

# STATE OF NEW YORK

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4635

2021-2022 Regular Sessions

## IN SENATE

February 8, 2021

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Introduced by Sen. LANZA -- 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 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 section 40-a of part WWW of chapter 59 of the laws of 2017, is amended  
7 to read as follows:

8 5. Life imprisonment without parole. Notwithstanding any other  
9 provision of law, a defendant sentenced to life imprisonment without  
10 parole shall not be or become eligible for parole or conditional  
11 release. For purposes of commitment and custody, other than parole and  
12 conditional release, such sentence shall be deemed to be an indetermi-  
13 nate sentence. A defendant may be sentenced to life imprisonment without  
14 parole upon conviction for the crime of murder in the first degree as  
15 defined in section 125.27 of this chapter and in accordance with the  
16 procedures provided by law for imposing a sentence for such crime. A  
17 defendant who was eighteen years of age or older at the time of the  
18 commission of the crime must be sentenced to life imprisonment without  
19 parole upon conviction for the crime of terrorism as defined in section  
20 490.25 of this chapter, where the specified offense the defendant  
21 committed is a class A-I felony; the crime of criminal possession of a  
22 chemical weapon or biological weapon in the first degree as defined in  
23 section 490.45 of this chapter; or the crime of criminal use of a chemi-  
24 cal weapon or biological weapon in the first degree as defined in

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

LBD06250-01-1

1 section 490.55 of this chapter; provided, however, that nothing in this  
2 subdivision shall preclude or prevent a sentence of death when the  
3 defendant is also convicted of the crime of murder in the first degree  
4 as defined in section 125.27 of this chapter. A defendant who was seven-  
5 teen years of age or younger at the time of the commission of the crime  
6 may be sentenced, in accordance with law, to the applicable indetermi-  
7 nate sentence with a maximum term of life imprisonment. A defendant must  
8 be sentenced to life imprisonment without parole upon conviction for the  
9 crime of murder in the second degree as defined in subdivision five of  
10 section 125.25 of this chapter ~~[ex]~~ for the crime of aggravated murder  
11 as defined in subdivision one of section 125.26 of this chapter or for  
12 the crime of rape in the first degree as defined in section 130.35 of  
13 this chapter. A defendant may be sentenced to life imprisonment without  
14 parole upon conviction for the crime of aggravated murder as defined in  
15 subdivision two of section 125.26 of this chapter.  
16 § 3. This act shall take effect on the first of November next succeed-  
17 ing the date on which it shall have become a law.