

After a Felony Conviction?

RIGHT TO APPEAL

After a court has convicted and sentenced a criminal defendant, the defendant may file an appeal to a higher court, asking it to review the lower court's decision for legal errors that may have affected the outcome of the case.

Criminal defendants who were convicted by a judge or jury at trial, have an absolute right to appeal their convictions. Additionally, all states which enforce the death penalty allow an automatic appeal of cases involving a death sentence.

The appellate court may reverse the lower court's decision in whole or in part. If the appellate court denies the appeal, the lower court's decision stands.

Appeals Process

1. After a felony conviction, the defendant can file a notice of appeal in district court.
2. Briefs (legal statements of facts and issues) are filed by the defendant (Appellant). The Idaho Attorney General (Respondent) will file a response brief.
3. After receiving the briefs, the Idaho Supreme Court will either retain the case or transfer it to the Idaho Court of Appeals.
4. Once retained or transferred, the court will set an oral argument. The parties may waive oral argument (and the Court of Appeals may order the case decided without oral argument). Oral argument is generally conducted several months after briefing is completed.
5. The court issues a written decision deciding the case. After the opinion is issued it will not be final for 21 days, during which the parties may petition for rehearing, or Idaho Supreme Court review of a court of appeals opinion. When an opinion is final, the court that issued the opinion will issue a remittitur sending the case back to the district court.

The Appellate process takes months or even years. In Idaho, we want to ensure that anyone convicted of a crime is lawfully convicted and provided with the rights they are entitled to by law.

Victims in these cases have the right to information, including access to the briefs filed by both parties, notification, and the right to attend oral argument, and notification of any opinion issued by the appellate courts. Because an appeal does not involve taking any new evidence, victims do not have the right to address the appellate courts and will not be asked to make statements.

We encourage victims to seek therapeutic services that are provided by the Idaho Crime Victims Compensation Program and stay connected with their Victim Witness Coordinator who will notify them of any upcoming court dates or concerns.

Right to Habeas Corpus

What is a Habeas Corpus Case? It is a legal process for determining if the detention of a person taken into custody is constitutionally lawful. A habeas petition proceeds as a civil action in federal court against the State who holds the defendant in custody.

What does it mean for victims? The Deputy Attorney General represents the State of Idaho in federal court and defends the underlying conviction. If the federal judge hears an oral argument regarding any aspect of this case, the victim will be notified of all court proceedings and have the right to attend. However, you will never be required to attend. When the federal court issues a decision, victims will be informed of the outcome.

How the Appeal Process Affects Victims' Rights in Idaho



OFFICE OF THE ATTORNEY GENERAL

Attorney General Raúl Labrador is committed to protecting crime victims' rights. Assistance is provided to victims whose cases are being handled by the Attorney General's Office, either in the Appellate Unit or through our Special Prosecutions Unit. General victim assistance information and referral services are available to all victims of crime in Idaho.

If you are a victim in a case that is currently being handled by the Office of the Attorney General and would like to be kept informed of the proceedings in the case, please complete the Victim Notification Form to provide us with your contact information, located on our webpage under Victim Assistance.

Victims' Rights in Idaho

In November 1994, Idaho voters overwhelmingly ratified the Victims' Rights Amendment to the Idaho Constitution. This created statutory provisions for crime victims in Idaho.

- ❖ The right to be treated with fairness, respect, dignity, and privacy throughout the criminal justice process.
- ❖ The right to a timely disposition of their case.
- ❖ The right to prior notification of trial court, appellate court, and parole proceedings and, upon request, to information about the sentence, incarceration, and release of the defendant.
- ❖ The right to be present at all criminal justice proceedings.
- ❖ The right to communicate with the prosecution.
- ❖ The right to be heard at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration, or release unless manifest of injustice would result.
- ❖ The right to restitution as provided by law.
- ❖ The right to refuse contact with the defendant or anyone representing the defendant.
- ❖ The right to read the pre-sentence report relating to the crime.
- ❖ This right is extended to adult offenses and offenses committed by juveniles that would be considered a felony if committed by an adult.

How a Felony Case Proceeds Through the Court System

Offense Occurs: If law enforcement finds sufficient evidence to prove a felony offense, the defendant is arrested. If not, the case will be investigated.

Report Prepared: The law enforcement agency that investigates the crime prepares a report and sends it to the prosecuting attorney.

Complaint Filed: The prosecuting attorney reviews the case and if sufficient evidence exists to file charges, they go before a magistrate judge to file the "Complaint."

Arraignment: An initial appearance is called an "arraignment." The magistrate judge advises the defendant of the charges, informs them of their rights, and finds out if the defendant qualifies for a public defender and appoints one if needed. Bond is usually set at arraignment.

Preliminary Hearing/Grand Jury: At the preliminary hearing, the prosecution must show "probable cause" that this defendant committed the alleged crime. Prosecutors can also utilize a Grand Jury to protect victims and witnesses from testifying in an open courtroom.

District Court Arraignment: The Prosecutor files an "Information" which tells what charges were proven at the preliminary hearing. If the defendant pleads not guilty, the case is scheduled for trial. If the defendant pleads guilty, sentencing is scheduled.

Trial: Trial is required by jury unless both parties agree to have a judge decide the case.

Pre-Sentence Investigation: When a person is convicted of a felony, the court orders a "PSI." The investigation is a biography of the defendant's life. This includes how the crime affected the victim. Victims have the right to read the PSI prior to sentencing.

Sentencing: Victims have the right to testify at the sentencing hearing. You may submit a letter in the Presentence Investigation, remain silent, or testify in person. Notify the Victim Witness Coordinator and/or prosecutor if you choose to testify.



Victims can receive emails and/or texts regarding custody status and court dates.

VINE (Victim Information and Notification Everyday). VINE is a resource for victims to be notified if a defendant is released or escapes from custody. You can register for VINE by going to www.vinelink.com. Follow the prompts to go to Idaho and register your phone or email to the defendant's name. You can also call VINE at 1-866-9VINE-ID (1-866-984-6343.)

Assisting Victims

A ***Victim Witness Coordinator*** is a trained professional who serves victims of crime through law enforcement, prosecuting attorneys' offices, the parole commission, and prison system. They assist with crime victims' rights, local resources, Crime Victims Compensation and safety issues.

Aleshea Boals | Victim Witness Coordinator
Office of the Attorney General | State of Idaho

O: 208-334-4541 | W: ag.idaho.gov | C: 208-789-1865