

Capital Punishment in Tennessee:

A Brief
Timeline History
&
Overview
of the
Legal Process

Timeline:

1608 - Captain George Kendall, a convicted spy, was executed in the Jamestown colony of Virginia. His was the first recorded execution in the new colonies.

1838 - Tennessee became the first state to enact discretionary death penalty statutes allowing discretion in sentencing rather than a mandatory death sentence for anyone convicted of a capital crime.

1916 - Julius Morgan became the first person executed in the electric chair in Tennessee. He had been convicted of rape.

1960 - William Tines was executed in Tennessee's electric chair for committing a 1957 rape. His was the last execution in the state for 40 years.

1967 - The Tennessee General Assembly enacted the Post-Conviction Procedures Act giving state prisoners a system for challenging their convictions and sentences on state or federal constitutional grounds. The law did not limit the number of challenges or the time in which claims could be made.

1972 - A U.S. Supreme Court ruling, Furman v. Georgia, voided death penalty statutes in 40 states, commuting the sentences of 629 death row inmates.

1973 - The Tennessee General Assembly revised and expanded the state's 1932 death penalty statute.

1974 - The Tennessee Supreme Court declared the 1973 state statute unconstitutional. The Legislature responded by enacting a new law designed to correct constitutional problems.

1976 - The U.S. Supreme Court approved death penalty procedural reforms in Gregg v. Georgia, clearing the way for states to reinstate the death penalty. The court upheld death penalty laws in Florida, Georgia and Texas and held that the death penalty itself was not a violation of the Eighth Amendment. Procedural reforms allowed the introduction of aggravating and mitigating factors in determining sentencing; bifurcated - or divided - trials in which there are separate deliberations for the guilt and penalty phases in capital cases; automatic appellate review of convictions and sentences; and proportionality review by appellate courts to determine whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering the nature of the crime and the defendant.

1977 - Gary Gilmore was executed in Utah, ending a moratorium on executions in the United States.

1977 - The U.S. Supreme Court held in Coker v. Georgia that the death penalty is unconstitutional punishment for the rape of an adult when the victim is not killed.

1977 - The Tennessee Supreme Court held the 1974 state statute unconstitutional based on federal court rulings.

1977 - The Tennessee General Assembly adopted new death penalty legislation, which served as the foundation of today's law. The law continues to be amended to address issues raised by case law.

1977 - Oklahoma became the first state to adopt lethal injection as a means of execution.

1986 - The Tennessee General Assembly amended the Post-Conviction Procedures Act of 1967 to add a three-year deadline for filing state post-conviction appeals.

1990 - The Tennessee General Assembly enacted legislation prohibiting death sentences for defendants found to be mentally retarded.

1993 - The Tennessee Supreme Court began receiving monthly reports on the status of death penalty cases. The reports are reviewed by the chief justice who takes steps to end unnecessary delays in the legal process.

1993 - The Tennessee General Assembly, at the request of the state Supreme Court, authorized senior judge status for judges eligible to retire. The senior judges are available to hear capital cases or to preside over other cases while trial judges conduct death penalty proceedings.

1995 - The Tennessee General Assembly enacted a new Post-Conviction Procedures Act restricting prisoners to one post-conviction petition in most cases. The act requires that petitions be filed within one year of the final action of the highest state appellate court to which the appeal from the original conviction is taken. The law ended the practice of filing successive appeals.

1996 - The Anti-Terrorism and Effective Death Penalty Act was signed into federal law. The law was intended to streamline the death penalty process in federal courts. In part, it sets strict time limits for filing federal death penalty appeals and requires participating states to set minimum standards for court-appointed attorneys in capital cases.

1996 - The Tennessee General Assembly increased the number of judges on the state Court of Criminal Appeals from nine to 12. The judicial branch recommendation was aimed at moving capital and other cases through the appellate court process without delays caused by heavy caseloads.

1997 - The Tennessee Supreme Court adopted a rule enabling the state to meet requirements for participation in the federal Anti-Terrorism and Effective Death Penalty Act. The rule requires specialized training and experience for attorneys handling capital cases and increases hourly rates for attorneys appointed to represent defendants facing the death penalty. The change also was designed to reduce future appeals based on ineffective assistance of counsel.

1998 - The Tennessee General Assembly enacted a law giving condemned inmates convicted prior to Jan 1, 1999, a choice of death by lethal injection or death in the electric chair. The law was amended in 2000 mandating lethal injection for those who do not chose a method of execution. For those convicted after Jan. 1, 1999, lethal injection became the only method of execution under state law.

2000 - Robert Glen Coe was executed by lethal injection on April 19 for the 1979 murder of an eight-year-old girl in Greenfield, TN. Coe became the first person executed in Tennessee in 40 years.

