



Nevada

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 the judgment against them. For example, they may file a motion:

- For a new trial based on jury misconduct, legal errors at trial, or other problems with the proceedings
- To arrest the judgment
- To withdraw their plea
- To modify or correct the sentence

In certain situations, the prosecution may file a motion to reduce or suspend the person's 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 freedom from intimidation, harassment, and abuse.

Victims have the right to notification of their rights.

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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 person generally has 30 days after entry of the judgment against them to decide whether to appeal. The district attorney's office that prosecuted the case assigns a lawyer to oppose the appeal for the state. The state lawyer and the convicted person'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 the right to notification of the filing of a direct appeal and direct appeal proceedings if requested.

Victims have the right to be present at direct appeal proceedings such as oral argument.

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. In Nevada, these motions are filed under the state's Postconviction Procedure Act, which allows a convicted person to challenge their conviction or sentence based on legal errors in the proceedings. In general, new evidence may not be raised in these proceedings, except in death penalty cases.

Victims' Rights

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

Victims have the right to refuse an interview or deposition request unless court-ordered.

Victims have the right to the protection of their confidential information and records.

Victims have the right to be present at post-conviction proceedings.

DNA Testing

A person convicted of a felony may file a motion seeking DNA testing of evidence collected in the case.

The court will not automatically grant the requested testing. Instead, the court may allow testing only if it finds a reasonable probability exists that the person would not have been prosecuted or convicted if exculpatory results of DNA analysis had been done earlier.

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

Victims' Rights

Victims have the right to notification if the court grants a new trial.

Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Nevada 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. The main types of early-release programs in Nevada are: earning "credits" to reduce their sentences for good behavior or participation in vocational, educational, or substance-abuse programs in prison, parole, geriatric parole, or medical release.

Victims' Rights

Victims have the right to notification of and presence at public proceedings related to the case.

Victims have the right to notification of parole and post-conviction release proceedings if requested.

Victims have the right to notification of the scheduled release date of the incarcerated individual.

Victims have the right to notification of scheduled release, escape, death, change in sentence, return to prison, or execution of the incarcerated individual.

Victims have the right to the consideration of their safety in release decisions.

Clemency

The [Nevada Board of Pardons Commissioners](#) can grant clemency to people convicted under Nevada 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

Victims' Rights

Victims have the right to notification 15 days before a clemency hearing if requested.

Victims have the right to submit a written response to the Board of Pardon Commissioners before a clemency hearing.

Victims have the right to written notification when the Board of Pardon Commissioners grants clemency if requested.

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 have the right to full and timely restitution and the right to apply for compensation through the [Victims of Crime 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.