

## CRIMINAL JUSTICE/CORRECTIONS

**Table 9.22**  
**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>            |
|------------------------------------|---|--|---------------------------------------|
| <b>Alabama</b> .....               | Intentional murder with 18 aggravating factors (Ala. Stat. Ann. 13A-5-40(a)(1)-(18)).   | 201                                      | Electrocution or lethal injection     |
| <b>Alaska</b> .....                | ...   | ...                                      | ...                                   |
| <b>Arizona</b> .....               | 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)).  | 124                                      | Lethal gas or lethal injection (a)    |
| <b>Arkansas</b> .....              | Capital murder (Ark. Code Ann. 5-10-101) with a finding of at least 1 of 10 aggravating circumstances; treason.   | 35                                       | Lethal injection or electrocution (b) |
| <b>California</b> .....            | 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                      |
| <b>Colorado</b> .....              | First-degree murder with at least 1 of 17 aggravating factors; first-degree kidnapping resulting in death; treason.   | 3  | Lethal injection                      |
| <b>Connecticut</b> .....           | ... (c)   | 12                                       | Lethal injection (c)                  |
| <b>Delaware</b> .....              | First-degree murder (11 Del. C. §636) with at least 1 statutory aggravating circumstance. (11 Del. C. §4209).   | 17                                       | Lethal injection (d) or hanging       |
| <b>Florida (e)</b> .....           | First-degree murder; felony murder; capital drug trafficking; capital sexual battery.   | 401                                      | Electrocution or lethal injection     |
| <b>Georgia</b> .....               | Murder with aggravating circumstances; kidnapping with bodily injury or ransom when the victim dies; aircraft hijacking; treason.   | 85                                       | Lethal injection                      |
| <b>Hawaii</b> .....                | ...   | ...                                      | ...                                   |
| <b>Idaho</b> .....                 | First-degree murder with aggravating factors; first-degree kidnapping; perjury resulting in death.  | 11                                       | Lethal injection                      |
| <b>Illinois</b> .....              | ... (f)   | 0  | ...                                   |
| <b>Indiana</b> .....               | Murder with 17 aggravating circumstances (IC 35-50-2-9).  | 14                                       | Lethal injection or electrocution     |
| <b>Iowa</b> .....                  | ...   | ...                                      | ...                                   |
| <b>Kansas</b> .....                | Capital murder with 8 aggravating circumstances (KSA 21-3439, KSA 21-4625, KSA 21-4636).  | 9  | Lethal injection                      |
| <b>Kentucky</b> .....              | Capital murder with presence of at least one statutory aggravating circumstance; capital kidnapping (KRS 532.025).  | 34                                       | Electrocution or lethal injection (g) |
| <b>Louisiana (e)</b> .....         | First-degree murder; treason (La. R.S. 14:30 and 14:113).   | 85                                       | Lethal injection                      |
| <b>Maine</b> .....                 | ...   | ...                                      | ...                                   |
| <b>Maryland</b> .....              | ... (h)   | ...                                      | (h)                                   |
| <b>Massachusetts</b> .....         | ...   | ...                                      | ...                                   |
| <b>Michigan</b> .....              | ...   | ...                                      | ...                                   |
| <b>Minnesota</b> .....             | ...   | ...                                      | ...                                   |
| <b>Mississippi</b> .....           | Capital murder (Miss Code Ann. § 97-3-19(2)); aircraft piracy (Miss Code Ann. § 97-25-55(1)).   | 48                                       | Lethal injection                      |
| <b>Missouri</b> .....              | First-degree murder (565.020 RSMO 2000).  | 33                                       | Lethal injection or lethal gas        |
| <b>Montana (e)</b> .....           | 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                      |
| <b>Nebraska</b> .....              | ... (s)   | 10                                       | ...                                   |
| <b>Nevada</b> .....                | First-degree murder with at least 1 of 15 aggravating circumstances (NRS 200.030, 200.033, 200.035).  | 78                                       | Lethal injection                      |
| <b>New Hampshire</b> .....         | 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)       |
| <b>New Jersey</b> .....            | ... (j)   | ...                                      | ...                                   |
| <b>New Mexico</b> .....            | ... (k)   | 2  | Lethal injection (k)                  |
| <b>New York (l)</b> .....          | First-degree murder with 1 of 13 aggravating factors (NY Penal Law §125.27).  | 0  | Lethal injection                      |

See footnotes at end of table.

