



Utah

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 legal errors in the proceedings, new evidence, or misconduct by jurors or the prosecution
- For dismissal of the charges
- To correct a sentence

Victims' Rights

Victims have the right to be treated with fairness, respect, and dignity.

Victims have the right to be free from harassment and abuse throughout the criminal justice process.

Victims have the right to the prompt return of property no longer needed by law enforcement.

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

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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 28 days after judgment to decide whether to appeal. If the person decides to appeal, the state [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

Victims have the right to submit a written statement during the appeal

Victims have the right to be present at oral arguments.

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

- Post-Conviction Remedies Act: A convicted person may file a petition for relief under this Act to vacate their sentence or conviction based on legal errors in the proceedings or new evidence.
- Motion to reduce conviction: Certain convicted people can ask the court to lower the degree of a conviction by one degree after they have successfully completed their sentence.
- Petition for extraordinary relief: A convicted person can file this type of petition to raise a claim that does not go to the validity of their conviction or sentence, such as a claim that they are being detained after the end of their court-imposed sentence.
- Writ of error coram nobis: A convicted person can seek this writ to challenge their conviction based on facts outside the record.

Victims' Rights

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

DNA Testing

A person convicted of a felony under Utah law 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 testing has the potential to produce new, non-cumulative evidence and that there is a reasonable probability the convicted person would not have been convicted or would have received a lesser sentence had the testing been done 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 Utah 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 Utah: earning "credits" for good behavior in prison, participating in certain approved programs, or for other accomplishments; parole; compassionate release.

Victims' Rights

Victims have the right to notice of and attendance at parole hearings.

Victims have the right to be heard at parole hearings.

Victims have the right to notification of escape or release.

Prosecutorial Review

Individuals who were convicted in certain counties in Utah – [Summit](#), [Davis](#), [Utah](#), and [Salt Lake](#) – and who claim to be innocent or to be victims of a manifest injustice may ask the local prosecutors' offices to review their convictions.

Clemency

The [Board of Pardons and Parole](#) can grant clemency to people convicted under Utah law. In Utah, clemency typically takes one of two forms:

1. Pardon: an official act of forgiveness that frees a convicted person from punishment that erases the legal consequences of the crime
2. 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 be heard and participate in clemency proceedings.

Victims have the right to notification if clemency is granted.

Victims' Rights

Victims have the right to request restitution and the right to apply for the [Crime Victims Reparations 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.