

# STATE OF NEW YORK

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3128

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

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Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to making life imprisonment without parole mandatory for defendants convicted of murder in the first degree and the victim is a police officer

The People of the State of New York, represented in Senate and Assembly, 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 section 125.27 of this chapter, the court shall, in accordance with  
11 the provisions of section 400.27 of the criminal procedure law, sentence  
12 the defendant to death, to life imprisonment without parole in accord-  
13 ance with subdivision five of section 70.00 of this title, or, except as  
14 provided in subdivision five of section 70.00 of this title, to a term  
15 of imprisonment for a class A-I felony other than a sentence of life  
16 imprisonment without parole, in accordance with subdivisions one through  
17 three of section 70.00 of this title. When a person is convicted of  
18 murder in the second degree as defined in subdivision five of section  
19 125.25 of this chapter or of the crime of aggravated murder as defined  
20 in subdivision one of section 125.26 of this chapter, the court shall  
21 sentence the defendant to life imprisonment without parole in accordance  
22 with subdivision five of section 70.00 of this title. When a defendant  
23 is convicted of the crime of terrorism as defined in section 490.25 of  
24 this chapter, and the specified offense the defendant committed is a

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

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

17 § 2. Subdivision 5 of section 70.00 of the penal law, as amended by  
18 section 40-a of part WWW of chapter 59 of the laws of 2017, is amended  
19 to read as follows:

20 5. Life imprisonment without parole. Notwithstanding any other  
21 provision of law, a defendant sentenced to life imprisonment without  
22 parole shall not be or become eligible for parole or conditional  
23 release. For purposes of commitment and custody, other than parole and  
24 conditional release, such sentence shall be deemed to be an indetermi-  
25 nate sentence. A defendant may be sentenced to life imprisonment without  
26 parole upon conviction for the crime of murder in the first degree as  
27 defined in section 125.27 of this chapter and in accordance with the  
28 procedures provided by law for imposing a sentence for such crime. A  
29 defendant who was eighteen years of age or older at the time of the  
30 commission of the crime must be sentenced to life imprisonment without  
31 parole upon conviction for the crime of terrorism as defined in section  
32 490.25 of this chapter, where the specified offense the defendant  
33 committed is a class A-I felony; the crime of criminal possession of a  
34 chemical weapon or biological weapon in the first degree as defined in  
35 section 490.45 of this chapter; or the crime of criminal use of a chemi-  
36 cal weapon or biological weapon in the first degree as defined in  
37 section 490.55 of this chapter; provided, however, that nothing in this  
38 subdivision shall preclude or prevent a sentence of death when the  
39 defendant is also convicted of the crime of murder in the first degree  
40 as defined in section 125.27 of this chapter. A defendant who was seven-  
41 teen years of age or younger at the time of the commission of the crime  
42 may be sentenced, in accordance with law, to the applicable indetermi-  
43 nate sentence with a maximum term of life imprisonment. A defendant must  
44 be sentenced to life imprisonment without parole upon conviction for the  
45 crime of murder in the first degree as defined in subparagraph (i) of  
46 paragraph (a) of subdivision one of section 125.27 of this chapter. A  
47 defendant must be sentenced to life imprisonment without parole upon  
48 conviction for the crime of murder in the second degree as defined in  
49 subdivision five of section 125.25 of this chapter or for the crime of  
50 aggravated murder as defined in subdivision one of section 125.26 of  
51 this chapter. A defendant may be sentenced to life imprisonment without  
52 parole upon conviction for the crime of aggravated murder as defined in  
53 subdivision two of section 125.26 of this chapter.

54 § 3. This act shall take effect on the first of November next succeed-  
55 ing the date on which it shall have become a law.