



Deadly Justice

A Statistical Portrait of the Death Penalty

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Appendix B. Mitigating Circumstances State-By-State.

This document lists the most recent mitigating circumstances in each of the 31 death states as of July 31st, 2016. Next to each state name is a link that will direct you to the source where the list of mitigating circumstances was found. Most of these state statutes come from three central legal sources: [findlaw](#), [justia](#), and [deathpenaltyblog](#). These sources were then cross-referenced with the local state websites, using statute numbers. It is worth noting that *any* factor can be used as a mitigating circumstance. As a result, some states do not list many, if any, statutory mitigators.

Alabama ([Link](#))

Mitigating circumstances shall include, but not be limited to the following:

- (1) The defendant has no significant history of prior criminal activity
- (2) The capital offense was committed while the defendant was under the influence of extreme
mental or emotional disturbance

- (3) The victim was a participant in the defendant's conduct or consented to it
- (4) The defendant was an accomplice in the capital offense committed by another person and his participation was relatively minor
- (5) The defendant acted under extreme duress or under the substantial domination of another person
- (6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired
- (7) The age of the defendant at the time of the crime.

Arizona ([Link](#))

For the purpose of determining the sentence pursuant to subsection C of this section, the court shall consider the following mitigating circumstances:

- (1) The age of the defendant.
- (2) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.
- (3) The defendant was under unusual or substantial duress, although not to a degree that would constitute a defense to prosecution.
- (4) The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.
- (5) During or immediately following the commission of the offense, the defendant complied with all duties imposed under sections 28-661, 28-662 and 28-663.

Arkansas ([link](#))

A mitigating circumstance includes, but is not limited to, the following:

- (1) The capital murder was committed while the defendant was under extreme mental or emotional disturbance
- (2) The capital murder was committed while the defendant was acting under an unusual pressure or influence or under the domination of another person
- (3) The capital murder was committed while the capacity of the defendant to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was impaired as a result of mental disease or defect, intoxication, or drug abuse
- (4) The youth of the defendant at the time of the commission of the capital murder
- (5) The capital murder was committed by another person and the defendant was an accomplice and his or her participation was relatively minor
- (6) The defendant has no significant history of prior criminal activity.

California ([Link](#))

In determining the penalty, the trier of fact shall take into account any of the following factors if relevant:

- (a) The circumstances of the crime of which the defendant was convicted in the present proceeding and the existence of any special circumstances found to be true pursuant to Section 190.1.
- (b) The presence or absence of criminal activity by the defendant which involved the use or attempted use of force or violence or the express or implied threat to use force or violence.

- (c) The presence or absence of any prior felony conviction.
- (d) Whether or not the offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- (e) Whether or not the victim was a participant in the defendant's homicidal conduct or consented to the homicidal act.
- (f) Whether or not the offense was committed under circumstances which the defendant reasonably believed to be a moral justification or extenuation for his conduct.
- (g) Whether or not defendant acted under extreme duress or under the substantial domination of another person.
- (h) Whether or not at the time of the offense the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect, or the affects of intoxication.
- (i) The age of the defendant at the time of the crime.
- (j) Whether or not the defendant was an accomplice to the offense and his participation in the commission of the offense was relatively minor.
- (k) Any other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime.

Colorado ([Link](#))

For purposes of this section, mitigating factors shall be the following factors:

- (a) The age of the defendant at the time of the crime
- (b) The defendant's capacity to appreciate wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution

- (c) The defendant was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution
- (d) The defendant was a principal in the offense which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to prosecution
- (e) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of the offense for which the defendant was convicted would cause, or would create a grave risk of causing, death to another person
- (f) The emotional state of the defendant at the time the crime was committed;
- (g) The absence of any significant prior conviction
- (h) The extent of the defendant's cooperation with law enforcement officers or agencies and with the office of the prosecuting district attorney
- (i) The influence of drugs or alcohol
- (j) The good faith, although mistaken, belief by the defendant that circumstances existed which constituted a moral justification for the defendant's conduct
- (k) The defendant is not a continuing threat to society
- (l) Any other evidence which in the court's opinion bears on the question of mitigation.

