

No.	State	LWOP Statute	Process/Manner of Informing	Anything Else?	Before or After <i>Simmons</i> (1994).
1	Alabama	Ala. Code § 13A-5-39 (Death Penalty) 13A-5-45(f) States that unless one aggravating circumstance is found the sentence shall be life imprisonment without parole. 13A-5-46(d) ". . . the jury shall be instructed on its function and on the relevant law by the trial judge. The jury shall then retire to deliberate concerning the advisory verdict it is to return." 13A-5-46(e) Here the Judge makes the final determination of the sentence. The jury sentence is a recommendation. It does give the options for the jury, does mention LWOP	1. The sentencing statute states that the advisory verdict the jury will render <u>shall</u> include either a recommendation that the sentence be: 1) "life imprisonment without parole" or 2) death. 2. The Alabama Rules of Criminal Procedure, Sample Form 39. Forms of Verdict has a Capital Offense Advisory Sentence Verdict Forms - there are two sample forms both contain an option of "life without parole"	1.No model jury instructions. 2. LWOP Not Statutorily Mandated. 3. No Supreme Court case on point. 4. A.R.Cr.P. Rule 26.6(b)	Before
2	Alaska	N/A			
3	Arizona	Az. Rev. Stat. § 13-703.01 (A) If state is seeking death, then there is first the question as whether D. will be sentenced to death. If the jury says no to death then the jury must decide between LWOP or life (25 years if the murdered person was 15 years or older or 35 years if the murdered person was under the age of 15 - this includes the unborn)		1. No model jury instructions. 2. LWOP not statutorily mandated. 3. Cases. 4. Crim. Pro. Westlaw only had the proposed legislation so there were no case notes; Lexis had case notes but they were not extensive: Check Jenkins!!!	
4	Arkansas	Ark Code Ann. § 5-4-601, <i>et seq.</i> ; 5-51-201 (capital punishment for treason). 5-4-603(b) - "The jury shall impose a sentence of life imprisonment without parole if the jury finds that . . . A.C.A. § 5-10-101 (capital murder statute)	In the Arkansas Model Criminal Instructions (AMCI) the jury instructions for the sentencing phase of the bifurcated capital trial tells the jury they are to consider whether the defendant is to be sentenced to death by lethal injection or to life imprisonment without parole. (life imprisonment w/o parole is mentioned 3 times in the jury instructions).	1. a. The AMCI instructions shall be followed by the trial court judge, unless the instructions do not reflect valid law. If a trial judge gives different instructions she or he will note the reasons why she or he has deviated. b. 1-10 Arkansas Model Jury Instructions - Criminal AMCI 2d 1008. (1994) (2008 - Copyright) . 2. LWOP not statutorily mandated. 3. Nothing in Notes of decision	Before

List of Research stuff:
1. Model Jury Instructions.
2. Update the Statutes
3. Criminal Practice Guides
4. Criminal Procedure Forms
5.

Guide: Blue = statutorily mandated (8 states; two I'm fairly certain of)
Pink = Model Jury Instructions must be given (one)
Orange = S. Ct. has mandated LWOP be given.

