

STATE OF NEW YORK

6596

2017-2018 Regular Sessions

IN ASSEMBLY

March 9, 2017

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

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 § 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
24 this chapter; or the crime of criminal use of a chemical weapon or
25 biological weapon in the first degree as defined in section 490.55 of

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

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1 this chapter; provided, however, that nothing in this subdivision shall
2 preclude or prevent a sentence of death when the defendant is also
3 convicted of the crime of murder in the first degree as defined in
4 section 125.27 of this chapter. A defendant must be sentenced to life
5 imprisonment without parole upon conviction for the crime of murder in
6 the second degree as defined in subdivision five of section 125.25 of
7 this chapter or for the crime of aggravated murder as defined in subdivi-
8 sion one of section 125.26 of this chapter. A defendant may be
9 sentenced to life imprisonment without parole upon conviction for the
10 crime of aggravated murder as defined in subdivision two of section
11 125.26 of this chapter. A defendant must be sentenced to life without
12 parole upon a conviction of aggravated assault upon a police officer or
13 a peace officer pursuant to section 120.11 of this chapter, where such
14 conviction is the third violent felony offense for which the defendant
15 has been convicted.

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