



Oregon

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 correct the sentence.

The prosecutor and the convicted person may file a joint motion to have the court reconsider the conviction or sentence in certain felony cases.

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 reasonably protected from the convicted person.

Victims have the right to a copy of the transcript of any public court proceeding in their case.

Victims have the right to have the victim's schedule taken into account when these proceedings are scheduled.

Victims have the right to be present at and, on their request, to be informed in advance of any critical stage of the proceedings held in open court.

Victims have the right to be informed of the outcome of the proceeding.

Victims have the right to be notified of their rights by the state attorney.

This product was supported by grant number 15POVC-23-GK-01412-NONF, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this product are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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 the judgment to decide whether to appeal. If the person decides to appeal, the [Oregon Department of Justice](#) assigns a lawyer to oppose the appeal. 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 receive reasonable, accurate, and timely notice if an appeal, petition for post-conviction relief, or federal court action is filed.

Victims have the right to attend any public hearing related to the criminal proceeding that is conducted by an appellate court.

Victims have the right to be reasonably protected from the offender at any related appellate or post-conviction relief proceeding.

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 Oregon, 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 legal errors in the proceedings.
- State habeas corpus: A convicted person may seek relief through a process called "habeas corpus." In Oregon, the scope of this relief is limited because most claims must proceed under the Act. Typically, it is used to challenge problems with the way the sentence is being carried out.
- Sentence reductions for people convicted as minors: Certain people who were convicted of offenses they committed as minors and were sentenced to terms of imprisonment may ask courts to reduce their sentences.
- Judicial review of Parole Board decisions: In limited situations, a convicted person may ask a court to review the decisions of the Oregon Parole Board.

Victims' Rights

Victims have the right to receive reasonable, accurate, and timely notice if an appeal, petition for post-conviction relief, or federal court action is filed.

Victims have the right to be present at and, on their request, to be informed in advance of any critical stage of the proceedings held in open court.

Victims have the right to inspect, in advance of the proceeding, any public record that may be considered in resolving the petition for post-conviction relief.

Victims have the right to refuse an interview, deposition, or other discovery request by the criminal defendant or other person acting on behalf of the criminal defendant with limited exceptions such as court orders.

Victims have the right to be heard, orally or in writing, at a post-conviction proceeding.

Victims have the right to consult with counsel for the state regarding the post-conviction proceeding, including, if applicable, notice of and the opportunity to consult regarding a settlement agreement.

Victims have the right to notification of the resolution of the post-conviction proceeding.

Victims have the right to be reasonably protected from the offender at any related appellate or post-conviction relief proceeding.

DNA Testing

A person who was convicted in an Oregon court of aggravated murder or a felony in which DNA evidence could exist may seek DNA testing of any biological material secured in the case.

The court will not automatically grant the requested testing. Instead, the court may allow testing only if the convicted person swears they are innocent and if the court finds a reasonable probability that, had the test results been available earlier, the person would not have been prosecuted or convicted or the outcome would have been more favorable to the defense.

If the court grants testing and the results exculpate the convicted person, that person may seek 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 Oregon 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 if the convicted person's motion for DNA testing is granted by the court.

Victims have the right to notification of the results of DNA testing if the convicted person's motion for DNA testing is granted by the court.

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 Oregon: earning "credits" for good behavior or participating in vocational, rehabilitative, educational, or other programs; parole; or release based on advanced age or severe medical condition.

Victims' Rights

Victims have the right to notification 30 days before parole hearings and probation revocation hearings if requested.

Victims have the right to receive notice from the psychiatric security review board if a hearing is scheduled and to attend any public hearing related to these proceedings.

Victims have the right to obtain information, upon request, about the conviction, sentence, imprisonment, criminal history, and future release from physical custody of the convicted individual.

Victims have the right to notification if the convicted person dies.

Victims have the right to reasonably express views at a probation or parole hearing, and to provide relevant information to the State Board of Parole and Post-Prison Supervision regarding the defendant's release on parole.

Prosecutorial Review

A person convicted in Multnomah County, Oregon may ask the local prosecutor's [office](#) to review their case if they have a claim of actual innocence.

Clemency

The governor can grant clemency to people convicted under Oregon law. Clemency typically takes one of four forms in Oregon:

1. Commutation: the reduction of a sentence to a less severe punishment
2. Reprieve: a temporary delay of a sentence being carried out
3. Remission: a reduction or cancellation of court-ordered fines
4. 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 consult with the state's attorney on the case.

Victims' Rights

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

Victims have the right to attend the proceeding in person or, with permission, attend the proceeding by alternative means.

Victims have the right to submit a written victim impact statement for consideration during clemency proceedings.

Victims also have the right to appear in person during the clemency hearing to express their views.

Victims have the right to be reasonably protected from the convicted person during the clemency proceeding.

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 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.