for a class A-I felony other than a sentence of life imprisonment with-  
16 out parole, in accordance with subdivisions one through three of section  
17 70.00 of this title. When a person is convicted of murder in the second  
18 degree as defined in subdivision five of section 125.25 of this chapter  
19 [~~or of the crime of~~], aggravated murder as defined in subdivision one of  
20 section 125.26 of this chapter, or murder in the first degree as defined  
21 in subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of subdivi-  
22 sion one of section 125.27 of this chapter, the court shall sentence the  
23 defendant to life imprisonment without parole in accordance with subdivi-  
24 sion five of section 70.00 of this title. When a defendant is  
25 convicted of the crime of terrorism as defined in section 490.25 of this  
26 chapter, and the specified offense the defendant committed is a class  
27 A-I felony offense, or when a defendant is convicted of the crime of  
28 criminal possession of a chemical weapon or biological weapon in the

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

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1 first degree as defined in section 490.45 of this chapter, or when a  
2 defendant is convicted of the crime of criminal use of a chemical weapon  
3 or biological weapon in the first degree as defined in section 490.55 of  
4 this chapter, the court shall sentence the defendant to life imprison-  
5 ment without parole in accordance with subdivision five of section 70.00  
6 of this title; provided, however, that nothing in this section shall  
7 preclude or prevent a sentence of death when the defendant is also  
8 convicted of murder in the first degree as defined in section 125.27 of  
9 this chapter. When a defendant is convicted of aggravated murder as  
10 defined in subdivision two of section 125.26 of this chapter, the court  
11 shall sentence the defendant to life imprisonment without parole or to a  
12 term of imprisonment for a class A-I felony other than a sentence of  
13 life imprisonment without parole, in accordance with subdivisions one  
14 through three of section 70.00 of this title.

15 § 2. Subparagraph (i) of paragraph (a) of subdivision 3 of section  
16 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,  
17 is amended to read as follows:

18 (i) For a class A-I felony, such minimum period shall not be less than  
19 fifteen years nor more than twenty-five years; provided, however, that  
20 (A) except as otherwise provided in clause (B) of this subparagraph,  
21 where a sentence, other than a sentence of death or life imprisonment  
22 without parole, is imposed upon a defendant convicted of murder in the  
23 first degree as defined in section 125.27 of this chapter such minimum  
24 period shall be not less than twenty years nor more than twenty-five  
25 years, and, (B) where a sentence is imposed upon a defendant convicted  
26 of murder in the second degree as defined in subdivision five of section  
27 125.25 of this chapter ~~[or]~~, convicted of aggravated murder as defined  
28 in section 125.26 of this chapter, or convicted of murder in the first  
29 degree as defined in subparagraph (i), (ii), (ii-a) or (iii) of para-  
30 graph (a) of subdivision one of section 125.27 of this chapter, the  
31 sentence shall be life imprisonment without parole, and, (C) where a  
32 sentence is imposed upon a defendant convicted of attempted murder in  
33 the first degree as defined in article one hundred ten of this chapter  
34 and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one  
35 and paragraph (b) of subdivision one of section 125.27 of this chapter  
36 or attempted aggravated murder as defined in article one hundred ten of  
37 this chapter and section 125.26 of this chapter such minimum period  
38 shall be not less than twenty years nor more than forty years.

39 § 3. Subdivision 5 of section 70.00 of the penal law, as amended by  
40 chapter 482 of the laws of 2009, is amended to read as follows:

41 5. Life imprisonment without parole. Notwithstanding any other  
42 provision of law, a defendant sentenced to life imprisonment without  
43 parole shall not be or become eligible for parole or conditional  
44 release. For purposes of commitment and custody, other than parole and  
45 conditional release, such sentence shall be deemed to be an indetermi-  
46 nate sentence. A defendant may be sentenced to life imprisonment without  
47 parole upon conviction for the crime of murder in the first degree as  
48 defined in section 125.27 of this chapter and in accordance with the  
49 procedures provided by law for imposing a sentence for such crime;  
50 provided, however, that, a defendant shall be sentenced to life impri-  
51 sonment without parole upon conviction of murder in the first degree as  
52 defined in subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of  
53 subdivision one of section 125.27 of this chapter. A defendant must be  
54 sentenced to life imprisonment without parole upon conviction for the  
55 crime of terrorism as defined in section 490.25 of this chapter, where  
56 the specified offense the defendant committed is a class A-I felony; the

