STATE OF NEW YORK

5353

2021-2022 Regular Sessions

IN SENATE

March 2, 2021

Introduced by Sen. SEPULVEDA -- 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 requiring that a defendant must be over twenty-five years old to be guilty of felony murder

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

Section 1. The opening paragraph and paragraph (d) of subdivision 3 of section 125.25 of the penal law, the opening paragraph as amended by chapter 264 of the laws of 2003 and paragraph (d) as amended by chapter 477 of the laws of 1990, are amended to read as follows:

Acting either alone or with one or more other persons, [~~he~~] **a defendant being more than twenty-five years old** commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, criminal sexual act in the first degree, sexual abuse in the first degree, aggravated sexual abuse, escape in the first degree, or escape in the second degree, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he **or she**, or another participant, if there be any, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:

(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury[~~; or~~]**.**

§ 2. This act shall take effect immediately.

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

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