

Hello, and welcome to the Death Penalty Information Center's podcasts examining the status of the death penalty in each of the states. In this podcast, we will briefly discuss the history of the death penalty in Vermont and some of the circumstances that led to its abolition.

During its entire history of over 200 years, Vermont rarely used the death penalty. From 1777, when Vermont created its own penal system, until 1987, when the death penalty was finally struck from the law, Vermont sentenced only 55 people to death and executed only 27. In 1838, Vermont almost abolished the death penalty. A change of three votes in the Senate would have made Vermont the first state to abolish capital punishment, 47 years after becoming a state in 1791.

The death penalty was used initially because of insufficient law enforcement capacity. With few police officers, Vermont was limited in ways to maintain order. There was not even a state prison until 1808. Felons were held in county jails that lacked adequate security. Hangings were used in an attempt to deter criminals.

During the 19th and 20th century, the Vermont legislature steadily limited the applicability of the death penalty, demonstrating a growing ambivalence towards capital punishment that eventually resulted in abolition. The number of crimes for which the death penalty could be imposed was gradually reduced. In 1779, sodomy and burglary were punishable by death, along with other crimes such as murder. By 1797, the first two crimes were no longer punishable by death; however, first-degree murder remained a capital offense until 1965. Despite the formal end of capital punishment in 1987, the death penalty still technically exists for treason.

For much of Vermont's history the punishment for first-degree murder was a mandatory death sentence. Nevertheless, the legislature allowed numerous exceptions, reflecting the political skepticism about capital punishment. For example, in 1825 the insane were exempted from the death penalty. In 1869, first and second degree murder became separately defined by law. First-degree murder was punishable by death but could only be invoked when the murder was pre-meditated and committed in conjunction with "arson, rape, robbery or burglary." Juries thus had discretion over whether to impose capital punishment. In 1911, this discretion increased when juries were given the power to decide whether a capital offense merited life in prison or a death sentence.

The Vermont legislature also considered numerous abolition bills. Four of these bills passed one chamber of the legislature, only to be defeated in the other. Governor Phillip Hoff encouraged legislative efforts to abolish the death penalty during his time in office in the 1960s, resulting in the virtual end of capital punishment in 1965, except for a few crimes, such as the killing of a police officer. Even for that offense no one was sentenced to death despite the killing of several police officers. Vermont's death penalty law was invalidated in 1972 by the US Supreme Court's decision in *Furman v. Georgia* that commuted all death sentences in the country. In 1987, Senator Vince Illuzzi proposed a statute to reinstate the death penalty. Instead, the legislature, recognizing that Vermonters no longer wanted the death penalty, enacted an aggravated murder law, which carried a mandatory sentence of life without parole, finally removing the death penalty as a possible punishment for murder. Since 1987,

multiple bills aimed at restoring capital punishment for ordinary crimes have been brought before the state legislature, but have received little support.

The federal government did pursue the death penalty against one man in 2005. Donald Fell was accused of killing three women and was charged in federal court because he fled across state lines after the murders. While a federal jury in Vermont sentenced him to death, his conviction was overturned in 2014. He may face a retrial. Thank you for joining us for this edition of the Death Penalty Information Center Podcast. For more information visit deathpenaltyinfo.org.