Minimum Age For Death Penalty

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In the late 1980’s the United States Supreme Court decided two landmark cases that limited the application of the death penalty to those who are juveniles when they commit crimes. Before this, young age was merely included as a mitigating factor to be considered.

In 1988, the United States Supreme Court held that both the Eighth and Fourteenth Amendments prohibited the execution of a defendant convicted of first-degree murder for an offense committed when the defendant was 15 years old. Only eight Justices participated in the consideration and decision in this case. Three of the Justices, including the Chief Justice, dissented in this opinion. Thompson v. Oklahoma, 487 U.S. 815, 108 S.Ct. 2687 (1988).

However, the following year, the Supreme Court held that the imposition of capital punishment on an individual for a crime committed at 16 or 17 years of age did not violate the evolving standards of decency and therefore did not constitute cruel and unusual punishment under the Eighth Amendment. This time all nine Justices participated. However, four Justices dissented. Stanford v. Kentucky, 492 U.S. 361, 109 S.Ct. 2969 (1989).

As of the end of the 1999 legislative session, thirteen jurisdictions do not permit capital punishment for anyone: Alaska, the District of Columbia, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin.

Indiana, Kentucky, Louisiana, Missouri, Nevada, and Wyoming have statutes setting the minimum capital punishment age at 16. In addition, the highest state courts in Alabama, Arizona, Arkansas, Florida, Mississippi, Oklahoma, Pennsylvania, South Carolina, and Virginia have upheld cases where a person who was 16 at the time of offense was sentenced to death.

Delaware, Idaho, South Dakota, and Utah have no minimum age for the death penalty specified in either statute or case law. However, these states would be governed by the age expressed in Thompson v. Oklahoma, and would thus have a minimum age of 16.

Seventeen is the statutory minimum age for the death penalty in New Hampshire, North Carolina, and Texas. However, in North Carolina, if a person under 17 commits murder while already serving a prison sentence for murder or as an escapee from prison under a murder conviction, that juvenile may be sentenced to death. So, a 16-year-old in North Carolina could conceivably be executed.

The highest state court in Georgia has upheld a case where a person who was 17 at the time of the offense was sentenced to death.

California, Colorado, Connecticut, Illinois, Kansas, Maryland, Montana, Nebraska, New Jersey, New Mexico, New York, Ohio, Oregon, and Tennessee have statutes setting the minimum capital punishment age at 18. The Montana statutory minimum was added in 1999 and was made effective October 1, 1999.

In addition, although state statutes would allow the execution of a 16-year-old in the state of Washington, the Supreme Court of Washington has held that the death penalty could not be imposed for a crime committed by a