1 crime of criminal possession of a chemical weapon or biological weapon  
2 in the first degree as defined in section 490.45 of this chapter; or the  
3 crime of criminal use of a chemical weapon or biological weapon in the  
4 first degree as defined in section 490.55 of this chapter; provided,  
5 however, that nothing in this subdivision shall preclude or prevent a  
6 sentence of death when the defendant is also convicted of the crime of  
7 murder in the first degree as defined in section 125.27 of this chapter.  
8 A defendant must be sentenced to life imprisonment without parole upon  
9 conviction for the crime of murder in the second degree as defined in  
10 subdivision five of section 125.25 of this chapter or for the crime of  
11 aggravated murder as defined in subdivision one of section 125.26 of  
12 this chapter. A defendant may be sentenced to life imprisonment without  
13 parole upon conviction for the crime of aggravated murder as defined in  
14 subdivision two of section 125.26 of this chapter.

15 § 4. Subdivision 5 of section 70.00 of the penal law, as amended by  
16 section 40-a of part WWW of chapter 59 of the laws of 2017, is amended  
17 to read as follows:

18 5. Life imprisonment without parole. Notwithstanding any other  
19 provision of law, a defendant sentenced to life imprisonment without  
20 parole shall not be or become eligible for parole or conditional  
21 release. For purposes of commitment and custody, other than parole and  
22 conditional release, such sentence shall be deemed to be an indetermi-  
23 nate sentence. A defendant may be sentenced to life imprisonment without  
24 parole upon conviction for the crime of murder in the first degree as  
25 defined in section 125.27 of this chapter and in accordance with the  
26 procedures provided by law for imposing a sentence for such crime;  
27 provided, however, that, a defendant shall be sentenced to life impri-  
28 sonment without parole upon conviction of murder in the first degree as  
29 defined in subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of  
30 subdivision one of section 125.27. A defendant who was eighteen years  
31 of age or older at the time of the commission of the crime must be  
32 sentenced to life imprisonment without parole upon conviction for the  
33 crime of terrorism as defined in section 490.25 of this chapter, where  
34 the specified offense the defendant committed is a class A-I felony; the  
35 crime of criminal possession of a chemical weapon or biological weapon  
36 in the first degree as defined in section 490.45 of this chapter; or the  
37 crime of criminal use of a chemical weapon or biological weapon in the  
38 first degree as defined in section 490.55 of this chapter; provided,  
39 however, that nothing in this subdivision shall preclude or prevent a  
40 sentence of death when the defendant is also convicted of the crime of  
41 murder in the first degree as defined in section 125.27 of this chapter.  
42 A defendant who was seventeen years of age or younger at the time of the  
43 commission of the crime may be sentenced, in accordance with law, to the  
44 applicable indeterminate sentence with a maximum term of life imprison-  
45 ment. A defendant must be sentenced to life imprisonment without parole  
46 upon conviction for the crime of murder in the second degree as defined  
47 in subdivision five of section 125.25 of this chapter or for the crime  
48 of aggravated murder as defined in subdivision one of section 125.26 of  
49 this chapter. A defendant may be sentenced to life imprisonment without  
50 parole upon conviction for the crime of aggravated murder as defined in  
51 subdivision two of section 125.26 of this chapter.

52 § 5. This act shall take effect immediately; provided, however that  
53 section four of this act shall take effect on the same date and in the  
54 same manner as section 40-a of part WWW of chapter 59 of the laws of  
55 2017, takes effect.