



Idaho

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

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 have their property returned when it is no longer needed 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 convicted individual generally has 42 days of the trial court's judgment to decide whether to appeal. If the convicted person appeals, the state [Attorney General's Office](#) assigns a lawyer to oppose the appeal for the state. 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 notification of 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 Idaho are the following:

- Uniform Post-Conviction Procedure Act: A convicted person may file a petition under this Act to seek to vacate their conviction, modify their sentence, present new evidence or proof of innocence, or otherwise contest the criminal judgment.
- State habeas corpus: Incarcerated people may seek relief in state court in a process called "habeas corpus." Habeas petitions in Idaho can be used to challenge (1) conditions of confinement, (2) revocation of parole, (3) miscalculation of a person's sentence, (4) loss of good time credits, or (5) a detainer.
- Writ of error coram nobis: A convicted person may seek this writ to vacate a judgment based on mistakes, inadvertence, excusable neglect, fraud, newly discovered evidence, or other grounds for relief.

Victims' Rights

Victims have the right to prior notification of state post-conviction proceedings.

DNA Testing

A convicted person may file a motion seeking DNA testing of physical evidence.

The court will not automatically grant the requested testing. Instead, the court must allow testing only if it finds that the testing has the potential to produce new, noncumulative evidence that would show that it is more probable than not that the convicted person is innocent.

If the court grants testing and the evidence supports the convicted person's claim, that person may seek to vacate their conviction, obtain a new trial, or other relief. If the court grants a motion for a new trial, the case starts over.

Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Idaho law may seek habeas corpus relief in federal court. Relief 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, or earning reductions to their sentences for good behavior (usually called "meritorious reductions of sentence").

Victims' Rights

Victims have a right to notification if an incarcerated person is released, escaped, or died.

Victims have the right, if requisition, of notice for parole hearings.

Victims have the right to testify at parole hearings.

Clemency

The [Idaho Commission of Pardons and Parole](#) can grant clemency to people convicted under Idaho law. Clemency typically takes one of two forms:

1. Commutation: the reduction of a sentence to a less severe punishment
2. Pardon: an official act of forgiveness that frees a convicted person from punishment that erases the legal consequences of the crime

The governor can also grant temporary relief from a sentence, except in cases of treason or impeachment – but this temporary relief remains in effect only until the Commission can render a clemency decision.

Victims' Rights

Victims are entitled to notification when a commutation hearing is scheduled.

Compensation

Restitution is a court-ordered payment from the convicted person to the victim in order 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 \$25,000 through the [Idaho Crime Victim Compensation Program](#).

The information provided in this resource is not intended as legal advice and is current as of July 2024. 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.