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# Capital Punishment in Georgia Research Guide

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## Capital Punishment in Georgia Research Guide

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### *Introduction, Scope, and Jurisdiction*

The state of Georgia is consistently among the most prolific states in the United States in terms of executions per year. The topic of capital punishment is one that, no matter where you fall ideologically on the subject, will induce strong emotions in most people. It is also a topic that is already significantly in depth and complicated and grows more so on a consistent basis. This research guide was created with the intention of providing a starting point for those who have become involved in a case in which the death penalty is an option or for those who simply are interested in the topic and want to know more about it and where to look to get started.

The resources and ideas contained herein are beginning points to a wide reaching topic that will help you send yourself down the correct path in your research.

### Disclaimer

This research guide is a starting point for a law student or an attorney to research the area of Workers' Compensation. This guide should not be considered as legal advice or as a legal opinion on any specific facts or circumstances. If you need further assistance in researching this topic or have specific legal questions, please contact a reference librarian in the Georgia State University College of Law Library or consult an attorney.

## Background Facts & Statistics:<sup>1</sup>

- Georgia boasts the 6<sup>th</sup> most executions in the US since 1976 with 69
- Prior to 1976, There were 950 executions in the history of the state
  - This amounted to the 4<sup>th</sup> highest total in the nation
- Currently, there are 68 people on death row at Jackson State Prison
- Georgia has had 6 innocent people sentenced to death and subsequently cleared
- 8 clemencies have been granted in total
- Highest percentage, 9%, have been convicted in Cobb County
- Most recent Georgia execution was December of 2016
- No executions are currently scheduled

## Primary Sources

### Statutes

- O.C.G.A. §17-10-30 – Capital Crimes in Georgia
  - This statute lists the different crimes that are eligible for capital punishment
- O.C.G.A. §17-10-31 through §17-10-44
  - This series of statutes lays out the specifics behind the implementation process
- O.C.G.A §17-10 Article 3
  - The statutes within Article 3 are specific to mental capacity and its relation to capital punishment
- O.C.G.A §17-12-35
  - Provides for an automatic review by the Georgia Supreme Court of every case in which the death penalty is imposed

### Important Cases

- Furman v. Georgia, 408 U.S. 238(1972)
  - Supreme court struck down all death penalty schemes in the U.S. as unconstitutional
  - Held that the imposition and carrying out of the death penalty constituted cruel and unusual punishment and violated the 8<sup>th</sup> and 14<sup>th</sup> amendments.
  - Effectuated a moratorium on the death penalty nationwide until 1976
  - All pending cases reduced to life imprisonment
- Gregg v. Georgia, 428 U.S. 123(1976)
  - Ended the moratorium imposed by *Furman*
  - Court gave two guidelines for implementation:
    - 1) must provide objective criteria to direct and limit the discretion with the objectiveness ensured by appellate review
    - 2) the scheme must allow the sentencer to consider the character of the defendant
- Coker v. Georgia, 433 U.S. 584 (1977)
  - The U.S. Supreme Court struck down the Georgia practice of implementing capital punishment for rape
  - Said that the punishment of death when the victim did not die is grossly disproportional

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<sup>1</sup> <https://deathpenaltyinfo.org/documents/FactSheet.pdf>

## *Secondary Sources*

- **Westlaw – Georgia Jurisprudence - 18 Ga. Jur. Criminal Law § 5:88**
  - This chapter discusses elements, degrees, and kinds of culpable homicide, that is, malice murder, felony murder, voluntary manslaughter, involuntary manslaughter, and causing or aiding suicide; defenses particular to homicide prosecutions; and matters of procedure, proof, and evidence unique to homicide prosecutions
- **Westlaw - Molnar Georgia Criminal Law - Crimes and Punishments - Ga. Criminal Law Crimes and Punishments § 38-1**
  - Similar to the Georgia Jurisprudence source
  - Focused on murder and the punishment thereof

## *Useful Websites and Free Sources*

- <https://deathpenaltyinfo.org/>
  - Contains information on the procedures surrounding the death penalty on a state by state basis
  - Includes news regarding pending cases
- <https://pap.georgia.gov/>
  - Board of Pardons and Paroles Website
  - Has the sole discretion for clemency in Georgia
  - Website contains information regarding how to apply for clemency
- <https://www.schr.org/our-work/death-penalty>
  - Southern Center for Human Rights
  - "...represents individuals on death row at trial, on appeal, and in the post-conviction review process."
- <https://www.themarshallproject.org/next-to-die/ga>
  - Follows death row inmates and provides updates regarding the executions as well as appeals
- Georgia Innocence Project - <https://www.georgiainnocenceproject.org/>
  - Non-profit organization that works to exonerate the wrongfully convicted

## *Practice Forms and Resources*

- **Georgia Criminal Trial Practice Forms – Westlaw Secondary Sources**
  - Contains forms for all phases of the trial from pretrial to post-trial remedies
- **Georgia Suggested Pattern Jury Instructions – Westlaw**
  - 2.15.10 – Death Penalty Charge
  - 2.15.30 – Death Penalty; Determination of Punishment
  - 2.15.40 – Death Penalty; Victim Impact Evidence
  - 2.15.50 – May Fix Penalty at Life Imprisonment for Any Reason
  - 2.15.63 – Death Penalty; Death
- **Federal Jury Instruction Regarding Mitigating Factors**
  - 12.08. NONSTATUTORY AGGRAVATING FACTORS
  - Useful instruction in that Georgia requires mitigating/aggravating factors to impose death penalty
- **Form GCR 8.15 Motion for Use of Juror Questionnaire to Aid in Voir Dire**
  - Includes the motion as well as the actual questionnaire

- Contains specific questions regarding the juror's personal thoughts on the death penalty