

General information about post-conviction relief

Post-conviction relief:

- Is a process for raising an issue unknown at trial or for some reason not available at trial;
- Provides a formal setting for the defendant to establish facts underlying a claim for relief when those facts have not been previously shown in court, and
- Provides a formal setting to eliminate confusion and avoid repetitious and successive applications for relief while protecting the Petitioner's constitutional rights.

The purpose of a statute or rule providing for post-conviction relief is:

- To provide a means to question the alleged constitutional problem of a judgment or sentence, and
- To afford a simple and efficient remedy to any defendant who claims that his or her conviction was obtained by disregarding a fundamental fairness essential to the very concept of justice; and
- To determine if the trial court's judgment was clearly erroneous, and to give the trial court that made the initial determinations an opportunity to correct any irregularities that may have occurred at trial or sentencing.

It is not the purpose of a state post-conviction relief statute or rule:

- To provide a substitute for direct appeal;
- To provide a second appeal (Thus, allegations of trial error involving constitutional violations are not able to be judicially heard in a motion for post-conviction relief without a showing of exceptional circumstances for not raising the constitutional grounds on direct appeal.); or
- To provide an alternative method of reviewing mere errors in the conduct of the trial, or an opportunity for a belated Petition for rehearing.

Note: A person unable to pay costs of this post-conviction relief proceeding and to obtain the services of an attorney should:

- 1) indicate financial hardship and request counsel in Question 8 of the Notice form, and
- 2) execute the Declaration of Indigency on the last page of the Notice form.

Read me: Consulting a lawyer before filing documents with the court may help prevent unexpected results.



The state law explaining how to begin a post-conviction relief proceeding may be found in 16A A.R.S. Rules Crim. Procedure, Rule 32.4.