### Table 9.23: Capital Punishment

<table>
<thead>
<tr>
<th>State or other jurisdiction</th>
<th>Capital offenses by state (a)</th>
<th>Prisoners under sentence of death (b)</th>
<th>Method of execution (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Intentional murder with 18 aggravating factors (Ala. Stat. Ann. 13A.5-40(a)(1)-(18)).</td>
<td>204</td>
<td>Electrocution or lethal injection</td>
</tr>
<tr>
<td>Alaska</td>
<td>First-degree murder accompanied by at least 1 of 14 aggravating factors (A.R.S. § 13-703(F)).</td>
<td>135</td>
<td>Lethal gas or lethal injection (c)</td>
</tr>
<tr>
<td>Arizona</td>
<td>Capital murder (Ark. Code Ann. 5-10-101) with a finding of at least 1 of 10 aggravating circumstances; treason.</td>
<td>42</td>
<td>Lethal injection or electrocution (d)</td>
</tr>
<tr>
<td>California</td>
<td>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.</td>
<td>702</td>
<td>Lethal gas or lethal injection</td>
</tr>
<tr>
<td>Colorado</td>
<td>First-degree murder with at least 1 of 17 aggravating factors; first-degree kidnapping resulting in death; treason.</td>
<td>3</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Capital felony with 8 forms of aggravated homicide (C.G.S. § 53a-54b).</td>
<td>10</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Delaware</td>
<td>First-degree murder with at least 1 statutory aggravating circumstance. (11Del. C. §4209).</td>
<td>20</td>
<td>Lethal injection (e)</td>
</tr>
<tr>
<td>Florida (f)</td>
<td>First-degree murder; felony murder; capital drug trafficking; capital sexual battery.</td>
<td>398</td>
<td>Electrocution or lethal injection</td>
</tr>
<tr>
<td>Georgia</td>
<td>Murder; kidnapping with bodily injury or ransom when the victim dies; aircraft hijacking; treason.</td>
<td>105</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Hawaii</td>
<td>First-degree murder with aggravating factors; first-degree kidnapping; perjury resulting in death.</td>
<td>17</td>
<td>Lethal injection (g)</td>
</tr>
<tr>
<td>Illinois</td>
<td>Murder with 16 aggravating circumstances (IC 35-50-2-9).</td>
<td>15</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Indiana</td>
<td>Capital murder with 8 aggravating circumstances (KSA 21-3439,KSA 21-4625; KSA 21-4636).</td>
<td>9</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Kansas</td>
<td>First-degree murder with aggravating factors; kidnapping with aggravating factors (KRS 32.025).</td>
<td>35</td>
<td>Electrocution or lethal injection (i)</td>
</tr>
<tr>
<td>Kentucky</td>
<td>First-degree murder; aggravated rape of victim under age 13; treason (La. R.S. 14:30, 14:42, and 14:113).</td>
<td>85</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Maine</td>
<td>First-degree murder, either premeditated or during the commission of a felony, provided that certain death eligibility requirements are satisfied.</td>
<td>5</td>
<td>Lethal injection or lethal gas (j)</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Capital murder (Miss Code Ann. § 97-3-19(2)); aircraft piracy (Miss Code Ann. § 97-25-55(1)).</td>
<td>61</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Michigan</td>
<td>First-degree murder (565.020 RSMO 2000).</td>
<td>51</td>
<td>Lethal injection or lethal gas</td>
</tr>
<tr>
<td>Missouri</td>
<td>First-degree murder with a finding of at least 1 statutorily defined aggravating circumstance.</td>
<td>12</td>
<td>Lethal injection (k)</td>
</tr>
<tr>
<td>Montana (f)</td>
<td>First-degree murder with at least 1 of 15 aggravating circumstances (NRS 200.030, 200.033, 200.035).</td>
<td>77</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Nebraska (k)</td>
<td>Murder committed in the course of rape, kidnapping, or drug crimes; killing of a law enforcement officer; murder for hire; murder by an inmate while serving a sentence of life without parole (R.S.A. 6381, R.S.A 630.5).</td>
<td>1</td>
<td>Lethal injection or hanging (l)</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>First-degree murder with at least 1 of 7 statutorily defined aggravating circumstances (Section 30-2-1 A, NMSA). New Mexico no longer has a death penalty statute. (m)</td>
<td>2</td>
<td>Lethal injection (m)</td>
</tr>
<tr>
<td>New York (n)</td>
<td>First-degree murder with 1 of 13 aggravating factors (NY Penal Law §125-27).</td>
<td>0</td>
<td>Lethal injection</td>
</tr>
</tbody>
</table>

