

# STATE OF NEW YORK

7299

2019-2020 Regular Sessions

## IN ASSEMBLY

April 22, 2019

Introduced by M. of A. BARNWELL -- Multi-Sponsored by -- M. of A. 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 Assem-  
bly, 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 section 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 189 of the laws of 2018, 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.

LBD02216-01-9

1 first degree as defined in section 130.70, course of sexual conduct  
2 against a child in the first degree as defined in section 130.75;  
3 assault in the first degree as defined in section 120.10, kidnapping in  
4 the second degree as defined in section 135.20, burglary in the first  
5 degree as defined in section 140.30, arson in the second degree as  
6 defined in section 150.15, robbery in the first degree as defined in  
7 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of  
8 subdivision five of section 230.34, sex trafficking of a child as  
9 defined in section 230.34-a, incest in the first degree as defined in  
10 section 255.27, criminal possession of a weapon in the first degree as  
11 defined in section 265.04, criminal use of a firearm in the first degree  
12 as defined in section 265.09, criminal sale of a firearm in the first  
13 degree as defined in section 265.13, aggravated assault upon a police  
14 officer or a peace officer as defined in section 120.11, gang assault in  
15 the first degree as defined in section 120.07, intimidating a victim or  
16 witness in the first degree as defined in section 215.17, hindering  
17 prosecution of terrorism in the first degree as defined in section  
18 490.35, criminal possession of a chemical weapon or biological weapon in  
19 the second degree as defined in section 490.40, and criminal use of a  
20 chemical weapon or biological weapon in the third degree as defined in  
21 section 490.47. For those felony offenses defined in sections 130.35,  
22 130.50, 130.70, 130.75 and 255.27 of this article, at sentencing, the  
23 presiding judge shall have the option of imposing a sentence of life  
24 imprisonment with or without parole.

25 § 3. This act shall take effect immediately.