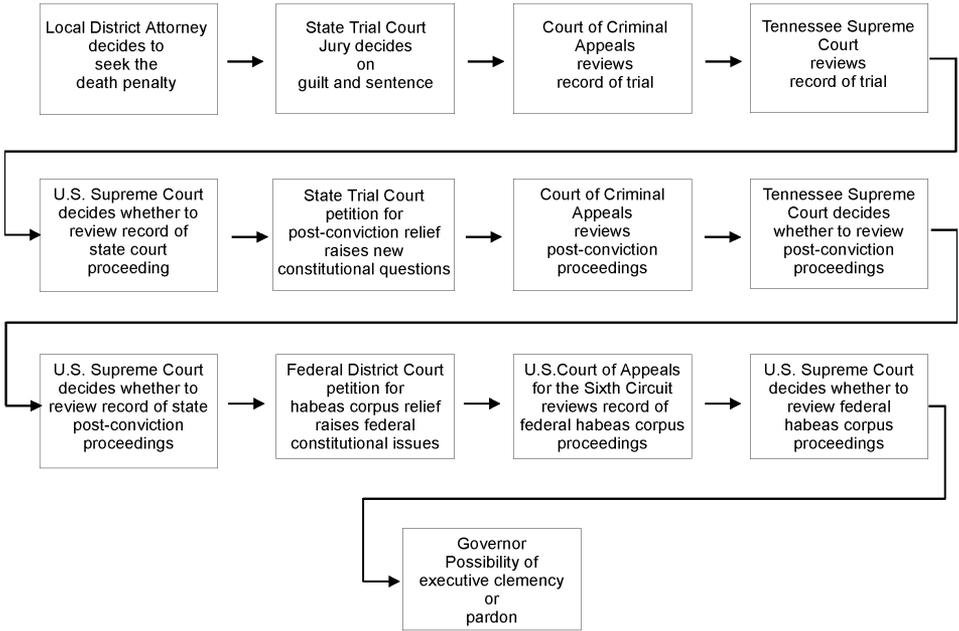
Capital Case Legal Process:

- The local district attorney files a notice of intent to seek the death penalty. Only defendants charged with first-degree murder are eligible for the death penalty in Tennessee.
 - Jurors or a judge decide guilt or innocence. Only if the defendant waives – or gives up – the right to a jury trial, does the judge render a verdict.
 - If the defendant is convicted, a second trial is conducted to determine a sentence. In the case of a jury trial, the same jurors decide the punishment – either death, life without parole or life with the possibility of release after 51 years. During the sentencing phase, the prosecutor presents legally-defined “aggravating factors” and the defense offers “mitigating factors.” The death penalty must be imposed if aggravating factors outweigh the mitigating factors beyond a reasonable doubt.
 - The trial court fixes an execution date, which is stayed pending appeals.
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- State law requires the Court of Criminal Appeals to review all death sentences. If a conviction and sentence are affirmed by the Court of Criminal Appeals, there is an automatic review by the state Supreme Court. Either court may find reversible errors requiring a new trial or a new sentencing hearing. If a death sentence is imposed again, the automatic appellate review process begins anew.
 - Upon application by the defendant, the United States Supreme Court may agree to review the state Supreme Court decision affirming the conviction and sentence. The application is a "petition for a writ of certiorari." Most appeals are denied without oral arguments before the court. If the appeal is rejected, the state Supreme Court sets a new execution date.
 - The post-conviction appeal process begins. Within one year after the end of the state "direct review" process, a defendant may file a petition for post-conviction relief. This is filed in the original trial court alleging violations of constitutional rights. New stays are granted during state and federal post-conviction appeals.
 - The State Court of Criminal Appeals reviews the trial court post-conviction proceedings.
 - The defendant files a post-conviction application for permission to appeal with the state Supreme Court. The court may accept the appeal for review or deny it without comment.
 - The defendant may file a petition for a writ of certiorari in the United States Supreme Court. Again, if the court denies the petition, the state Supreme Court sets a new execution date.
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- Following the state post-conviction appeal process, the defendant may file a federal habeas corpus petition challenging the constitutionality of the conviction or sentence. This is a civil appeal in which federal courts determine whether a defendant is in custody in violation of the U.S. Constitution or federal laws or treaties. This process begins in federal District Court in either the district where the prisoner is confined or the district of the conviction. The District Court judge may dismiss the petition or order an evidentiary hearing. In most cases, the decision may be appealed to the Sixth Circuit Court of Appeals. Other states included in the Sixth Circuit are Ohio, Michigan and Kentucky. The defendant may file a habeas corpus petition for writ of certiorari with the U.S. Supreme Court.
 - Once the federal process is complete, the Tennessee Supreme Court sets a new execution date.
 - If mental competency is an issue, the defendant may request a hearing to determine competency to be executed. Under a U.S. Supreme Court decision, Ford v. Wainwright, the condemned prisoner must understand that he or she is to be executed and why. If the hearing is granted, it is conducted in the trial court where the case was originally decided. The decision of the trial judge may be appealed to the state Supreme Court. The competency procedure is spelled out in a state Supreme Court ruling, Van Tran v. State.
 - The defendant may petition the governor for executive clemency. The governor may grant a clemency hearing or deny the clemency petition with no hearing. If a hearing is granted, the governor's designees will issue a report which the governor may consider in making a clemency decision.
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Tennessee Death Penalty Process



At any point in the appellate process a person sentenced to death could be granted a new trial or a review of his or her sentence.

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