5	California	Cal. Pen. Code § 190 <i>et seq</i> (Homicide sentences generally), § 190.3 ". . . The trier of fact shall be instructed that a sentence of confinement to state prison for a term of life without the possibility of parole may in future after sentence is imposed, be commuted or modified to a sentence that includes the possibility of parole by the Governor of the State of California."	1. Model jury instructions. Introduction to the sentencing phase tells the jury the law provides for two possible penalties: death or life without the possibility of parole. During the sentencing phase charge the jury is again reminded that they must sentence the defendant to either death or life without the possibility of parole.	1. Cal Crim was written by the Judicial Council's Advisory committee on Criminal Jury Instructions. b. 1-500 CalCrim No. 760, 761, 766 (2007). 2. LWOP not statutorily mandated. 3. <i>People v. Polk</i> , 63 Cal 2d 443, 47 Cal Rptr 1, 406 P2d 641 (1965). On penalty phase of first degree murder trial, it is not compulsory for trial court to instruct on legal considerations that jury should take into account when deciding whether penalty should be death or life imprisonment	Before
6	Colorado	Colo.Rev.Stat. §18-3-101, et seq (criminal code: defines murder in the first degree; class 1 felony: 3-102); 18-1.3-1201 et seq. (Special Proceedings Sentencing in class 1 Felonies)	1. 18-1.3-1201(1)(a) specifically states that in a separate sentencing hearing the jury will consider whether the D. should be sentenced to "death or life imprisonment" - no mention of LWOP. 18-1.3-1201(b)(1) "The jury shall be instructed that life imprisonment means imprisonment for life without the possibility of parole."	1. No Model Criminal Jury Instructions. 2. Statutorily mandated (in the language of the statute: "shall")	Before
7	Connecticut P.S. CT's structure and organization of it's code SUCKS	Conn.Gen.Stat. § 53a-46a(g) (sentencing procedure for capital felony) (West 1985) § 53a-35b - life imprisonment defined: ". . . the sentence [of] life imprisonment without the possibility of release, pursuant to subsection (g) of section 53a-46a, in which case the sentence shall be imprisonment for the remainder of the defendant's natural life "		1. No Model Criminal Jury Instructions. 2. No Statutorily mandated LWOP.	Before
8	Delaware	Del.Code.Ann.Tit.11 § 636 (Murder in the first degree; class A felony); §4209 (Punishment, procedure for determining punishment, review of punishment and method of punishment for first-degree murder) (a) ". . . shall be punished by death or by imprisonment for the remainder of the person's natural life without the benefit of probation or parole or any other reduction . . .".	1. 11 § 4209 (c)(3)a. Just states that the judge will give the appropriate instructions and the jury will report to the court. 2. My reading of the stat. = this is not a good statute - very vague; also it seems as if the jury is not aware of the consequences of it's deliberations. 3. The jury's findings are recommendations to the judge. (Assuming judge knows the LWOP; issue is if the jury is or is not instructed on LWOP; and how many times does a judge sentence counter to the jury's findings.) 4. See Also: SuperCtCrim Rule 30	1. No Model Criminal Jury Instructions. 2. No Statutorily mandated LWOP. (Jury's findings are a recommendation to the Judge)	Before

9	Florida	FLA. STAT. 921.142 (West 1992) & Standard Jury Instructions Criminal Cases, 603 So.2d 1175, 1205 (Fla. 1992) ===== West's F.S.A. § 775.082(1) Sentencing for capital felony: either death or "life imprisonment and shall be ineligible for parole" § 782.04 [Murder stat.] (2)-(3) defines murder in the first degree/ a capital felony. § 921.141 - Sentencing statute: The jury's sentencing is advisory (follows the punishment listed in § 775.082)	The Florida Standard Jury Instructions in Criminal Cases § 7.11. explicitly states to the punishment for murder in the first degree is death or life imprisonment without the possibility or parole. Then states it must render an advisory sentence as to what punishment should be to the judge.	1. The jury sentence is advisory. 2. No statutorily mandated LWOP (Jury sentence is advisory). 3. 603 So.2d 1175, 1205 (Fla. 1992)	Before
