



Oklahoma

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 new evidence, legal errors in the proceedings, or juror or prosecutorial misconduct
- To arrest the judgment
- To vacate the conviction
- 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 be free from intimidation, harassment, or abuse.

Victims have the right to a speedy disposition of the charges free from unwarranted delay caused by or at the behest of the convicted individual.

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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 10 days after sentencing to decide whether to appeal. If the person decides to appeal, the [Attorney General's Office](#) assigns a lawyer to oppose the appeal. 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.

Victims' Rights

Victims have the right to be present at oral arguments during the direct appeal.

Victims have the right to be notified and to be present at all proceedings involving the criminal or delinquent conduct, upon request.

Victims have the right to be informed if a sentence is overturned, remanded for a new trial, or otherwise modified by the Oklahoma Court of Criminal Appeals.

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. In Oklahoma, the main forms of post-conviction relief are:

- Uniform Post-Conviction Procedure Act: The convicted person may file a motion under this Act to challenge their conviction or sentence based on new evidence or legal errors in the proceedings or in the way the sentence is being carried out.
- State habeas corpus: A convicted person may seek relief through a process called "habeas corpus." In Oklahoma, the scope of this relief is limited because most claims must proceed under the Act.
- Writ of mandamus: In limited circumstances, a convicted person may challenge prison disciplinary proceedings or allege due process violations by seeking this writ.
- Other judicial review of prison disciplinary proceedings: If prison disciplinary proceedings result in the revocation of a person's earned credits (discussed below), the person may challenge that revocation in court in certain circumstances.

Victims' Rights

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DNA Testing

People convicted of violent felonies or sentenced to 25 years or more in prison 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 convicted person has steadfastly maintained their innocence and if the court finds a reasonable probability that the person would not have been convicted if favorable results had been obtained through DNA testing at the time of the original prosecution.

If the court grants testing and the results exculpate the convicted person, the court must hold a hearing and grant whatever relief it deems appropriate, such as the person's release from prison, a new trial, or 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 Oklahoma 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 a right to notice of post-conviction proceedings and victims may request a Criminal Appeal Notification. Victims may also request not to receive notification.

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

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 earlier than expected through one of these programs in Oklahoma: earning "credits" for good behavior, unusual meritorious acts, or participating in vocational, rehabilitative, educational, or other programs; parole, parole based on advanced age; or medical parole.

Victims' Rights

Victims have the right to notification of parole and medical parole requests.

Victims have the right to submit a written letter or email to the Parole Board. Victims have the right to attend parole hearings and be heard.

Victims have the right to be heard in any proceeding involving release, sentencing, disposition, parole, and any proceeding during which a right of the victim is implicated.

Victims have the right to know the location of the convicted individual during a sentence to probation or confinement, and when there is any release or escape of the convicted person from confinement.

Clemency

The governor can grant clemency to people convicted under Oklahoma law. The [Pardon and Parole Board](#) supports the governor in this work. Clemency typically takes one of two forms in Oklahoma:

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 be informed about the commutation process.

Victims have the right to notice of clemency applications and notice before clemency hearings if requested.

Victims have the right to provide written opinions about clemency and victims have the right to testify during clemency hearings, if requested.

Victims have the right to notification of clemency decisions.

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 the right to apply for the [Crime Victims Compensation Fund](#).

Victims have the right to be informed by the district attorney of financial assistance, restitution, and witness fees, including information on how to apply for them.

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.