



Pennsylvania

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 withdraw the plea or challenge its validity
- For a judgment of acquittal
- To arrest the judgment
- To modify the sentence.

The prosecutor may also file a motion to reduce the sentence 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 notification of certain significant actions and proceedings in their case.

Victims have the right to be present at criminal proceedings.

Victims have the right to have support from a family member, victim advocate, or support person at all criminal proceedings

Victims have the right to the prompt return of property that 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 person generally has 30 days after the judgment to decide whether to appeal. If the person decides to appeal, the district attorney'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.

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 Pennsylvania, the main forms of post-conviction relief are:

- Post Conviction Relief 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.
- State habeas corpus: A convicted person may seek relief through a process called "habeas corpus." In Pennsylvania, 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.

Victims' Rights

Victims have the right to proceedings free from unreasonable delay and a prompt and final conclusion of the case and related post-conviction proceedings.

Victims have the right to be present at oral arguments.

Victims' Rights

Victims have the right to proceedings free from unreasonable delay and a prompt and final conclusion of the case and related post-conviction proceedings.

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

DNA Testing

A person who was convicted in Pennsylvania and claims to be innocent 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 it finds that the identity of the perpetrator was at issue in the criminal proceedings and a reasonable probability that exculpatory evidence would establish the convicted person's innocence.

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 Pennsylvania 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 of sexual assault have the right to be notified at the time a request is submitted to a crime laboratory to test, analyze, or compare biological evidence and whether the comparison resulted in a match.

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 Pennsylvania: earning “credits” or “risk reduction incentives” for good behavior or participating in vocational, rehabilitative, educational, or other programs; parole; participation in boot camp (for convicted individuals with drug or alcohol problems); or compassionate release.

Victims’ Rights

Victims have the right to notice of the anticipated release date of the incarcerated person if requested.

Victims have the right to notice of parole hearings if requested.

Victims have the right to submit a statement about post-sentencing release decisions, including work release, parole, pardon, boot camp, or treatment center placement.

Victims have the right to immediate notice of an escape or apprehension by the convicted individual.

Prosecutorial Review

The Pennsylvania Attorney General’s Office has a [Conviction Integrity Section](#) that reviews past cases in which a person has a credible claim of innocence.

The Philadelphia County District Attorney’s Office also has its own [Conviction Integrity Unit](#), which investigates not only claims of innocence but also wrongful convictions and sentencing inequities.

Two other counties in Pennsylvania – [Chester](#) and [Centre](#) – have conviction integrity units, too, but neither appears to have vacated any convictions it has investigated.

Victims’ Rights

Victims have the right to confer with the prosecution.

Victims’ right to submit prior comment concerning potential reduction or dropping of charges, plea changes, diversion, or sentencing.

Victims have the right to be heard in any proceeding where the right of the victim is implicated, except for grand jury proceedings.

Clemency

The governor can grant clemency to people convicted under Pennsylvania law. The [Board of Pardons](#) assists the governor in this work. Clemency typically takes one of four forms in Pennsylvania:

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 submit a statement during the clemency process.

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 request restitution and the right to apply for the [Victim Compensation Assistance 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.