10	Georgia	GA. CODE § 17-10-31.1(d) ". . . during the sentencing phase before a jury, counsel for the state and the accused may present argument and the trial judge may instruct the jury:" 1) LWOP; and 2) Life imprisonment means D. will be parole eligible during the term of life. ==== 17-10-30, et seq (Sentencing and punishment) N/A	1. Ga. has crimes which are punishable by death (hijacking, treason, murder, kidnapping) - then the jury must find an agg. (list is stat. listed), if the jury or judge does not find an agg. then the punishment can be life with the possibility of parole. 2. LWOP -	1. No Model Criminal Jury Instructions. 2. LWOP is recommended by sentence (depending on the sentencing options)	Before
11	Hawaii	N/A			
12	Idaho	I.C. § 19 2515(7) - LWOP: (The Jury Shall Be informed as follows.) ==== 18-4003 (degrees of murder); 18-4004 (punishment for murder) - 19-2515 et seq (Sentence in Capital Cases)	1. Statutorily required instruction. 2. If the jury finds the presence of aggs but mits make death penalty unjust or if the jury cannot unanimously decided if the presence of mits makes the death penalty unjust then the D. will be sentenced to a term of life imprisonment without the possibility of parole. 3. If the jury does not find aggs or if the jury cannot agree on the existence of the agg then the defendant will be sentenced by the court to a term of life imprisonment with a fixed term of not less than 10 years.	1. No Model Criminal Jury Instructions. 2. Statutorily mandated (in the language of the statute: "shall")	
13	Illinois	ILL. REV. STAT. ch. 38, ¶ 1005 8 1 (Smith Hurd Supp. 1992) ==== 720 ILCS 5/9-1, et seq (First Degree Murder - Death Penalties...) (g) - procedure - jury: does not give a specific "the jury shall be instructed on LWOP" 730 ILCS 5/5-5-3 (sentencing but very confusing!!!)		1. No Model Criminal Jury Instructions. 2. LWOP not Statutorily mandated.	Before

14	Indiana	IND. CODE § 35-50-2-9 (Death Sentences) 35-50-2-3 (Murder stat.) 35-38-6-1 et seq (Death Penalty Procedure)	1. In both the preliminary and final sentencing phase instructions states life imprisonment without parole. 2. The sentence by the jury is a recommendation to the judge. 3. IC 35-50-2-9(d) "The court shall instruct the jury that , in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed "	1.a. Criminal Instructions Committee of the Indiana Judges Association. b. Indiana Pattern Jury Instructions Criminal Instructions, Chapter 15 - Biburcated Trials.; 001-15 IN Pattern Jury Instructions Criminal Instruction No. 15.01 - 15.14 2. LWOP not Statutorily mandated. (jury recommends sentence to the judge)	Before
15	Iowa	N/A			
16	Kansas	21-3401 (Murder in the first degree) - Murder in the first degree is an off-grid person felony; 21-3439 (Capital Murder), 21-4624 (Same; proceeding to determine if person shall be sentenced to death, notice, trial judge, imprisonment for LWOP) 22-4001 (Execution of Death Sentence)	1. K.S.A. 21-4624 defines what LWOP means but does not mandate what the trial judge shall instruct the jury for possible sentencing purposes. 21-4624(e) does say that: "... otherwise, the defendant shall be sentenced to life without the possibility of parole."	1. No Model Criminal Jury Instructions. 2. LWOP not Statutorily mandated. 3. See <i>State v. Harmon</i> , 254 K. 87, 97, 856 P.2d 954 (1993). (Pursuant to subsection (4), jury instructions must provide clear guidance for jurors in sentencing hearing.)	
17	Kentucky	532.025 (Presentence hearings - Use of juvenile court records - Aggravating or mitigating circumstances - Instruction to jury) KPC 532.030(4) "... The instructions shall state . . . that the jury may recommend upon a conviction for a capital offense a sentence of death, or at a term of imprisonment for life without benefit of probation or parole, or a term. . . (see next cell)"; 640.040;	1. Recommended Jury instructions: jury instructed that it "may recommend upon a conviction for a capital offense a sentence of death, or at a term of imprisonment for life without benefit of probation or parole, or a term of imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty five (25) years of his sentence, or a sentence of life, or to a term of not less than twenty (20) years nor more than fifty (50) years"	1. 1-12 Cooper & Cetrulo, Kentucky Jury Instructions § 12.07 specifically states that the authorized sentences are mentioned in box besides this one. 2. LWOP is Statutorily mandated.	
