

# STATE OF NEW YORK

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6151--A

2017-2018 Regular Sessions

## IN SENATE

May 11, 2017

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Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to making rape in the first degree a class A-I felony with a penalty of life imprisonment without parole

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

1 Section 1. The closing paragraph of section 130.35 of the penal law,  
2 as amended by chapter 1 of the laws of 2000, is amended to read as  
3 follows:  
4 Rape in the first degree is a class [B] A-I felony.  
5 § 2. Subdivision 5 of section 70.00 of the penal law, as amended by  
6 chapter 482 of the laws of 2009, is amended to read as follows:  
7 5. Life imprisonment without parole. Notwithstanding any other  
8 provision of law, a defendant sentenced to life imprisonment without  
9 parole shall not be or become eligible for parole or conditional  
10 release. For purposes of commitment and custody, other than parole and  
11 conditional release, such sentence shall be deemed to be an indetermi-  
12 nate sentence. A defendant may be sentenced to life imprisonment with-  
13 out parole upon conviction for the crime of murder in the first degree  
14 as defined in section 125.27 of this chapter and in accordance with the  
15 procedures provided by law for imposing a sentence for such crime. A  
16 defendant must be sentenced to life imprisonment without parole upon  
17 conviction for the crime of terrorism as defined in section 490.25 of  
18 this chapter, where the specified offense the defendant committed is a  
19 class A-I felony; the crime of criminal possession of a chemical weapon  
20 or biological weapon in the first degree as defined in section 490.45 of  
21 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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1 biological weapon in the first degree as defined in section 490.55 of  
2 this chapter; provided, however, that nothing in this subdivision shall  
3 preclude or prevent a sentence of death when the defendant is also  
4 convicted of the crime of murder in the first degree as defined in  
5 section 125.27 of this chapter. A defendant must be sentenced to life  
6 imprisonment without parole upon conviction for the crime of murder in  
7 the second degree as defined in subdivision five of section 125.25 of  
8 this chapter ~~[ex]~~, for the crime of aggravated murder as defined in  
9 subdivision one of section 125.26 of this chapter or the crime of rape  
10 in the first degree as defined in section 130.35 of this chapter. A  
11 defendant may be sentenced to life imprisonment without parole upon  
12 conviction for the crime of aggravated murder as defined in subdivision  
13 two of section 125.26 of this chapter.

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

17 5. Life imprisonment without parole. Notwithstanding any other  
18 provision of law, a defendant sentenced to life imprisonment without  
19 parole shall not be or become eligible for parole or conditional  
20 release. For purposes of commitment and custody, other than parole and  
21 conditional release, such sentence shall be deemed to be an indetermi-  
22 nate sentence. A defendant may be sentenced to life imprisonment without  
23 parole upon conviction for the crime of murder in the first degree as  
24 defined in section 125.27 of this chapter and in accordance with the  
25 procedures provided by law for imposing a sentence for such crime. A  
26 defendant who was eighteen years of age or older at the time of the  
27 commission of the crime must be sentenced to life imprisonment without  
28 parole upon conviction for the crime of terrorism as defined in section  
29 490.25 of this chapter, where the specified offense the defendant  
30 committed is a class A-I felony; the crime of criminal possession of a  
31 chemical weapon or biological weapon in the first degree as defined in  
32 section 490.45 of this chapter; or the crime of criminal use of a chemi-  
33 cal weapon or biological weapon in the first degree as defined in  
34 section 490.55 of this chapter; provided, however, that nothing in this  
35 subdivision shall preclude or prevent a sentence of death when the  
36 defendant is also convicted of the crime of murder in the first degree  
37 as defined in section 125.27 of this chapter. A defendant who was seven-  
38 teen years of age or younger at the time of the commission of the crime  
39 may be sentenced, in accordance with law, to the applicable indetermi-  
40 nate sentence with a maximum term of life imprisonment. A defendant must  
41 be sentenced to life imprisonment without parole upon conviction for the  
42 crime of murder in the second degree as defined in subdivision five of  
43 section 125.25 of this chapter ~~[ex]~~, for the crime of aggravated murder  
44 as defined in subdivision one of section 125.26 of this chapter or for  
45 the crime of rape in the first degree as defined in section 130.35 of  
46 this chapter. A defendant may be sentenced to life imprisonment without  
47 parole upon conviction for the crime of aggravated murder as defined in  
48 subdivision two of section 125.26 of this chapter.

49 § 4. This act shall take effect on the first of November next succeed-  
50 ing the date on which it shall have become a law; provided, however,  
51 that if section 40-a of part WWW of chapter 59 of the laws of 2017 shall  
52 not have taken effect on or before such date then section three of this  
53 act shall take effect on the same date and in the same manner as such  
54 section of such chapter of the laws of 2017 takes effect.