Delaware ([Link](#))

Upon the filing of the motion, the Court shall order an evaluation of the defendant for the purpose of providing evidence of the following:

- (1) Whether the defendant has a significantly subaverage level of intellectual functioning;
- (2) Whether the defendant's adaptive behavior is substantially impaired

- (3) Whether the conditions described in paragraphs (d)(1) and (d)(2) of this section existed before the defendant became 18 years of age. b. During the hearing authorized by subsections (b) and (c) of this section
- (4) the defendant and the State may present relevant and admissible evidence on the issue of the defendant's alleged mental retardation, or in rebuttal thereof.
- (5) Evidence presented during the hearing shall be considered by the jury in making its recommendation to the Court pursuant to paragraph (c)(3) of this section as to whether the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist.

Florida ([Link](#))

Mitigating circumstances shall be the following:

- (a) The defendant has no significant history of prior criminal activity.
- (b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- (c) The victim was a participant in the defendant's conduct or consented to the act.
- (d) The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.
- (e) The defendant acted under extreme duress or under the substantial domination of another person.
- (f) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.
- (g) The age of the defendant at the time of the crime.

- (h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

Georgia ([Link](#))

In all cases of other offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating circumstances which may be supported by the evidence:

Idaho ([Link](#))

Upon the conclusion of the evidence and arguments in mitigation and aggravation:

- (a) With regard to each statutory aggravating circumstance alleged by the state, the jury shall return a special verdict stating:
- (i) Whether the statutory aggravating circumstance has been proven beyond a reasonable doubt; and
 - (ii) If the statutory aggravating circumstance has been proven beyond a reasonable doubt, whether all mitigating circumstances, when weighed against the aggravating circumstance, are sufficiently compelling that the death penalty would be unjust.
- (b) If a jury has been waived, the court shall:
- (i) Make written findings setting forth any statutory aggravating circumstance found beyond a reasonable doubt;
 - (ii) Set forth in writing any mitigating circumstances considered; and

(iii) Upon weighing all mitigating circumstances against each statutory aggravating circumstance separately, determine whether mitigating circumstances are found to be sufficiently compelling that the death penalty would be unjust and detail in writing its reasons for so finding.

Indiana ([Link](#))

The mitigating circumstances that may be considered under this section are as follows:

- (1) The defendant has no significant history of prior criminal conduct.
- (2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
- (3) The victim was a participant in or consented to the defendant's conduct.
- (4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.
- (5) The defendant acted under the substantial domination of another person.
- (6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.
- (7) The defendant was less than eighteen (18) years of age at the time the murder was committed.
- (8) Any other circumstances appropriate for consideration

Kansas ([Link](#))

Mitigating circumstances shall include, but are not limited to, the following:

- (1) The defendant has no significant history of prior criminal activity.

- (2) The crime was committed while the defendant was under the influence of extreme mental or emotional disturbances.
- (3) The victim was a participant in or consented to the defendant's conduct.
- (4) The defendant was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor.
- (5) The defendant acted under extreme distress or under the substantial domination of another person.
- (6) The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired.
- (7) The age of the defendant at the time of the crime.
- (8) At the time of the crime, the defendant was suffering from post-traumatic stress syndrome caused by violence or abuse by the victim.
- (9) A term of imprisonment is sufficient to defend and protect the people's safety from the defendant.

Kentucky ([Link](#))

Mitigating circumstances:

- (1) The defendant has no significant history of prior criminal activity
- (2) The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime
- (3) The victim was a participant in the defendant's criminal conduct or consented to the criminal act

- (4) The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime
- (5) The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor
- (6). The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime (7) At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or an intellectual disability or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime
- (8) The youth of the defendant at the time of the crime.

Louisiana ([Link](#))

The following shall be considered mitigating circumstances:

- (a) The offender has no significant prior history of criminal activity;
- (b) The offense was committed while the offender was under the influence of extreme mental or emotional disturbance;
- (c) The offense was committed while the offender was under the influence or under the domination of another person;

- (d) The offense was committed under circumstances which the offender reasonably believed to provide a moral justification or extenuation for his conduct;
- (e) At the time of the offense the capacity of the offender to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication;
- (f) The youth of the offender at the time of the offense;
- (g) The offender was a principal whose participation was relatively minor;
- (h) Any other relevant mitigating circumstance.

