



New Hampshire

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 correct or modify the sentence
- To have their sentences reconsidered by the [Sentence Review Division](#)
- To have an issue of law or fact reconsidered by the court

The [Department of Corrections](#) or the prosecutor may ask the court to suspend a sentence of incarceration 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 freedom from intimidation and reasonable protection.

Victims have the right to notification of all court proceedings.

Victims have the right to prompt return of property when 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 person generally has 30 days after sentencing to decide whether to appeal. If the person decides to appeal, the [Criminal Justice Bureau of the New Hampshire Department of Justice](#) assigns a lawyer to oppose the appeal for the state. The state lawyer & 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.

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 New Hampshire, the primary form of post-conviction relief is a process called "habeas corpus." In these proceedings, convicted people may seek relief based on legal problems with the proceedings.

Victims' Rights

Victims have the right to notification of an appeal, an explanation of the appeal process, and the time, place, and result of the appeal.

Victims have the right to be present at appellate hearings.

Victims' Rights

Victims have the right to notification of post-conviction motions, an explanation of the post-conviction process, the time and place of post-conviction hearings, and the result of the post-conviction motion.

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

DNA Testing

An incarcerated person 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 the identity of the perpetrator was at issue in the prior proceedings, the requested DNA results would be material to the perpetrator's identity, and there is a reasonable probability that, if the DNA testing had been done earlier, the person would not have been convicted.

If the court grants testing and the evidence supports the convicted person's claim, then the court must hold a hearing and grant whatever relief it deems appropriate. It may, for example, vacate the conviction, grant a new trial, or award other relief. If the court grants a new trial, the case starts over.

Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under New Hampshire 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

Victims have the right to notification of the filing of a petition for post-conviction DNA testing.

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 New Hampshire are: earning “credits” to reduce their sentences for good behavior or participation in vocational, educational, or substance-abuse programs in prison; parole; or medical parole.

Victims’ Rights

Victims have the right to notification of sentence review and sentence reduction hearings.

Victims have the right to notification of status changes such as prison release, interstate transfer, escape, and if requested, parole board hearings.

Victims have the right to be heard or submit a statement to the parole board.

Victims have the right to notification of the parole board’s decision if requested.

Clemency

The governor can grant clemency to people convicted under New Hampshire law. The [Executive Council](#) supports the governor in this work. 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 submit their opinions on clemency.

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 seek restitution and apply for compensation through the [New Hampshire Victims' 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.