18	Louisiana	14:30, et seq.(First Degree Murder) C.(1) Punishment for first degree murder shall be: death or life imprisonment at hard labor w/o benefit of parole, probation, or suspension of sentence in accordance with the determination of the jury.		1. No Model Criminal Jury Instructions.	Before
19	Maine	N/A			
20	Maryland	MD. ANN. CODE art. 27, § 2-303 (First degree murder - Sentencing procedure - Death penalty) 2-303(f)(1)(ii)1. "the findings that the jury must make to determine whether the defendant shall be sentenced to death, imprisonment for LWOP, or imprisonment for life; and 2-303(f)(2) "The court may not instruct the jury that the jury is to assume that a sentence of life imprisonment is for the natural life of the defendant."	1. The jury has the sentencing options of a. death; b. LWOP, or c. life imprisonment. § 2-304: LWOP must be unanimously found by jury. 2. The defendant must be given notice that the state is seeking death or LWOP. (§§ 2-201; 2-202; 2-203)	1.a. Maryland Criminal Pattern Jury Instructions, 2006 by the Maryland State Bar Assoc. (MPJI-Cr 7:00). b. There are jury verdict sheets (Chapter 7) But they are not very specific as to what the jury gets: " the D. will receive a sentence of death or life [with or without the possibility of parole]." There is no explanation as to what the court does with the brackets. 2. LWOP is not statutorily mandated 3. See <i>Bruce v. State</i> , 318 Md. 706, 569 A.2d 1254 (1990), aff'd (In a capital case, the trial court, when requested to do so, should give an LWOP)	Before
21	Massachusetts	N/A			

22	Michigan	N/A			
23	Minnesota	N/A			
24	Mississippi	MISS. CODE ANN. § 97-3-21(Homicide; penalty for murder or capital murder) ". . . Every person who shall be convicted of capital murder shall be sentenced (a) to death; (b) to LWOP; or (c) to imprisonment for life w/possibility of parole provided in § 47-7-3(1)(f); 99-19-101 et seq.(Jury to determine punishment in capital cases in separate sentencing proceeding; aggravating and mitigating circumstances to be considered.)	1. § 99-19-101(2)(d) states that the jury shall deliberate on the following matters: (among other things) whether the D. should be sentenced to life imprisonment, LWOP, or death. <i>But see</i> Branch v. State	1. No Model Criminal Jury Instructions. 2. No Statutorily mandate LWOP 3. <i>See Branch v. State</i> , 882 So. 2d 36 (Miss. 2004), cert. denied; and <i>Goodin v. State</i> , 787 S. 2d 639 (Miss. 2001), cert. denied, 535 U.S. 996 (2002), <i>Wiley v. State</i> , 691 So. 2d 959 (Miss. 1997)	Before
25	Missouri	MO. ANN. STAT. § 565.030 (Trial procedure, first degree murder) 565.030.4 - ". . . The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of governor: . . . If the trier is a jury it shall be so instructed." (<== UNCLEAR!!!)		1. No Model Criminal Jury Instructions. 2. The language of 565.030.4 is VERY ambiguous. The statute could be read to mandate an LWOP, but the way the statute is constructed it is not clear. 3. 4. 19 MO Practice Series sec 20:19, Trial Framework-Case for the D.- Instructions to the Jury.	Before
26	Montana	MT ST 46-18-301, et seq.	1. The judge determines the sentence (there is no jury recommendation) ergo it is presumed she or he knows LWOP.	1. No Model Criminal Jury Instructions. 2. Judge decides penalty - stat. mandated.	
27	Nebraska	Neb.Rev.St. § 29-2520 (Murder; person found guilty; sentence; determination. 1. 28-106 - class I felony = death; class IA felony means life imprisonment. 2. 28-303 (Murder in the first degree; penalty) - The judge will decide whether the penalty will be a class I or class IA felony.	1. The judge determines the sentence (there is no jury recommendation) ergo it is presumed she or he knows LWOP. The statute also provides the option for a three judge panel either including or excluding the judge who presided over the guilt/innocence phase of the trial.	1. No Model Criminal Jury Instructions. 2. Judge decides penalty - stat. mandated.	
28	Nevada	NEV. STAT. 182; NEV. REV. STAT. ANN. § 175.554 (When death penalty sought: Instructions to jury; determinations; findings and verdict) 200.030, et seq (Degrees of murder; penalties).		1. No Model Criminal Jury Instructions. 2. LWOP not statutorily mandated.	
29	New Hampshire (I have not research NH because it has not revised its DP statutes)	N.H. REV. STAT. ANN. § 630:5 (IV) (Supp. 1992) -N.H. Rev. Stat. Ann. 630:1, v ===== 630:1, et seq.		1. No Model Criminal Jury Instructions.	
30	New Jersey	N/A			

31	New Mexico	31-20A-1 et seq. (Capital Felony Sentencing);	Model jury instructions have a "death penalty sentencing proceeding; explanation of sentence of life imprisonment" - where life is explained (30 years then parole eligible). 14-7030A. - D. must request these jury instruction.	1. Is the only state (including Federal and the Military) with no LWOP. 2. Has mandated jury instructions.	