Mississippi ([Link](#))

Mitigating circumstances shall be the following:

- (a) The defendant has no significant history of prior criminal activity.
- (b) The offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- (c) The victim was a participant in the defendant's conduct or consented to the act.
- (d) The defendant was an accomplice in the capital offense committed by another person and his participation was relatively minor.
- (e) The defendant acted under extreme duress or under the substantial domination of another person.
- (f) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.
- (g) The age of the defendant at the time of the crime.

(7) In order to return and impose a sentence of death the jury must make a written finding of one or more of the following:

- (a) The defendant actually killed;
- (b) The defendant attempted to kill;
- (c) The defendant intended that a killing take place;
- (d) The defendant contemplated that lethal force would be employed.

Missouri ([Link](#))

Statutory mitigating circumstances shall include the following:

- (1) The defendant has no significant history of prior criminal activity;
- (2) The murder in the first degree was committed while the defendant was under the influence of extreme mental or emotional disturbance;
- (3) The victim was a participant in the defendant's conduct or consented to the act;
- (4) The defendant was an accomplice in the murder in the first degree committed by another person and his participation was relatively minor;
- (5) The defendant acted under extreme duress or under the substantial domination of another person;
- (6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired;
- (7) The age of the defendant at the time of the crime.

Montana ([Link](#))

Mitigating circumstances are any of the following:

- (a) The defendant has no significant history of prior criminal activity.
- (b) The offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- (c) The defendant acted under extreme duress or under the substantial domination of another person.
- (d) The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired.
- (e) The victim was a participant in the defendant's conduct or consented to the act.
- (f) The defendant was an accomplice in an offense committed by another person, and the defendant's participation was relatively minor.
- (g) The defendant, at the time of the commission of the crime, was less than 18 years of age.
- (h) The court may consider any other fact that exists in mitigation of the penalty.

Nevada ([Link](#))

Murder of the first degree may be mitigated by any of the following circumstances, even though the mitigating circumstance is not sufficient to constitute a defense or reduce the degree of the crime:

- (1) The defendant has no significant history of prior criminal activity.
- (2) The murder was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- (3) The victim was a participant in the defendant's criminal conduct or consented to the act.
- (4) The defendant was an accomplice in a murder committed by another person and the defendant's participation in the murder was relatively minor.

- (5) The defendant acted under duress or under the domination of another person.
- (6) The youth of the defendant at the time of the crime.
- (7) Any other mitigating circumstance.

New Hampshire ([Link](#))

In determining whether a sentence of death is to be imposed upon a defendant, the jury shall consider mitigating factors, including the following:

- (a) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.
- (b) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.
- (c) The defendant is punishable as an accomplice (as defined in RSA 626:8) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.
- (d) The defendant was youthful, although not under the age of 18.
- (e) The defendant did not have a significant prior criminal record.
- (f) The defendant committed the offense under severe mental or emotional disturbance.
- (g) Another defendant or defendants, equally culpable in the crime, will not be punished by death.
- (h) The victim consented to the criminal conduct that resulted in the victim's death.
- (i) Other factors in the defendant's background or character mitigate against imposition of the death sentence.

North Carolina ([Link](#))

Mitigating circumstances which may be considered shall include, but not be limited to, the following:

- (1) The defendant has no significant history of prior criminal activity.
- (2) The capital felony was committed while the defendant was under the influence of mental or emotional disturbance.
- (3) The victim was a voluntary participant in the defendant's homicidal conduct or consented to the homicidal act.
- (4) The defendant was an accomplice in or accessory to the capital felony committed by another person and his participation was relatively minor.
- (5) The defendant acted under duress or under the domination of another person.
- (6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired.
- (7) The age of the defendant at the time of the crime.
- (8) The defendant aided in the apprehension of another capital felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.
- (9) Any other circumstance arising from the evidence which the jury deems to have mitigating value. (1977, c. 406, s. 2; 1979, c. 565, s. 1; c. 682, s. 9; 1981, c. 652, s. 1; 1994, Ex. Sess., c. 7, s. 5; 1995, c. 509, s. 14; 2001-81, s. 1; 2001-346, s. 2; 2011-145, s. 19.1(h).)

