STATE OF NEW YORK

3073

2017-2018 Regular Sessions

IN ASSEMBLY

January 26, 2017

Introduced by M. of A. BARNWELL, KIM -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to allowing judges to impose a sentence of imprisonment with or without parole for certain felony offenses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph (ii) of paragraph (a) of subdivision 3 of section 70.00 of the penal law, as amended by chapter 107 of the laws of 2006, is amended to read as follows:

(ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years [~~nor more than twenty-five years~~]. **At sentencing, the presiding judge shall have the option of imposing a sentence of life imprisonment with or without parole if the defendant is found guilty of violating sections 130.95 or 130.96 of this chapter.**

§ 2. Paragraph (a) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the

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

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first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47. **For those felony offenses defined in sections 130.35, 130.50, 130.70, 130.75 and 255.27 of this article, at sentencing, the presiding judge shall have the option of imposing a sentence of life imprisonment with or without parole.**

§ 3. This act shall take effect immediately.