32	New York	N/A			
33	North Carolina	N.C.G.S.A. § 15A-2000 (Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.) 15A-2000(b) - says that the jury instructions shall be determined by the trial court. 15A-2000(b)(3) - says that the sentence rec. to the court shall be based upon the following matters "whether the defendant should be sentenced to death or to imprisonment in the State's prison for life." 14-17 (Murder in the first and second degree defined; punishment) " . . . any person who commits [murder in the first degree] shall be punished with death or imprisonment in the State's prison for life without parole. "		1. No Model Criminal Jury Instructions. 2. No statutorily mandated LWOP. 3. <i>State v. Miller</i> , 339 N.C. 663, 455 S.E.2d 137 (1995). Where under the law applicable at the time of D's trial, he would have been eligible for parole if given a life sentence, the trial court was neither required nor allowed to give an instruction on the issue of parole eligibility.	
34	North Dakota	N/A			
35	Ohio	Ohio St. R.C. § 2903.01 (Aggravated Murder); Ohio St. R.C. § 2929.02 (Penalties for murder); R.C. § 2929.03 (Imposing sentence for aggravated murder) - this is super LONG and sort of confusing (way to go Ohio!) (D)(1) Provisions of when death can be imposed. § 2929.04 (Criteria for imposing death or imprisonment for a capital offense.)	1. jury must designate sentence of death; life without parole; or life with parole eligibility. 2.	1. Ohio Jury Instructions; The Ohio Judicial Conference: 4-503 OJI 503.011(2007) - these are recommendations to the trial court and attorneys. 2. This jury sentence in a recommendation to the trial judge. 3. There are four possible penalties: a & b) life w/o parole eligibility for 25; or 30 years.; c) life w/o the possibility of parole; or d) death.	

36	Oklahoma	OKLA. STAT. ANN. 21 § 701.7 (Murder in the first degree) 21 § 701.10 (Sentencing proceeding - Murder in the first degree) 21§ 701.10(A) " . . . the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death, life imprisonment without parole or life imprisonment."	1. Model Jury Instructions: Intro, explanation of aggs and mits & closing charge tells jury the three sentencing options: death; life imprisonment w/o possibility of parole; or life imprisonment w/possibility of parole.	1. Model Jury Instructions: Oklahoma Jury Instructions - Criminal e/w 2002 The Oklahoma State Court Network: OUJI-CR § 4-82. 2. No statutorily mandated LWOP. 3. a. <i>Martinez v. State</i> , Okla.Crim.App., 904 P.2d 138 (1995). Failure to instruct jury on sentencing option of LWOP required vacation of sentence of death imposed on D. b. <i>McCarty v. State</i> , Okla.Crim.App., 904 P.2d 110 (1995). Trial court violated D's right to due process and equal protection by refusing to instruct jury, in sentencing phase of capital murder prosecution, on option to sentence D to LWOP. c. <i>But see Mayes v. State</i> , Okla.Crim.App., 887 P.2d 1288 (1994).	Before
37	Oregon	OR. REV. STAT. § 163.105 (Sentencing options for aggravated murder) § 163.105(1) - defines possible sentences: death, LWOP, or Life with possibility of parole after 30 years. § 163.150 (Sentencing for aggravated murder; proceedings; issues for jury). This statute poses all questions to the jury as: (1)(b)(D) " Whether the defendant should received a death sentence" or (1)(c)(B) " . . . one or more of the jurors believe that the defendant should not receive a death sentence."		1. No Model Criminal Jury Instructions. 2. No Statutorily mandated LWOP. 3.	Before
38	Pennsylvania	42 Pa. C.S. § 9711; 18 Pa. C.S. § 1102(a)(1). A life sentence is statutorily defined as life without possibility of parole. 42 Pa. C.S. § 9756(c); 61 Pa. C.S. § 331.21. <i>Carpenter v. Vaughn</i> , 296 F.3d 138, 156 (3d Cir. 2002) (Alito, J.); <i>Meyers v. Gillis</i> , 142 F.3d 664 (3d Cir. 1998); see <i>Commonwealth v. Yount</i> , 419 Pa. Super. 613, 622, 615 A.2d 1316, 1320 (1992) (42 Pa. C.S. § 9756(c) "unequivocally bars all parole for first degree murderers"), app. denied, 535 Pa. 634, 631 A.2d 1007 (1993)	1. The Suggested Standard Criminal Jury Instructions do not mention LWOP - they only mention Life Sentence. (the advisory committee notes discuss Pa case law and <i>Simmon</i>). Also the SSCJI was not approved by the Pa Supreme Court.	1. Standard Criminal Jury Instructions do not mention LWOP 2. LWOP not statutorily mandated.	Before
