

TABLE 9.26
Capital Punishment

<i>State or other jurisdiction</i>	<i>Capital offenses by state</i>	<i>Prisoners under sentence of death</i>	<i>Method of execution</i>
Alabama	Intentional murder with 18 aggravating factors (Ala. Stat. Ann. 13A-5-40(a)(1)-(18)).	191	Electrocution or lethal injection
Alaska	...	...	...
Arizona	First-degree murder, including pre-meditated murder and felony murder, accompanied by at least 1 of 14 aggravating factors (A.R.S. § 13-703(F)).	125	Lethal gas or lethal injection (a)
Arkansas	Capital murder (Ark. Code Ann. 5-10-101) with a finding of at least 1 of 10 aggravating circumstances; treason.	32	Lethal injection or electrocution (b)
California	First-degree murder with special circumstances; sabotage; train wrecking causing death; treason; perjury causing execution of an innocent person; fatal assault by a prisoner serving a life sentence.	746	Lethal injection
Colorado	First-degree murder with at least 1 of 17 aggravating factors; first-degree kidnapping resulting in death; treason.	3	Lethal injection
Connecticut	... (c)	0	Lethal injection (c)
Delaware	(t)	(t)	...
Florida (e)	First-degree murder; felony murder; capital drug trafficking; capital sexual battery.	374	Electrocution or lethal injection
Georgia	Murder with aggravating circumstances; kidnapping with bodily injury or ransom when the victim dies; aircraft hijacking; treason.	61	Lethal injection
Hawaii	...	...	...
Idaho	First-degree murder with aggravating factors; first-degree kidnapping; perjury resulting in death.	8	Lethal injection
Illinois	... (f)	0	...
Indiana	Murder with 17 aggravating circumstances (IC 35-50-2-9).	12	Lethal injection or electrocution
Iowa	...	...	...
Kansas	Capital murder with 8 aggravating circumstances (KSA 21-3439, KSA 21-4625, KSA 21-4636).	10	Lethal injection
Kentucky	Capital murder with presence of at least one statutory aggravating circumstance; capital kidnapping (KRS 532.025).	33	Electrocution or lethal injection (g)
Louisiana (e)	First-degree murder; treason (La. R.S. 14:30 and 14:113).	73	Lethal injection
Maine	...	...	...
Maryland	... (h)	...	(h)
Massachusetts	...	...	...
Michigan	...	...	...
Minnesota	...	...	...
Mississippi	Capital murder (Miss Code Ann. § 97-3-19(2)); aircraft piracy (Miss Code Ann. § 97-25-55(1)).	48	Lethal injection
Missouri	First-degree murder (565.020 RSMO 2000).	24	Lethal injection or lethal gas
Montana (e)	Capital murder with 1 of 9 aggravating circumstances (Mont. Code Ann. § 46-18-303); aggravated kidnapping; felony murder; capital sexual intercourse without consent (Mont. Code Ann. § 45-5-503).	2	Lethal injection
Nebraska	(s)	11	...
Nevada	First-degree murder with at least 1 of 15 aggravating circumstances (NRS 200.030, 200.033, 200.035).	82	Lethal injection
New Hampshire	Murder committed in the course of rape, kidnapping, home invasion, drug crimes; killing of a police officer, judge, or prosecutor; murder for hire; murder by an inmate while serving a sentence of life without parole (RSA 630:1, RSA 630:5).	1	Lethal injection or hanging (i)
New Jersey	... (j)	...	...
New Mexico	... (k)	2	Lethal injection (k)
New York (l)	First-degree murder with 1 of 13 aggravating factors (NY Penal Law §125.27).	0	Lethal injection
North Carolina	First-degree murder with the finding of at least 1 of 11 statutory aggravating circumstances. (NCGS §14-17).	152	Lethal injection
North Dakota	...	...	...
Ohio	Aggravated murder with at least 1 of 10 aggravating circumstances (O.R.C. secs. 2903.01, 2929.02, and 2929.04).	144	Lethal injection
Oklahoma (e)	First-degree murder in conjunction with a finding of at least 1 of 8 statutorily-defined aggravating circumstances.	47	Electrocution, lethal injection or firing squad (m)
Oregon (n)	Aggravated murder (ORS 163.095-150).	33	Lethal injection
Pennsylvania	First-degree murder with 18 aggravating circumstances.	169	Lethal injection
Rhode Island	...	...	...
South Carolina (e)	Murder with 1 of 12 aggravating circumstances (§ 16-3-20(C)a).	41	Electrocution or lethal injection
South Dakota	First-degree murder with 1 of 10 aggravating circumstances.	3	Lethal injection

See footnotes at end of table

CRIMINAL JUSTICE/CORRECTIONS

TABLE 9.26

Capital Punishment (continued)

