

# STATE OF NEW YORK

1995

2019-2020 Regular Sessions

## IN SENATE

January 18, 2019

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to imposing a mandatory sentence of life imprisonment without parole upon conviction of murder in the first degree; and to repeal sections 270.55 and 400.27 of the criminal procedure law relating to the procedure for determining the sentence for conviction of murder in the first degree

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

Section 1. Section 60.06 of the penal law, as amended by chapter 482 of the laws of 2009, is amended to read as follows:

§ 60.06 Authorized disposition; murder in the first degree offenders; aggravated murder offenders; certain murder in the second degree offenders; certain terrorism offenders; criminal possession of a chemical weapon or biological weapon offenders; criminal use of a chemical weapon or biological weapon offenders.

When a defendant is convicted of murder in the first degree as defined in section 125.27 of this chapter, the court shall~~[, in accordance with the provisions of section 400.27 of the criminal procedure law,]~~ sentence the defendant to ~~[death, to]~~ life imprisonment without parole in accordance with subdivision five of section 70.00 of this title~~[, or to a term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title]~~. When a person is convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or of the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title. When

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

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

19 § 2. Subparagraph (i) of paragraph (a) of subdivision 3 of section  
20 70.00 of the penal law, as amended by chapter 107 of the laws of 2006,  
21 is amended to read as follows:

22 (i) For a class A-I felony, such minimum period shall not be less than  
23 fifteen years nor more than twenty-five years; provided, however, that  
24 (A) where a sentence[~~, other than a sentence of death or life imprison-~~  
25 ~~ment without parole,~~] is imposed upon a defendant convicted of murder in  
26 the first degree as defined in section 125.27 of this chapter [~~such~~  
27 ~~minimum period shall be not less than twenty years nor more than twen-~~  
28 ~~ty-five years~~], the sentence shall be life without parole, and, (B)  
29 where a sentence is imposed upon a defendant convicted of murder in the  
30 second degree as defined in subdivision five of section 125.25 of this  
31 chapter or convicted of aggravated murder as defined in section 125.26  
32 of this chapter, the sentence shall be life imprisonment without parole,  
33 and, (C) where a sentence is imposed upon a defendant convicted of  
34 attempted murder in the first degree as defined in article one hundred  
35 ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a)  
36 of subdivision one and paragraph (b) of subdivision one of section  
37 125.27 of this chapter or attempted aggravated murder as defined in  
38 article one hundred ten of this chapter and section 125.26 of this chap-  
39 ter such minimum period shall be not less than twenty years nor more  
40 than forty years.

41 § 3. Subdivision 5 of section 70.00 of the penal law, as amended by  
42 chapter 482 of the laws of 2009, is amended to read as follows:

43 5. Life imprisonment without parole. Notwithstanding any other  
44 provision of law, a defendant sentenced to life imprisonment without  
45 parole shall not be or become eligible for parole or conditional  
46 release. For purposes of commitment and custody, other than parole and  
47 conditional release, such sentence shall be deemed to be an indetermi-  
48 nate sentence. A defendant [~~may~~] shall be sentenced to life imprisonment  
49 without parole upon conviction for the crime of murder in the first  
50 degree as defined in section 125.27 of this chapter and in accordance  
51 with the procedures provided by law for imposing a sentence for such  
52 crime. A defendant must be sentenced to life imprisonment without parole  
53 upon conviction for the crime of terrorism as defined in section 490.25  
54 of this chapter, where the specified offense the defendant committed is  
55 a class A-I felony; the crime of criminal possession of a chemical weap-  
56 on or biological weapon in the first degree as defined in section 490.45

1 of this chapter; or the crime of criminal use of a chemical weapon or  
2 biological weapon in the first degree as defined in section 490.55 of  
3 this chapter[~~, provided, however, that nothing in this subdivision shall~~  
4 ~~preclude or prevent a sentence of death when the defendant is also~~  
5 ~~convicted of the crime of murder in the first degree as defined in~~  
6 ~~section 125.27 of this chapter~~]. A defendant must be sentenced to life  
7 imprisonment without parole upon conviction for the crime of murder in  
8 the second degree as defined in subdivision five of section 125.25 of  
9 this chapter or for the crime of aggravated murder as defined in subdi-  
10 vision one of section 125.26 of this chapter. A defendant may be  
11 sentenced to life imprisonment without parole upon conviction for the  
12 crime of aggravated murder as defined in subdivision two of section  
13 125.26 of this chapter.

14 § 4. 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~~] shall be sentenced to life imprisonment  
23 without parole upon conviction for the crime of murder in the first  
24 degree as defined in section 125.27 of this chapter and in accordance  
25 with the procedures provided by law for imposing a sentence for such  
26 crime. A defendant who was eighteen years of age or older at the time of  
27 the commission of the crime must be sentenced to life imprisonment with-  
28 out parole upon conviction for the crime of terrorism as defined in  
29 section 490.25 of this chapter, where the specified offense the defend-  
30 ant committed is a class A-I felony; the crime of criminal possession of  
31 a 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  
38 seventeen years of age or younger at the time of the commission of the  
39 crime may be sentenced, in accordance with law, to the applicable inde-  
40 terminate sentence with a maximum term of life imprisonment. A defendant  
41 must be sentenced to life imprisonment without parole upon conviction  
42 for the crime of murder in the second degree as defined in subdivision  
43 five of section 125.25 of this chapter or for the crime of aggravated  
44 murder as defined in subdivision one of section 125.26 of this chapter.  
45 A defendant may be sentenced to life imprisonment without parole upon  
46 conviction for the crime of aggravated murder as defined in subdivision  
47 two of section 125.26 of this chapter.

48 § 5. Paragraph (d) of subdivision 2 of section 490.25 of the penal  
49 law, as added by chapter 300 of the laws of 2001, is amended to read as  
50 follows:

51 (d) Notwithstanding any other provision of law, when a person is  
52 convicted of a crime of terrorism pursuant to this section, and the  
53 specified offense is a class A-I felony offense, the sentence upon  
54 conviction of such offense shall be life imprisonment without parole[~~,  
55 provided, however, that nothing herein shall preclude or prevent a~~

~~sentence of death when the specified offense is murder in the first degree as defined in section 125.27 of this chapter~~].

§ 6. Paragraph (e) of subdivision 5 of section 220.10 of the criminal procedure law, as amended by chapter 1 of the laws of 1995, is amended to read as follows:

(e) A defendant may not enter a plea of guilty to the crime of murder in the first degree as defined in section 125.27 of the penal law; provided, however, that a defendant may enter such a plea with both the permission of the court and the consent of the people when the agreed upon sentence is [~~either~~] life imprisonment without parole [~~or a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole~~].

§ 7. Subparagraph (vii) of paragraph (b) of subdivision 3 of section 220.30 of the criminal procedure law, as amended by chapter 1 of the laws of 1995, is amended to read as follows:

(vii) A defendant may not enter a plea of guilty to the crime of murder in the first degree as defined in section 125.27 of the penal law; provided, however, that a defendant may enter such a plea with both the permission of the court and the consent of the people when the agreed upon sentence is [~~either~~] life imprisonment without parole [~~or a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole~~].

§ 8. Section 270.55 of the criminal procedure law is REPEALED.

§ 9. Section 400.27 of the criminal procedure law is REPEALED.

§ 10. This act shall take effect immediately and shall apply to offenses committed on or after such effective date; provided, that section four of this act shall take effect on the same date and in the same manner as section 40-a of part WWW of chapter 59 of the laws of 2017, takes effect.