See footnotes at end of table.
CRIMINAL JUSTICE/CORRECTIONS

CAPITAL PUNISHMENT—Continued

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<tr>
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<th>Method of execution (a)</th>
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<tr>
<td>North Carolina ..............</td>
<td>First-degree murder (NCGS §14-17).</td>
<td>167</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>North Dakota ...............</td>
<td>. . .</td>
<td>. . .</td>
<td>. . .</td>
</tr>
<tr>
<td>Ohio ..........................</td>
<td>Aggravated murder with at least 1 of 10 aggravating circumstances (O.R.C. secs. 2903.01, 2929.02, and 2929.04)</td>
<td>165</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Oklahoma (f) ...............</td>
<td>First-degree murder in conjunction with a finding of at least 1 of 8 statutorily defined aggravating circumstances; sex crimes against a child under 14 years of age</td>
<td>84</td>
<td>Electrocution, lethal injection or firing squad (e)</td>
</tr>
<tr>
<td>Oregon .......................</td>
<td>Aggravated murder (ORS 163.095).</td>
<td>33</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Pennsylvania ...............</td>
<td>First-degree murder with 18 aggravating circumstances</td>
<td>222</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Rhode Island ................</td>
<td>. . .</td>
<td>. . .</td>
<td>. . .</td>
</tr>
<tr>
<td>South Carolina (f) ..........</td>
<td>Murder with 1 of 12 aggravating circumstances (§ 16-3-20(C)(a)); criminal sexual conduct with a minor with 1 of 9 aggravators (§ 16-3-655).</td>
<td>64</td>
<td>Electrocution or lethal injection</td>
</tr>
<tr>
<td>South Dakota ...............</td>
<td>First-degree murder with 1 of 10 aggravating circumstances. Revision: Revised the code of criminal procedure. Changes included establishing procedures to be used by circuit judges in determining whether to stop an execution because the inmate is mentally incompetent (SDCL § 23A-27A-22) and clarifying that persons carrying out executions are immune from civil and/or criminal liability (SDCL § 23A-27A-31.2), effective July 1, 2008.</td>
<td>3</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Texas (f) ....................</td>
<td>Criminal homicide with 1 of 9 aggravating circumstances (TX Penal Code § 19.03).</td>
<td>333</td>
<td>Lethal injection</td>
</tr>
<tr>
<td>Utah ..........................</td>
<td>Aggravated murder (76-5-202, Utah Code Annotated). Revision: Amended the criminal code to allow aggravating circumstances to be treated as separate acts from the capital offense which can be prosecuted as a separate offense (Utah Code Ann. § 76-5-202), effective February 26, 2008.</td>
<td>10</td>
<td>Lethal injection or firing squad (q)</td>
</tr>
<tr>
<td>Vermont ....................</td>
<td>. . .</td>
<td>. . .</td>
<td>. . .</td>
</tr>
<tr>
<td>Virginia .....................</td>
<td>First-degree murder with 1 of 15 aggravating circumstances (VA Code § 18.2-31).</td>
<td>14</td>
<td>Electrocution or lethal injection</td>
</tr>
<tr>
<td>Washington ..................</td>
<td>Aggravated first-degree murder.</td>
<td>9</td>
<td>Lethal injection or hanging</td>
</tr>
<tr>
<td>West Virginia ..............</td>
<td>. . .</td>
<td>. . .</td>
<td>. . .</td>
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<tr>
<td>Wisconsin ...................</td>
<td>. . .</td>
<td>. . .</td>
<td>. . .</td>
</tr>
<tr>
<td>Wyoming .....................</td>
<td>First-degree murder; murder during the commission of sexual assault, sexual abuse of a minor, arson, robbery, escape, resisting arrest, kidnapping, or abuse of a minor under 16.</td>
<td>1</td>
<td>Lethal injection or lethal gas (r)</td>
</tr>
<tr>
<td>Dist. of Columbia ...........</td>
<td>. . .</td>
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<td>. . .</td>
</tr>
</tbody>
</table>

Note: At press time, a severe shortage of barbiturate sodium thiopental—once of the three drugs used in most lethal injections—has delayed or suspended executions in many states. When the sole U.S. supplier of the drug stopped producing it, many states were forced to seek new sources, including overseas suppliers. In recent weeks, the U.S. Drug Enforcement Administration has seized many states’ stock of the imported drug because of allegations that it may have been illegally obtained from an unregulated overseas supplier. Other states have since changed their method of lethal injection to use a different cocktail of drugs.

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.
(b) Source: NAACP Legal Defense Fund, Death Row U.S.A.—As of April 1, 2010 (Spring 2010).
(c) Arizona authorizes lethal injection for persons sentenced after November 15, 1992; inmates sentenced before that date may select lethal injection or gas.
(d) 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.
(e) Delaware authorizes lethal injection for those whose capital offense occurred on or after June 13, 1986; those who committed the offense before that date may select lethal injection or hanging. However, as of July 2002, no inmates on death row were eligible to choose this alternative and Delaware dismantled its gallowes.
(f) 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.
(g) On April 1, 2009, Governor C.L. “Butch” Otter signed legislation (HB 107) that eliminates death by firing squad as an alternative method of execution.
(h) 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 and said he would commute any other death sentences prior to the effective date.

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

(j) Maryland authorizes lethal injection for persons sentenced on or after March 24, 1994; those sentenced before that date can select lethal injection or lethal gas.

(k) The Nebraska Supreme Court struck a portion of the state’s capital statute on February 8, 2008 (State v. Mata, 745 N.W.2d 229, 278 (2008)). The court found that Nebraska’s electrocution procedure violated the state constitution’s prohibition of cruel and unusual punishment. In May 2009, the Nebraska Legislature approved lethal injection.

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

(m) 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.

(n) 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.

(o) 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.

(p) 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.

(q) Authorizes firing squad if lethal injection is held unconstitutional.

(r) Wyoming authorizes lethal gas if lethal injection is ever held to be unconstitutional.

CAPITAL PUNISHMENT—Continued