



Greg M. Baxter, District Attorney for Baker County

Main Office (541) 523-8205
Support Enforcement (541) 523-6414
FAX (541) 523-3913

CONVICTION RECONSIDERATION POLICIES AND PROCEDURES

A prosecutor's job is to achieve justice: yesterday, today, and tomorrow. Never should a prosecutor close a file and consider our work completed. If we become aware of an injustice related to a case we previously prosecuted, and there is a legal means available to us to undo the injustice, we must do so. The Oregon Legislature recognized this when they passed Senate Bill 819 in the 2021 legislative session (soon to be codified at Oregon Revised Statute 137.218).

ORS 137.218 authorizes a person convicted of a felony crime in Baker County, and the Baker County District Attorney, to jointly petition the Baker County Circuit Court for reconsideration of a conviction or sentence.

If a petition is submitted, ORS 137.218 grants the court the authority to dismiss the conviction, to resentence a person to a lesser sentence for the same crime of conviction, or to sentence a person for a new crime (if the DA files a new charging document and the defendant pleads guilty).

This document sets forth the Conviction Reconsideration process in the Baker County District Attorney's office.

A. Eligible Convictions:

- ORS 137.218 explicitly excludes misdemeanors, aggravated murder, and convictions eligible for expunction pursuant to Oregon's expunction statute (ORS 137.225).
- Our office will consider requests for conviction and sentence reconsiderations for all eligible crimes (felonies, other than aggravated murder, that are not eligible for expunction) that are not currently on direct appeal. That having been said, convictions for crimes of child sex abuse and domestic violence will be approved for submission to the court in the rarest of circumstances.
- The request must come from the person convicted of a felony crime, an attorney representing that person, or a close family member of the person.

B. How to Initiate a Request for Conviction Reconsideration:

- Our office does not have a specific form that must be filled out in order for a request for Conviction or Sentence Reconsideration to be considered. Requests should be via US Mail to: Baker County District Attorney, 1995 3rd St., Suite 320, Baker City, Oregon 97814.
- To maximize chances of receiving a favorable decision, requestors should address the following:
 - The conviction(s) underlying the sentence for which the requestor seeks a conviction or sentence reconsideration.
 - Whether the conviction is on direct appeal (if it is, the case is ineligible for consideration).
 - Reasons why the original sentence no longer serves the interests of justice.
 - The requestor's desired result: No conviction at all? Conviction of a different crime? Reduction of prison sentence? Reduction of fine? Etc.
 - Information that addresses the considerations listed in ORS 137.218:
 - The requestors disciplinary record in jail or prison (if applicable) and record of rehabilitation while incarcerated.
 - Evidence that reflects whether the requestor's age, time served in-custody, and diminished physical or mental condition, if any, have reduced the requestor's risk for future violence.
 - The future safety of the victim of the crime(s) for which the requestor seeks conviction or sentence reconsideration.
 - The amount of the original sentence already served by the requestor.
 - Evidence that reflects changed circumstances since the requestor's conviction and shows that the requestor's sentence no longer advances the interests of justice.

C. Victim Notification and Input:

- Our Victims Advocate Program uses all reasonable efforts to contact and inform, in a trauma-informed manner, victims of crime associated with each conviction or

sentence reconsideration request. When we inform victims of crime of conviction or sentence reconsideration requests, we solicit their opinion regarding whether the conviction or sentence should be reconsidered.

- After initial notification to victims of crime, they are kept apprised of the reconsideration process, including being notified at least 30 days prior to any court hearing in the matter as required by ORS 137.218.

D. Conviction and Sentence Reconsideration:

- The District Attorney's Office reviews all conviction and sentence reconsideration requests submitted to our office that are eligible for consideration.
- District Attorney Baxter will ultimately make the final decision whether to join in a petition to the court for conviction or sentence reconsideration
- The District Attorney's Office may contact any of the following people when making this determination:
 - Law enforcement
 - Other attorneys
 - Community partners
 - Any other individual that the District Attorney's Office chooses to contact
- The District Attorney's Office will also rely on police records, court records, treatment records, and any other type item that the District Attorney's Office feels would be helpful in making this determination.
- The District Attorney's decision is communicated in writing to requestors, and in a trauma informed way to victims of crime.

E. Disclaimer

- No portion of this document is intended to, and does not, create a right or benefit, whether substantive or procedural. Similarly, the State's decision to petition or not to petition for resentencing under ORS 137.218 is not intended to, and does not, create any rights, benefits, or harms for which a requestor can seek legal redress. Further, nothing in this document is intended to be enforceable at law by a party in litigation within the County or the State.