



# Texas

## Post-Conviction Case Activity & Victims' Rights

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### 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 legal errors in the proceedings or misconduct by jurors or the prosecution
- To arrest the judgment

### 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 court proceedings.

Victims have the right to be present at all public court proceedings related to the crime.

Victims have the right to prompt return of property when it 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 judgment to decide whether to appeal. If the person decides to appeal, the [State Prosecuting Attorney](#) 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 Texas, the main form of post-conviction relief is a petition for state "habeas corpus." Habeas corpus is a very old remedy. Claims that may be asserted in this process in Texas include claims that the convicted person is actually innocent and that the conviction or sentence was the product of a fundamentally defective procedure.

### Victims' Rights

Victims have the right to an explanation of the appeals process.

Victims have the right to notification of appeals proceedings if requested.

Victims have the right to notification of appeal decisions before the decision becomes public if requested.

Victims have the right to attend oral arguments.

### Victims' Rights

Victims have the right to attend public post-conviction hearings.

## DNA Testing

A convicted person may seek DNA testing of biological material obtained in the case.

The court will not automatically grant the requested testing. Instead, the court may allow testing only if it finds that the perpetrator's identity was an issue in the case and that the person would not have been convicted if exculpatory results from the testing had been available earlier.

If the court grants testing and the results exculpate the convicted person, the court must hold a hearing to determine if the person would not have been convicted if the test results had been obtained earlier. If so, it must release the person on bail. The convicted person may then file a motion for a new trial, to vacate their conviction or for 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 Texas 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 notification when DNA evidence is submitted to a crime laboratory and the right to notification of the results unless this notification would interfere with the investigation.

Victims have the right, if requested, to be informed about and to speak with the prosecution about the case and the victim's views on the outcome of the case.

### 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 Texas: earning “credits” for participating in certain educational, vocational, agricultural, or treatment programs; parole; or medically recommended intensive supervision.

### Victims’ Rights

Victims have the right to an explanation of the parole process.

Victims have the right to information about the sentence, imprisonment, and release, transfer, and escape of the convicted individual, if requested.

Victims have the right to provide information and be heard by the Board of Pardons and Paroles.

Victims have the right to notification if the electronic monitoring of a convicted person ends if requested.

## Prosecutorial Review

Individuals who were convicted in certain counties in Texas – [Bexar](#), [Travis](#), [Tarrant](#), Harris, and [Dallas](#) – and who have claims of actual innocence or manifest injustice may ask the local prosecutors’ offices to review their convictions.

### Victims’ Rights

Victims have the right to communicate with the prosecutor about the case.

## Clemency

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

1. Full Pardon: forgives a person for a crime (and generally restores their right to own a gun),
2. Conditional Pardon: forgives a person for a crime after they have become eligible for parole (they remain subject to the usual supervision requirements of parole)
3. Pardon Based on Innocence: exonerates someone innocent of the crime for which they were convicted
4. Commutation: reduces a sentence to a less severe punishment
5. Reprieve: temporarily delays the execution of a sentence, or
6. Reprieve of Execution: a commutation to life imprisonment in capital cases.

### Victims' Rights

Victims have the right to provide information about the impact of the crime 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 [Crime Victims' Compensation \(CVC\) Program](#).

Victims have the right to an explanation of restitution and crime victims' compensation.

*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.*