39	Rhode Island	N/A			

40	South Carolina	<p>S.C. Code Ann. §§ 16-3-20 (Punishment for murder: separate sentencing proceeding to determine whether sentence should be death or life imprisonment)</p> <p>§§ 16-3-20(A) " . . . "For purposes of this section, "life imprisonment" means until death of the offender. No person sentenced to life imprisonment . . . is eligible for parole, community supervision, or early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits which would reduce the mandatory life imprisonment required by this section."</p> <p>§16-3-10 (Murder defined)</p>		<p>1. No Model Criminal Jury Instructions.</p> <p>2. No Statutorily mandate LWOP</p> <p>3. a. <i>State v. Southerland</i> , 316 S.C. 377, 447 S.E.2d 862 (1994). The trial judge did not violate the D's due process right by refusing to instruct the jury that the D would be ineligible for parole if sentenced to life under §24-21-640 where the solicitor did not argue the D's future dangerousness and the D. counsel informed the jury throughout closing argument that life imprisonment for the defendant meant that he would never be release from prison.</p> <p>b. <i>State v. Kelley</i> , 343 S.C. 350, 540 S.E.2d 851(2001). For a D. to be entitled to a parole ineligibility instruction during penalty phase of murder prosecution, two prongs must be met: 1) State must put D's future dangerousness in issue, and 2) the only available alternative sentence to death is LWOP.</p>	After
41	South Dakota	<p>S.D. CODIFIED LAWS ANN. § 24-15-4 (Person under life sentence not eligible for parole)</p> <p>22-16-4 (Murder in the first degree Premeditated design - Felony murder - Homicide as murder in the first degree.)</p> <p>23A-27A(Capital Punishment)</p> <p>23A-27A-3 "Upon the conclusion of the evidence, the judge shall give the jury appropriate instructions."</p>		<p>1. No Model Criminal Jury Instructions.</p> <p>2. No statutorily mandated LWOP.</p> <p>3.</p>	Before
42	Tennessee	<p>TENN. CODE ANN. § 39-13-204 (Sentencing for first degree murder),</p> <p>§ 39-13-204(e)(2) " . . . The jury shall be instructed that a defendant who receives a sentence of imprisonment for life shall not be eligible for parole consideration until the defendant has served at least 25 years. The jury shall also be instructed that a defendant who receives a sentence of imprisonment for life without possibility of parole shall never be eligible for release on parole."</p> <p>§ 39-13-204(f) - Prescribed verdict sheet which has the jury unanimously sentences the defendant to LWOP</p> <p>§ 39-13-201 (Criminal homicide)</p>	<p>1. Tennessee Pattern Jury Instructions (Criminal) 1-7 T.P.I. Criminal 7.04(a) explicitly states that the jury can must fix the punishment: death; by imprisonment for life without possibility of parole, or by imprisonment for life. A defendant who receives a sentence of imprisonment for life shall not be eligible for release until the defendant has served at least fifty-one (51) full calendar years of such sentence. A defendant who receives a sentence of imprisonment for life without parole shall never be eligible for release.</p>	<p>1. The TPI - Crim is an information service to lawyers and judges.</p> <p>2. LWOP statutorily mandated.</p>	Before

43	Texas	Tex. Code Crim. Pro. Ann. art. 37.071 (Procedure in capital case) sec. 2 states "... to determine whether the defendant shall be sentenced to death or life imprisonment without the possibility of parole." , §§ 2(e)(1), (e)(2) (Vernon 2006) ===== enacted in 2005	1.LWOP is stat. required: Tex. Code Crim Pro. Ann. Art. 37.071 Sec. 2 (e)(1); Sec 2(e)(2)(A); Sec(e)(2)(B). This set of instruction states the D. will get life without parole and defines what that means to the jury. All three also state: "The court shall instruct the jury . . ."	1. No Model Criminal Jury Instructions. 2. LWOP statutorily mandated.	After