State or other jurisdiction	Capital offenses by state	Prisoners under sentence of death	Method of execution
Tennessee	First-degree murder (Tenn. Code Ann. § 39-13-202) with 1 of 16 aggravating circumstances (Tenn. Code Ann. § 39-13-204).	62	Lethal injection or electrocution (o)
Texas (e)	Criminal homicide with 1 of 9 aggravating circumstances (TX Penal Code § 19.03).	243	Lethal injection
Utah	Aggravated murder (76-5-202, Utah Code Annotated).	9	Lethal injection or firing squad (p)
Vermont	...	...	...
Virginia	First-degree murder with 1 of 15 aggravating circumstances (VA Code § 18.2-31).	5	Electrocution or lethal injection
Washington	Aggravated first-degree murder.	8	Lethal injection or hanging
West Virginia	...	...	...
Wisconsin	...	...	...
Wyoming	First-degree murder; murder during the commission of sexual assault, sexual abuse of a minor, arson, robbery, burglary, escape, resisting arrest, kidnapping, or abuse of a minor under 16 (W.S.A. § 6-2-101 (a)).	1	Lethal injection or lethal gas (q)
Dist. of Columbia	...	...	...
American Samoa	First-degree murder (ASC §46.3513). (p)	0	Hanging (r)
Guam	...	...	...
CNMI*	...	...	...
Puerto Rico	...	...	...
U.S. Virgin Islands	...	...	...

Sources: The Council of State Governments' survey March, 2018, U.S. Department of Justice, Office of Justice programs, Bureau of Justice Statistics, Capital Punishment, 2015–Statistical Tables, December 2015.

The United States Supreme Court ruling in *Roper v. Simmons*, 543 U.S. 551 (2005) declared unconstitutional the imposition of the death penalty on persons under the age of 18.

The United States Supreme Court ruling in *Atkins v. Virginia*, 536 U.S. 304 (2002) declared unconstitutional the imposition of the death penalty on mentally handicapped persons.

The method of execution of Federal prisoners is lethal injection, pursuant to 28 CFR, Part 26. For offenses under the Violent Crime Control and Law Enforcement Act of 1994, the execution method is that of the State in which the conviction took place (18 U.S.C. 3596).

*Commonwealth of the Northern Mariana Islands

Key:

...—No capital punishment statute.

(a) Arizona authorizes lethal injection for persons sentenced after November 15, 1992; inmates sentenced before that date may select lethal injection or gas.

(b) Arkansas authorizes lethal injection for those whose offense occurred on or after July 4, 1983; inmates whose offense occurred before that date may select lethal injection or electrocution.

(c) On April 25, 2012, Connecticut Governor Dannel Malloy signed into law a bill (SB 280) repealing the state's death penalty. The law replaces the death penalty with a sentence of life without parole for future cases, and does not apply to those already sentenced to death. The Connecticut Supreme Court is currently considering whether the 11 inmates who remain on death row can still be executed.

(d) The Delaware Supreme Court declared the state's death-penalty statute unconstitutional in 2016. The state's 17 former death-row prisoners have been resentenced to life without parole.

(e) The United States Supreme Court struck a portion of the Louisiana capital statute on June 25, 2008 (*Kennedy v. Louisiana*, U.S. 128 S.Ct. 2641). The statute (La. Rev. Stat. Ann. § 14:42(D)(2))

allowing execution as a punishment for the rape of a minor when no murder had been committed had been ruled constitutionally permissible by the Louisiana Supreme Court. The U.S. Supreme Court found that since no national consensus existed for application of the death penalty in cases of rape where no murder had been committed, such laws constitute cruel and unusual punishment under the Eighth and Fourteenth Amendments. The ruling affects laws passed in Florida, Oklahoma, South Carolina, Texas, and Montana.

(f) Governor Pat Quinn signed a bill (SB 3539) on March 9, 2011 that abolishes the death penalty effective July 1, 2011. He commuted all death sentences to life without parole.

(g) Kentucky authorizes lethal injection for persons sentenced on or after March 31, 1998; inmates sentenced before that date may select lethal injection or electrocution.

(h) On May 2, 2013, Governor Martin O'Malley signed into law a bill (SB 276) that abolishes the death penalty for future crimes. Gov. O'Malley announced on December 31, 2014, that he would commute the sentences of the four remaining death-row inmates to life in prison without the possibility of parole.

(i) New Hampshire authorizes hanging only if lethal injection cannot be given.

(j) New Jersey repealed its death penalty statute in 2007.

(k) Governor Bill Richardson signed a bill in March of 2009 abolishing the death penalty. The law is not retroactive and leaves two inmates on death row.

(l) The New York Court of Appeals has held that a portion of New York's death penalty sentencing statute (CPL 400.27) was unconstitutional (*People v. Taylor*, 9 N.Y.3d 129 (2007)). As a result, no defendants can be sentenced to death until the legislature corrects the errors in this statute. Efforts to restore the statute have been voted down.

(m) Oklahoma authorizes electrocution if lethal injection is held to be unconstitutional, and firing squad if both lethal injection and electrocution are held to be unconstitutional.