Alabama

Post-Conviction Case Activity & Victims' Rights

Post-Sentencing Review

After an individual has been convicted and sentenced, they may file motions in the trial court to challenge their conviction or sentence. For example, they may file:

- A motion for an acquittal
- A motion for a new trial based on new evidence, jury misconduct, legal errors at trial, or other problems with the proceedings
- A motion to arrest the judgment
- A motion to withdraw their plea

The prosecution may also file a motion to shorten the convicted individual's sentence in certain situations.

Victims' Rights

Victims have the right to be treated with fairness, respect, and dignity. This right extends throughout all stages of the post-conviction process.

Victims have the right to be present at court proceedings.

Victims have a right to notice of the status of any post-conviction court review or appellate proceeding.

Victims are entitled to information regarding the return of any property taken as evidence.

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Direct Appeal

After the court decides on any post-trial motions (or if no post-trial motions are filed), the individual convicted of a crime may ask a higher court to review the trial court's or jury's decisions. This is called a "direct appeal." On appeal, the court does not admit new evidence or call witnesses. Instead, it reviews what happened at trial (called the trial record) and written briefs filed by both sides describing their positions.

If an individual convicted of a crime requests an appeal, they may ask the court to release them while the appeal is ongoing. The convicted individual is more likely to be released in misdemeanor cases than in felony cases.

The individual convicted of a crime generally has 42 days after sentencing to decide whether to appeal. If the convicted person appeals, the state Attorney General's Office assigns a lawyer for the state to oppose the appeal. The state's lawyer and the convicted individual's lawyer then prepare written briefs for the judges, which generally takes several months. In some cases, the lawyers from both sides present oral arguments to the judges. Then, the judges prepare a written decision in the case. The appeal process takes roughly a year or more.

Victims' Rights

Victims have a right to notice of the status of any post-conviction court review or appellate proceeding. Victims must request notice from the Alabama Attorney General's Office.

Victims have the right to notification of decisions in any post-conviction or appellate proceeding.

Victims may attend and listen to the presentations (called oral arguments) to the judges in direct appeal.

State Post-Conviction Proceedings

Post-conviction motions are requests to have the conviction or sentence reviewed that are filed after the direct appeal process has ended. These motions can seek many outcomes, but the main requests and outcomes in Alabama are the following:

- Rule 32 petition: Rule 32 petitions can be used to obtain a new hearing about the evidence in the case, overturn an individual's criminal conviction, modify their sentence, or file a belated appeal.

- Petition for writ of certiorari: These petitions may be filed to obtain review of decisions of the Bureau of Parole and Pardons (such as denial of parole) or certain decisions of prison officials (such as classification of the individual as a "heinous" offender or as a sex offender).

- Petition for writ of mandamus: This petition may be used to compel the trial judge to do something if the convicted person can show a clear legal right to that action.

Victims' Rights

Victims have a right to notice of the status of any post-conviction court review or appellate proceeding. Victims must request notice from the Alabama Attorney General's Office.

Victims have the right to be present at court hearings and/or arguments during Rule 32 petitions or other state post-conviction proceedings.

DNA Testing

If DNA testing was not done at the time of trial and if the convicted person was sentenced to death, they may seek DNA testing of physical evidence collected in the case.

The court will not automatically grant testing. Instead, it will be awarded only if testing would likely demonstrate the convicted individual's innocence.

If the court grants DNA testing and the evidence shows the convicted person is innocent, the state will often agree to their release. If the state does not, then typically the convicted person will file a motion for a new trial. If the court grants that motion, the case starts over.

Victims' Rights

Victims have a right to notice of the status of any post-conviction court review or appellate proceeding.

Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Alabama law may go to federal court in a process called "habeas corpus." Relief in federal habeas corpus is available only in specific and rare circumstances. Issues often raised in federal habeas cases include claims that the convicted person had an inept attorney, claims that police or prosecutors violated their rights, hid evidence, or committed other misconduct.

In general, a person can file only one request for relief in federal habeas proceedings, though there are some exceptions to this rule.

Victims' Rights

Except for narrow exceptions when victims are testifying, victims have the right to attend federal habeas hearings, arguments, and proceedings.

Victims have the right to be heard at any federal district court proceeding involving the release, sentencing, or parole of the individual convicted of a crime.

Victims have the right to proceedings free from unreasonable delay.

Early Release Programs

If someone is sentenced to a term of imprisonment, they may be released from prison earlier than expected through these programs: parole, medical parole, temporary release to participate in jobs or rehabilitative programs, or earning days off their sentences (called "good-time credits") for good behavior and participation in rehabilitative, educational, and career training programs. Good-time credits are not available to people convicted of certain violent and felony offenses.

Victims' Rights

Victims have the right to be notified 30 days before parole hearings.

Victims have the right to be present at parole hearings.

Victims have a right to submit statements to the Board of Pardons and Paroles and the Department of Corrections.

Victims have the right to notice of the Board's decision in parole hearings.

Victims have the right to be informed about the release, escape, or change in the status of the offender including medical release, work release, escape, recapture, and death.

Prosecutorial Review

The Jefferson County District Attorney-Birmingham Division has established a conviction review unit that allows prosecutors to investigate claims of actual innocence in past felony cases from that district. Review is discretionary, and there is no remedy if the unit declines to review a past case.

Clemency

The governor or legislature can grant clemency to people convicted under Alabama law. The Alabama Bureau of Pardons & Paroles helps in this process. Clemency typically takes one of three forms:

1. Commutation: the reduction of a sentence to a less severe punishment
2. Reprieve: a temporary delay of a sentence being carried out
3. Pardon: an official act of forgiveness that frees a convicted person from punishment and erases the legal consequences of the crime

Alabama mayors have some pardon power, too. Generally, this authority is limited to violations of municipal ordinances.

Victims' Rights

Victims have a right to notification before the Governor grants a reprieve or commutation.
Victims have the right to be present at pardon hearings.
Victims have the right to submit a statement in pardon hearings.

Compensation

Restitution is a court-ordered payment from the convicted person to the victim to account for the victim's loss or injury.

Crime victims' compensation helps with financial losses that directly result from violent crime. These losses include loss of wages, medical expenses, mental health counseling, as well as funeral and burial costs.

Victims' Rights

Victims are entitled to court-ordered restitution. Victims have the right to information regarding the collection of restitution.

Victims may be entitled to compensation of up to $15,000 through the Alabama Crime Victim Compensation. Applications must be completed within 1 year of the crime.

The information provided in this resource is not intended as legal advice and is current as of September 2025. States regularly change how they handle criminal proceedings and victims' rights during those proceedings. Confirm with the state agencies provided in this resource for more up-to-date information. Different stages and victims' rights may apply to certain types of cases and certain types of victims, such as cases involving accused individuals who are minors and cases involving sexual offenses, domestic violence, and child victims.