44	Utah	UTAH CODE ANN. § 76-3-207 (Capital felony - Sentencing proceeding). § 76-3-207(5)(a) "[the jury] shall be instructed as to the punishment to be imposed upon a unanimous decision for death and that the penalty of either an indeterminate prison term of not less than 20 years and which may be fore life or life in prison without parole, shall be imposed if a unanimous decision for death is not found." (c) if the jury is not unanimous on death then it must determine if the sentence should be LWOP (minimum of 10 juror must vote). LWOP shall only be imposed if the jury determines that the LWOP "is appropriate." 76-3-206 (Capital felony - Penalties.) 76-3-207 (Capital felony - Sentencing proceeding.)		1. No Model Criminal Jury Instructions. 2. Fairly clear that LWOP is mandated by statute.	Before
45	Vermont	N/A			
46	Virginia	VA. CODE § 18.2-10 (Punishment for conviction of felony) § 18.2-31 (Capital murder defined; punishment) 19.2-264.2 (Conditions for imposition of death sentence.)	1. The Va Model Jury Instructions: "sentenced of death or to imprisonment for life or to imprisonment for life and a fine of a specific amount, but not more than \$ 100,000.00." and has a definition of "imprisonment for life" which means imprisonment for life without possibility of parole. Va Model Jury Instr., Criminal, P33.122, P33.126 (1998)	1. Va model jury instructions: 2. 3. a. <i>The defendant may request the LWOP: Yarbrough v. Commonwealth</i> , 258 Va. 347, 519 S.E.2d 602 (1999). b. <i>See also Eaton v. Commonwealth</i> , 240 Va. 236, 397 S.E.2d 385 (1990); <i>O'Dell v. Commonwealth</i> , 364 S.E.2d 491, 507 (1988)	

47	Washington	<p>WASH. REV. CODE ANN. § 10.95.010, et seq. (Capital Punishment)</p> <p>10.95.030(1) "A person sentenced to life imprisonment under this section shall not have that sentenced suspended, deferred or commuted by any judicial officer"</p> <p>Also no: parole, no release or furlough program. 95.060(4) The jury shall deliberate upon this question: "Having in mind the crime of which the d. has been found guilty, are you convinced beyond a reasonable doubt that there are not sufficient mitigating circumstances to merit leniency?"</p>		<p>1. No Model Criminal Jury Instructions.</p> <p>2. Statute defines LWOP but does not mandate the court instruct the jury.</p> <p>3. <i>State v. Grisby</i>, 97 Wash.2d 493, 647 P.2d 6 (1982), cert. denied 103 S.Ct. 1205.</p>	Before
48	West Virginia	N/A			
49	Wisconsin	N/A			
50	Wyoming	<p>WYO. STAT. § 6-2-101 (Murder in the first degree; penalty.)</p> <p>§ 6-2-101(b) " . . . punished by death, life imprisonment without parole, or life imprisonment according to law . . ."</p> <p>§ 6-2-102 (Presentence hearing for murder in the first degree; mitigating and aggravating circumstances; effect of error in hearing.) (d) "Upon conclusion of the evidence and arguments the judge shall give the jury appropriate instructions."</p> <p>§7-13-402 (General powers and duties of board; eligibility for parole; immunity) (a) If you are LWOP then the board may not grant parole.</p>	<p>1. Under § 6-2-102(d) If the jury is not unanimous on the sentence of death; then it will go on to consider whether the appropriate sentence will be a unanimous vote of LWOP; if the jury is not unanimous or if it cannot decide the punishment within a reasonable time then the punishment will be life imprisonment. ==> The Question becomes then if the jury is told if it is not unanimous for death then it will have to decide LWOP or life imprisonment.</p>	<p>1. No Model Criminal Jury Instructions.</p> <p>2. No statutorily mandated LWOP.</p> <p>3.a. <i>Olsen v. State</i>, 67 P.2d 536 (Wyo. 2003). Where in a capital murder case the jury received inconsistent instruction in the steps of the stat. process it was to engage in and no useful instruction in how it was to engage in this stat. process, the case was remanded.</p>	Before
51	Federal Gov't	<p>18 USCS § 3591 (Sentence of death)</p> <p>18 USCS § 2593 (Special hearing to determine whether a sentence of death is justified)</p> <p>(e) " . . . [the jury] shall recommend whether the defendant should be sentenced to death, to life imprisonment without possibility of release or some other lesser sentence."</p>			
52	Military				
53	Dist. of Columbia	N/A			