



Tennessee

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 on the grounds that the jury incorrectly weighed the evidence
- For an acquittal
- To arrest the judgment
- To reduce a 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 freedom from intimidation, harassment, and abuse.

Victims have the right to be present at all proceedings where the convicted individual has a right to be present.

Victims have the right to be heard, when relevant, at all critical stages of the criminal justice process.

Victims have the right to information about all proceedings.

Victims have the right to prompt and final conclusion of the case after the conviction or sentence.

Victims have the right to be informed about their rights.

Victims are entitled to the return of property taken by law enforcement as soon as reasonably possible.

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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 judgment 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 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

Upon request, victims have the right to be informed about the stages of the appeals process and how to obtain information about appeals. Victims have the right to be informed about the effect of the appeal on the convicted individual's conviction or sentence.

Victims have the right to prompt and final conclusion of the case after the conviction or sentence.

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

- Post-Conviction Procedure Act: A convicted person may file a petition under this Act to challenge their conviction or sentence based on legal errors in the proceedings or new evidence of the person's innocence.
- State habeas corpus: People convicted in Tennessee may also seek relief through a process called "habeas corpus." Because most claims must proceed under the Act, habeas relief is very limited in Tennessee.
- Writ of error coram nobis: This form of relief is available only where a convicted person has no other path to relief and where relief is sought based on matters outside the trial record.
- Writ of certiorari: A convicted person may seek this writ if they want a court to review the disciplinary actions of the Department of Correction.

DNA Testing

A person who was convicted of certain violent or sexual offenses in Tennessee may seek DNA testing of biological material obtained in the case.

The court will not automatically grant the requested testing. Instead, the court must allow testing only if it finds a reasonable probability that the person would not have been prosecuted or convicted if testing had been done earlier and the results had exculpated the person.

If the court grants testing & the results exculpate the convicted person, that person may file a motion for a new trial, for their immediate release, or other relief. If the court grants a new trial, the case starts over.

Victims' Rights

Victims have the right to prompt and final conclusion of the case after the conviction or sentence.

Victims have the right to refuse an interview or communication request from the convicted person, their attorney, or any other person representing the convicted person.

Victims have the right to be present at all proceedings where the convicted individual has a right to be present.

Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Tennessee 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 Tennessee: earning "credits" for good behavior in prison or for participating in certain educational, vocational, or treatment programs; parole; or furloughs.

Victims' Rights

Victims have the right to information about the release, transfer, or escape of the convicted person if requested.

Victims have the right to notification 30 days before a parole hearing and 3 days before a parole revocation hearing.

Victims can submit victim impact statements to the parole board upon request.

Victims have the right to notification of the Parole Board's decision within 30 days.

Prosecutorial Review

Individuals convicted in Davidson County who claim to be innocent and have newly discovered evidence of their innocence may ask the [Nashville District Attorney's Office's Conviction Review Unit](#) to review their convictions.

In Shelby County, the [Justice Review Unit](#) is reviewing cases in which people were convicted of having drugs in a school zone. The state legislature recently reduced the boundary of drug-free school zones from 1,000 feet to 500 feet and created a resentencing process for defendants who have received an enhanced punishment under the old law.

Clemency

The governor can grant clemency to people convicted under Tennessee law. In Tennessee, clemency typically takes one of three forms:

1. Pardon: an official act of forgiveness that frees a convicted person from punishment that erases the legal consequences of the crime
2. Exoneration: awarded when the governor concludes the person is innocent
3. Commutation: the reduction of a sentence to a less severe punishment

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 discuss the case with the prosecution.

Victims have the right to notification of the dismissal of the convicted person's case.

Victims' Rights

Victims have the right to notification before the Governor's clemency action becomes public.

Victims' Rights

Victims have the right to request restitution and the right to apply for the [Criminal Injuries Compensation Fund](#).

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.