



Washington, DC

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 misconduct by the jury or prosecution
- To vacate the judgment based on newly discovered evidence of a person's actual innocence
- To arrest the judgment
- To withdraw the plea
- To modify the sentence

The prosecution may also seek to modify 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.

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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, DC's [Attorney General's Office](#) assigns a lawyer to oppose the appeal. DC's 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 are allowed to attend oral arguments in direct appeal proceedings.

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

- Motion under DC Code Section 23-110: People who are in prison after a conviction in DC court may challenge their conviction or sentence based on legal errors in the proceedings.
- Writ of habeas corpus: This is a very old remedy that requires state officials to justify a person's detention. The scope of this relief in DC is limited because most requests must proceed under Section 23-110.
- Writ of error coram nobis: This is another old remedy that allows people to seek relief from their convictions based on evidence outside the record. In DC, this remedy is available only after a person has served their sentence.
- Sentence reduction for people convicted as minors: Courts must reduce a prison sentence imposed on people convicted for offenses committed before their 25th birthdays if they were convicted of a felony, have served at least 15 years in prison, and have met certain other conditions.

Victims' Rights

Victims have the right to notification of court proceedings including post-conviction hearings.

Victims have the right to be present at all court proceedings including post-conviction hearings.

DNA Testing

A person convicted of a crime of violence under DC law may seek forensic testing of material obtained in the case.

The court will not automatically grant the requested testing. Instead, the court may allow testing only if the convicted person swears they are innocent and the court finds that DNA evidence would help establish that the person is innocent despite having been convicted at trial or having pleaded guilty.

If the court grants testing and the results exculpate the convicted person, then the person may file a motion for a new trial, to vacate the 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 DC 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 DC: earning “credits” for good behavior in prison, for completing certain educational or vocational programs, or for exceptional acts of service; parole/supervised release; medical parole; sentence suspension for medical reasons; or geriatric release.

Victims’ Rights

Victims have the right to information about conviction, sentencing, imprisonment, detention, expungement, and any form of release of the convicted individual.

Victims have the right to timely notification of the incarcerated individual’s escape or death.

Victims have the right to be present at all court proceedings including the release, parole, and record-sealing.

Clemency

The President can grant clemency to people convicted under DC law. The [DC Clemency Board](#) and the [U.S. Office of the Pardon Attorney](#) help the President in this process.

In DC, clemency typically takes one of two forms:

1. Commutation: the reduction of a sentence to a less severe punishment
2. Pardon: an official act of forgiveness that frees a convicted person from punishment that erases the legal consequences of the crime

Victims’ Rights

The Attorney General may contact victims for their opinion on clemency applications. To determine whether to contact victims, the Attorney General must consider the seriousness of the offense, the nature and extent of harm to the victim, the convicted person’s history, and the likelihood that clemency could be recommended.

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 seek restitution and apply for the [Crime Victims 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.