



Rhode Island

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 reduce the sentence

If the person files a motion to reduce their sentence, the state Attorney General has 20 days to file a motion to increase it.

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 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 between 5 and 20 days after sentencing to decide whether to appeal, depending on the court where the case began. If the person decides to appeal, the district attorney's office 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.

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 Rhode Island, the main forms of post-conviction relief are:

- Post Conviction Procedure Act: The convicted person may file a motion under this Act to challenge their conviction or sentence based on new evidence, legal errors in the proceedings, or problems with how the sentence is being carried out.
- State habeas corpus: A convicted person may seek relief through a process called "habeas corpus." In Rhode Island, habeas relief is available only when relief is not available under the Act.

DNA Testing

A person who was convicted in Rhode Island court and claims to be innocent may seek DNA testing of 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 a reasonable probability that the person would not have been prosecuted or convicted if the DNA testing had been done earlier.

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 Rhode Island 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 earlier than expected through one of these programs in Rhode Island: earning "credits" for good behavior, working in prison, participating in approved courses or programs, or performing extraordinary acts; or parole.

Victims' Rights

Victims have the right to notification before the convicted individual's release from prison if registered.

Victims have the right to notification of the convicted individual's furlough, transfer, escape, and death if registered.

Victims have the right to submit a statement to the Parole Board, schedule a meeting with the Parole Board before the parole hearing, or speak at the parole hearing.

Victims have the right to notification when parole is granted if registered.

Clemency

The governor can grant clemency to people convicted under Rhode Island law. In Rhode Island, clemency typically takes the form of a pardon, which is an official act of forgiveness that frees a convicted person from punishment that erases the legal consequences of the crime.

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 ask for restitution and the right to apply for [Rhode Island's Victim 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.