

Jury Participation in Capital Case Sentencing

State	Sentence Set By:	Unanimous Jury Required	Judge Alter Sentence
Alabama	Judge w/jury recommendation	X	X
Arizona	Judge		
Arkansas	Jury	X	X
California	Jury	X	X
Colorado	3-judge panel		
Connecticut	Jury	X	
Delaware	Judge w/jury recommendation		X
Florida	Judge w/jury recommendation		X
Georgia	Judge w/jury recommendation	X	X
Idaho	Trial judge—no jury input		
Illinois	Jury	X	
Indiana	Judge w/jury recommendation	X	X
Kansas	Jury	X	X
Kentucky	Judge w/jury recommendation	X	X
Louisiana ⁱ	Jury	X	
Maryland	Jury	X	
Mississippi	Jury	X	
Missouri	Jury or judge	X	
Montana	Trial judge—no jury input		
Nebraska	Trial judge—no jury input		
Nevada	Jury	X	
New Hampshire	Jury	X	

New Jersey	Jury	X	
New Mexico	Jury or trial judge	X	
New York	Jury	X	
North Carolina	Jury	X	
Ohio	Trial judge—no jury input		
Oklahoma	Jury	X	X
Oregon	Jury	X	
Pennsylvania	Jury	X	
South Carolina South Dakota	Jury	X	X
Tennessee	Jury	X	
Texas ⁱⁱ	Jury	X	
Utah	Jury	X	
Virginia	Jury	X	
Washington	Jury	X	X
Wyoming	Jury	X	
	Jury	X	

Source: State Court Organization, 1998. Bureau of Justice Statistics, Table 46

Landmark cases regarding the unanimity requirement

United States v. Chandler, 996 F.2d 1073 (11th Cir. 1993)

Jones v. United States, 527 U.S. 373 (1999)

Simmons v. South Carolina, 512 U.S. 154 (1994)

Johnson V. Louisiana, 406 U.S. 356 (1972)

Apodaca v. Oregon, 406 U.S. 404 (1972)

Links to relevant articles:

http://www.ncsconline.org/D_Research/csp/2001_Files/2001_Part_II_Section.pdf

<http://www.law.fsu.edu/journals/lawreview/downloads/243/glasser.pdf>

http://www.hofstra.edu/PDF/law_berberich.pdf

ⁱ Louisiana is the only state with a combined sentencing/verdict hearing (non-capital).

ⁱⁱ Texas is the only state in which a jury gives the sentence and a judge cannot alter the sentence (non-capital).