**CAPITAL PUNISHMENT — Continued**

| <i>State or other jurisdiction</i> | <i>Capital offenses by state</i>   | <i>Prisoners under sentence of death</i> | <i>Method of execution</i>                          |
|------------------------------------|--|--|---|
| <b>North Carolina</b> .....        | First-degree murder with the finding of at least 1 of 11 statutory aggravating circumstances. (NCGS §14-17).   | 157                                      | Lethal injection                                    |
| <b>North Dakota</b> .....          | ...  | ...                                      | ...   |
| <b>Ohio</b> .....                  | Aggravated murder with at least 1 of 10 aggravating circumstances (O.R.C. secs. 2903.01, 2929.02, and 2929.04).  | 145                                      | Lethal injection                                    |
| <b>Oklahoma (e)</b> .....          | First-degree murder in conjunction with a finding of at least 1 of 8 statutorily-defined aggravating circumstances.  | 48                                       | Electrocution, lethal injection or firing squad (m) |
| <b>Oregon (n)</b> .....            | Aggravated murder (ORS 163.095-150).   | 36                                       | Lethal injection                                    |
| <b>Pennsylvania</b> .....          | First-degree murder with 18 aggravating circumstances.   | 184                                      | Lethal injection                                    |
| <b>Rhode Island</b> .....          | ...  | ...                                      | ...   |
| <b>South Carolina (e)</b> .....    | Murder with 1 of 12 aggravating circumstances (§ 16-3-20(C)(a)).   | 44                                       | Electrocution or lethal injection                   |
| <b>South Dakota</b> .....          | First-degree murder with 1 of 10 aggravating circumstances.  | 3  | Lethal injection                                    |
| <b>Tennessee</b> .....             | First-degree murder (Tenn. Code Ann. § 39-13-202)with 1 of 16 aggravating circumstances (Tenn. Code Ann. § 39-13-204).   | 73                                       | Lethal injection or electrocution (o)               |
| <b>Texas (e)</b> .....             | Criminal homicide with 1 of 9 aggravating circumstances (TX Penal Code § 19.03).   | 271                                      | Lethal injection                                    |
| <b>Utah</b> .....                  | Aggravated murder (76-5-202, Utah Code Annotated).   | 9  | Lethal injection or firing squad (p)                |
| <b>Vermont</b> .....               | ...  | ...                                      | ...   |
| <b>Virginia</b> .....              | First-degree murder with 1 of 15 aggravating circumstances (VA Code § 18.2-31).  | 8  | Electrocution or lethal injection                   |
| <b>Washington</b> .....            | Aggravated first-degree murder.  | 9  | Lethal injection or hanging                         |
| <b>West Virginia</b> .....         | ...  | ...                                      | ...   |
| <b>Wisconsin</b> .....             | ...  | ...                                      | ...   |
| <b>Wyoming</b> .....               | 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)                  |
| <b>Dist. of Columbia</b> .....     | ...  | ...                                      | ...   |
| <b>American Samoa</b> .....        | First-degree murder (ASC §46.3513). (p)  | 0  | Hanging (r)   |
| <b>Guam</b> .....                  | ...  | ...                                      | ...   |
| <b>No. Marianas Islands</b> ...    | ...  | ...                                      | ...   |
| <b>Puerto Rico</b> .....           | ...  | ...                                      | ...   |
| <b>U.S. Virgin Islands</b> .....   | ...  | ...                                      | ...   |

Sources: The Council of State Governments' survey, January 2016; U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Capital Punishment, 2014 — Statistical Tables, December 2014. 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).

**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) Delaware authorizes hanging if lethal injection is held to be unconstitutional by a court of competent jurisdiction.

(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.

## CRIMINAL JUSTICE/CORRECTIONS

### CAPITAL PUNISHMENT — Continued

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- (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.
- (n) In November 2011, Governor John Kitzhaber placed a moratorium on all executions in Oregon.
- (o) Tennessee authorizes lethal injection for those whose capital offense occurred after December 31, 1998; those who committed the offense before that date may select electrocution by written waiver.
- (p) Authorizes firing squad if lethal injection is held unconstitutional. Inmates who selected execution by firing squad prior to May 3, 2004, may still be entitled to execution by that method.
- (q) Wyoming authorizes lethal gas if lethal injection is ever held to be unconstitutional.
- (r) The last execution was in the 1920s.
- (s) LB 268 banned the death penalty in Nebraska on May 27, 2015. Gov. Pete Ricketts vetoed the bill on May 26, 2015 and the law was sent back to the legislature. The Senate overturned the veto by 30-to-19 on May 27, 2015, resulting in Nebraska becoming the 19th state to eliminate the death penalty. The law is subject for removal once again as the Nebraska Death Penalty Repeal Referendum is on the November 8, 2016, ballot as a veto referendum.