Ohio ([Link](#))

If one or more of the aggravating circumstances listed in division (A) of this section is specified in the indictment or count in the indictment and proved beyond a reasonable doubt, and if the offender did not raise the matter of age pursuant to section 2929.023 of the Revised Code or if the offender, after raising the matter of age, was found at trial to have been eighteen years of age or older at the time of the commission of the offense, the court, trial jury, or panel of three judges shall consider, and weigh against the aggravating circumstances proved beyond a reasonable doubt, the nature and circumstances of the offense, the history, character, and background of the offender, and all of the following factors:

- (1) Whether the victim of the offense induced or facilitated it;
- (2) Whether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation;
- (3) Whether, at the time of committing the offense, the offender, because of a mental disease or defect, lacked substantial capacity to appreciate the criminality of the offender's conduct or to conform the offender's conduct to the requirements of the law;
- (4) The youth of the offender;
- (5) The offender's lack of a significant history of prior criminal convictions and delinquency adjudications;
- (6) If the offender was a participant in the offense but not the principal offender, the degree of the offender's participation in the offense and the degree of the offender's participation in the acts that led to the death of the victim;
- (7) Any other factors that are relevant to the issue of whether the offender should be sentenced to death.

(C) The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death.

Oklahoma ([link](#))

Mitigating circumstances are

- 1) circumstances that may extenuate or reduce the degree of moral culpability or blame
- 2) circumstances which in fairness, sympathy or mercy may lead you as jurors individually or collectively to decide against imposing the death penalty.

The determination of what circumstances are mitigating is for you to resolve under the facts and circumstances of this case. While all twelve jurors must unanimously agree that the State has established beyond a reasonable doubt the existence of at least one aggravating circumstance prior to consideration of the death penalty, unanimous agreement of jurors concerning mitigating circumstances is not required. In addition, mitigating circumstances do not have to be proved beyond a reasonable doubt in order for you to consider them.

Oregon ([Link](#))

The court shall instruct the jury to consider, in determining the issues in paragraph (b) of this subsection, any mitigating circumstances offered in evidence, including but not limited to:

- (1) the defendant's age
- (2) the extent and severity of the defendant's prior criminal conduct

(3) the extent of the mental and emotional pressure under which the defendant was acting at the time the offense was committed.

Pennsylvania ([Link](#))

Mitigating circumstances shall include the following:

- (1) The defendant has no significant history of prior criminal convictions.
- (2) The defendant was under the influence of extreme mental or emotional disturbance.
- (3) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.
- (4) The age of the defendant at the time of the crime.
- (5) The defendant acted under extreme duress, although not such duress as to constitute a defense to prosecution under 18 Pa.C.S. § 309 (relating to duress), or acted under the substantial domination of another person.
- (6) The victim was a participant in the defendant's homicidal conduct or consented to the homicidal acts.
- (7) The defendant's participation in the homicidal act was relatively minor.
- (8) Any other evidence of mitigation concerning the character and record of the defendant and the circumstances of his offense.

South Carolina ([Link](#))

Mitigating circumstances:

- (1) The defendant has no significant history of prior criminal conviction involving the use of violence against another person.

- (2) The murder was committed while the defendant was under the influence of mental or emotional disturbance.
- (3) The victim was a participant in the defendant's conduct or consented to the act.
- (4) The defendant was an accomplice in the murder committed by another person and his participation was relatively minor.
- (5) The defendant acted under duress or under the domination of another person.
- (6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.
- (7) The age or mentality of the defendant at the time of the crime.
- (8) The defendant was provoked by the victim into committing the murder.
- (9) The defendant was below the age of eighteen at the time of the crime.
- (10) The defendant had mental retardation at the time of the crime. "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

South Dakota ([Link](#))

Mitigating and aggravating circumstances considered by judge or jury. Pursuant to §§ 23A-27A-2 to 23A-27A-6, inclusive, in all cases for which the death penalty may be authorized, the judge shall consider, or shall include in instructions to the jury for it to consider any mitigating circumstances and any of the following aggravating circumstances which may be supported by the evidence:

Tennessee ([Link](#))

In arriving at the punishment, the jury shall consider, pursuant to the provisions of this section,

any mitigating circumstances, which shall include, but are not limited to, the following:

