

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.

LBD14642-01-8

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.