

STATE OF NEW YORK

8015

IN SENATE

March 19, 2018

Introduced by Sens. GOLDEN, GALLIVAN, AKSHAR, CROCI, LANZA, 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 the sentence imposed for
convictions of murder in the first degree

The People of the State of New York, represented in Senate and Assem-
bly, 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 a defendant is convicted of murder in the first degree as defined
10 in subparagraph (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi),
11 (xii) or (xiii) of paragraph (a) of subdivision one of section 125.27 of
12 this chapter, the court shall, in accordance with the provisions of
13 section 400.27 of the criminal procedure law, sentence the defendant to
14 death, to life imprisonment without parole in accordance with subdivi-
15 sion five of section 70.00 of this title, or to a term of imprisonment
16 for a class A-I felony other than a sentence of life imprisonment with-
17 out parole, in accordance with subdivisions one through three of section
18 70.00 of this title. When a defendant is convicted of murder in the
19 first degree as defined in subparagraph (i), (ii) or (ii-a) of paragraph
20 (a) of subdivision one of section 125.27 of this chapter, the court
21 shall sentence the defendant to death or life imprisonment without
22 parole. When a person is convicted of murder in the second degree as
23 defined in subdivision five of section 125.25 of this chapter or of the
24 crime of aggravated murder as defined in subdivision one of section
25 125.26 of this chapter, the court shall sentence the defendant to life
26 imprisonment without parole in accordance with subdivision five of
27 section 70.00 of this title. When a defendant is convicted of the crime

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

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1 of terrorism as defined in section 490.25 of this chapter, and the spec-
2 ified offense the defendant committed is a class A-I felony offense, or
3 when a defendant is convicted of the crime of criminal possession of a
4 chemical weapon or biological weapon in the first degree as defined in
5 section 490.45 of this chapter, or when a defendant is convicted of the
6 crime of criminal use of a chemical weapon or biological weapon in the
7 first degree as defined in section 490.55 of this chapter, the court
8 shall sentence the defendant to life imprisonment without parole in
9 accordance with subdivision five of section 70.00 of this title;
10 provided, however, that nothing in this section shall preclude or
11 prevent a sentence of death when the defendant is also convicted of
12 murder in the first degree as defined in section 125.27 of this chapter.
13 When a defendant is convicted of aggravated murder as defined in subdi-
14 vision two of section 125.26 of this chapter, the court shall sentence
15 the defendant to life imprisonment without parole or to a term of impri-
16 sonment for a class A-I felony other than a sentence of life imprison-
17 ment without parole, in accordance with subdivisions one through three
18 of section 70.00 of this title.

19 § 2. Subdivision 5 of section 70.00 of the penal law, as amended by
20 chapter 482 of the laws of 2009, is amended to read as follows:

21 5. Life imprisonment without parole. Notwithstanding any other
22 provision of law, a defendant sentenced to life imprisonment without
23 parole shall not be or become eligible for parole or conditional
24 release. For purposes of commitment and custody, other than parole and
25 conditional release, such sentence shall be deemed to be an indetermi-
26 nate sentence. A defendant may be sentenced to life imprisonment without
27 parole upon conviction for the crime of murder in the first degree as
28 defined in subparagraph (iii), (iv), (v), (vi), (vii), (viii), (ix),
29 (x), (xi), (xii) or (xiii) of paragraph (a) of subdivision one of
30 section 125.27 of this chapter and in accordance with the procedures
31 provided by law for imposing a sentence for such crime. A defendant
32 shall be sentenced to life imprisonment without parole upon conviction
33 for the crime of murder in the first degree as defined in subparagraph
34 (i), (ii) or (ii-a) of paragraph (a) of subdivision one of section
35 125.27 of this chapter. A defendant must be sentenced to life imprison-
36 ment without parole upon conviction for the crime of terrorism as
37 defined in section 490.25 of this chapter, where the specified offense
38 the defendant committed is a class A-I felony; the crime of criminal
39 possession of a chemical weapon or biological weapon in the first degree
40 as defined in section 490.45 of this chapter; or the crime of criminal
41 use of a chemical weapon or biological weapon in the first degree as
42 defined in section 490.55 of this chapter; provided, however, that noth-
43 ing in this subdivision shall preclude or prevent a sentence of death
44 when the defendant is also convicted of the crime of murder in the first
45 degree as defined in section 125.27 of this chapter. A defendant must be
46 sentenced to life imprisonment without parole upon conviction for the
47 crime of murder in the second degree as defined in subdivision five of
48 section 125.25 of this chapter or for the crime of aggravated murder as
49 defined in subdivision one of section 125.26 of this chapter. A defend-
50 ant may be sentenced to life imprisonment without parole upon conviction
51 for the crime of aggravated murder as defined in subdivision two of
52 section 125.26 of this chapter.

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

1 5. Life imprisonment without parole. Notwithstanding any other
2 provision of law, a defendant sentenced to life imprisonment without
3 parole shall not be or become eligible for parole or conditional
4 release. For purposes of commitment and custody, other than parole and
5 conditional release, such sentence shall be deemed to be an indetermi-
6 nate sentence. A defendant may be sentenced to life imprisonment without
7 parole upon conviction for the crime of murder in the first degree as
8 defined in subparagraph (iii), (iv), (v), (vi), (vii), (viii), (ix),
9 (x), (xi), (xii) or (xiii) of paragraph (a) of subdivision one of
10 section 125.27 of this chapter and in accordance with the procedures
11 provided by law for imposing a sentence for such crime. A defendant
12 shall be sentenced to life imprisonment without parole upon conviction
13 for the crime of murder in the first degree as defined in subparagraph
14 (i), (ii) or (ii-a) of paragraph (a) of subdivision one of section
15 125.27 of this chapter. A defendant who was eighteen years of age or
16 older at the time of the commission of the crime must be sentenced to
17 life imprisonment without parole upon conviction for the crime of
18 terrorism as defined in section 490.25 of this chapter, where the speci-
19 fied offense the defendant committed is a class A-I felony; the crime of
20 criminal possession of a chemical weapon or biological weapon in the
21 first degree as defined in section 490.45 of this chapter; or the crime
22 of criminal use of a chemical weapon or biological weapon in the first
23 degree as defined in section 490.55 of this chapter; provided, however,
24 that nothing in this subdivision shall preclude or prevent a sentence of
25 death when the defendant is also convicted of the crime of murder in the
26 first degree as defined in section 125.27 of this chapter. A defendant
27 who was seventeen years of age or younger at the time of the commission
28 of the crime may be sentenced, in accordance with law, to the applicable
29 indeterminate sentence with a maximum term of life imprisonment. A
30 defendant must be sentenced to life imprisonment without parole upon
31 conviction for the crime of murder in the second degree as defined in
32 subdivision five of section 125.25 of this chapter or for the crime of
33 aggravated murder as defined in subdivision one of section 125.26 of
34 this chapter. A defendant may be sentenced to life imprisonment without
35 parole upon conviction for the crime of aggravated murder as defined in
36 subdivision two of section 125.26 of this chapter.

37 § 4. This act shall take effect October 1, 2018; provided, however,
38 that if section 40-a of part WWW of chapter 59 of the laws of 2017 shall
39 not have taken effect on or before such date then section three of this
40 act shall take effect on the same date and in the same manner as such
41 chapter of the laws of 2017, takes effect.