- (1) The defendant has no significant history of prior criminal activity;
- (2) The murder was committed while the defendant was under the influence of extreme mental or emotional disturbance;
- (3) The victim was a participant in the defendant's conduct or consented to the act;
- (4) The murder was committed under circumstances that the defendant reasonably believed to provide a moral justification for the defendant's conduct;
- (5) The defendant was an accomplice in the murder committed by another person and the defendant's participation was relatively minor
- (6) The defendant acted under extreme duress or under the substantial domination of another person
- (7) The youth or advanced age of the defendant at the time of the crime;
- (8) The capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of the law was substantially impaired as a result of mental disease or defect or intoxication, which was insufficient to establish a defense to the crime but which substantially affected the defendant's judgment
- (9) Any other mitigating factor that is raised by the evidence produced by either the prosecution or defense, at either the guilt or sentencing hearing.

Texas ([Link](#))

Whether, taking into consideration all of the evidence, including the circumstances of the

offense, the defendant's character and background, and the personal moral culpability of

the defendant, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed.

Utah ([Link](#))

Mitigating circumstances include

- (a) the defendant has no significant history of prior criminal activity
- (b) the homicide was committed while the defendant was under the influence of mental or emotional disturbance
- (c) the defendant acted under duress or under the domination of another person
- (d) at the time of the homicide, the capacity of the defendant to appreciate the wrongfulness of his conduct or to conform his conduct to the requirement of law was impaired as a result of a mental condition, intoxication, or influence of drugs, except that "mental condition" under this Subsection (4)(d) does not mean an abnormality manifested primarily by repeated criminal conduct
- (e) the youth of the defendant at the time of the crime
- (f) the defendant was an accomplice in the homicide committed by another person and the defendant's participation was relatively minor
- (g) any other fact in mitigation of the penalty.

Virginia ([Link](#))

Facts in mitigation may include, but shall not be limited to the following:

- (i) the defendant has no significant history of prior criminal activity

- (ii) the capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance
- (iii) the victim was a participant in the defendant's conduct or consented to the act
- (iv) at the time of the commission of the capital felony, the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was significantly impaired
- (v) the age of the defendant at the time of the commission of the capital offense, or
- (vi) even if 19.2-264.3:1.1 is inapplicable as a bar to the death penalty, the subaverage intellectual functioning of the defendant.

Washington ([Link](#))

A mitigating circumstance is a fact about either the offense or about the defendant which in fairness or in mercy may be considered as extenuating or reducing the degree of moral culpability, or which justifies a sentence of less than death, although it does not justify or excuse the offense. You may consider as mitigating circumstances any of the following factors that you find to be supported by the evidence:

- (1) The defendant does not have a significant history of prior criminal activity;
- (2) The murder was committed while the defendant was under the influence of extreme mental disturbance;
- (3) The victim consented to the act of murder;
- (4) The defendant was an accomplice to a murder committed by another person where the defendant's participation in the murder was relatively minor;
- (5) The defendant acted under duress or domination of another person;

- (6) At the time of the murder, the capacity of the defendant to appreciate the wrongfulness of [his][her] conduct or to conform [his][her] conduct to the requirements of law was substantially impaired as a result of mental disease or defect;
- (7) The age of the defendant at the time of the crime calls for leniency;
- (8) The defendant is unlikely to pose a danger to others in the future;
- (9) Any other mitigating factor that you find to be relevant.

The appropriateness of the exercise of mercy is itself a mitigating factor you may consider in determining whether the State has proved beyond a reasonable doubt that the death penalty is warranted.

Wyoming ([Link](#))

Mitigating circumstances shall include the following:

- (i) The defendant has no significant history of prior criminal activity;
- (ii) The murder was committed while the defendant was under the influence of extreme mental or emotional disturbance;
- (iii) The victim was a participant in the defendant's conduct or consented to the act;
- (iv) The defendant was an accomplice in a murder committed by another person and his participation in the homicidal act was relatively minor;
- (v) The defendant acted under extreme duress or under the substantial domination of another person;
- (vi) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired;
- (vii) The age of the defendant at the time of the crime;

(viii) Any other fact or circumstance of the defendant's character or prior record or matter surrounding his offense which serves to mitigate his culpability.