

Post-Conviction Relief State Summary Chart: Guide For Select States (October 2020)



This chart is intended to provide immigration attorneys with an overview of post-conviction relief (PCR) vehicles in selected states and the federal courts.¹ When representing noncitizens who have criminal convictions, practitioners should consider, in addition to arguments and applications in immigration court, whether PCR would mitigate the immigration consequences of the conviction. While outside the scope of this quick reference chart, PCR applications must comply with the requirements of *Matter of Pickering*, 23 I&N Dec. 621 (BIA 2003) and not be based solely on rehabilitation or immigration hardship. Ineffective assistance of counsel under *Padilla v. Kentucky*, 559 U.S. 356 (2010) is a common claim, but PCR can be based on any substantive or procedural defect in the underlying conviction, including failure to comply with state criminal procedure law.

While PCR is often subject to time limits, there are usually exceptions that must be investigated. Statute of limitation information is provided so that counsel can meet deadlines where possible. The six PCR vehicles described below are created by either statute, rule, or judicial decision, and thus are not uniformly available in each jurisdiction and may be characterized differently. For example, the common law writ of habeas corpus has been superseded and codified by a statutory framework in many states. Therefore, it is important to review the specific procedures that apply in the relevant jurisdiction.

The summaries in this resource are not exhaustive and are based on a review of each jurisdiction's statutes and court rules, and case law interpreting them. They are not intended as legal advice. This guide is intended as a starting point for immigration attorneys investigating the possibility of PCR. For more information about whether a particular PCR vehicle is available for a noncitizen client, attorneys can contact the organizations listed for each jurisdiction.

Note - The resource is organized by jurisdiction and includes common vehicles for PCR, not all of which are available in every state. They include statute and rule-based requests; withdrawal of guilty pleas; writs of habeas corpus; court failures to provide judicial notification of immigration consequences;² late-filed direct appeals; and writs of error coram nobis.³ For each PCR vehicle, the resource describes, if applicable:

- a. The statutory, judicial, or common law authority for the vehicle.
- b. The statute of limitations or generally applicable rule for seeking PCR using the vehicle.
- c. Any exceptions to the statute of limitations or rule.
- d. Whether the person seeking PCR must show due diligence during the period between conviction and application for PCR.⁴
- e. Whether the person seeking PCR must be in custody at the time relief is sought.
- f. Whether the jurisdiction's highest court has held that *Padilla v. Kentucky* applies retroactively to convictions before March 31, 2010.

¹ The jurisdictions included in this version are Arizona, California, the District of Columbia, Federal, Florida, Georgia, Illinois, Maryland, Massachusetts, Nevada, New Jersey, New York, Pennsylvania, Texas, and Virginia.

² In most states, courts must inform defendants who are pleading guilty that the plea "may" have immigration consequences. However, states vary on whether failure to provide a judicial notification may be the basis for PCR.

³ The common law writ of coram nobis is limited in all but a few jurisdictions to factual errors in the underlying criminal proceedings. In these states, it is not available for ineffective assistance of counsel claims.

⁴ This includes requirements that the basis for the PCR claim could not have been discovered earlier by a reasonable person exercising due diligence.

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Arizona Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	Ariz. R. Crim. Proc. 32 (after trial) and 33 (after plea)	90 days from pronouncement of sentence or 30 days from issuance of mandate in direct appeal, whichever is later, if based on a constitutional violation	New evidence; court lacked jurisdiction; in custody after sentence expired; untimely notice no fault of defendant; significant change in law; actual innocence	Yes, if based on exception must be “within reasonable time after discovering the basis”	No	No, <i>State v. Poblete</i> , 260 P.3d 1102, 1107 (Ariz. Ct. App. 2011)	<p>Right to court-appointed counsel under Ariz. R. Crim. P. 33.5, forms available at: https://www.azcourts.gov/selfservicecenter/Criminal-Law/Post-Conviction-Relief</p> <p>Contact Arizona State University College of Law professor Juan Rocha at: Juan.Rocha@asu.edu</p>
Plea withdrawal	Ariz. R. Crim. Proc. 17.5	Before sentencing only	No	No	No		
Habeas	Superseded by rule.						
Judicial notification failure	Ariz. R. Crim. P. 17.2(b)(1)	Failure not grounds for reversal. <i>Martin v. Reinstein</i> , 195 Ariz. 293, 319 (1999)	n/a	n/a	n/a		
Late direct appeal	Ariz. R. Crim. P. 32.1(f) (after trial only)	Within 20 days of an order granting a delayed appeal, based on a PCR claim that failure to timely file notice of appeal was not defendant's fault	No	Yes, must be “within reasonable time after discovering” that failure to timely file notice of appeal not defendant's fault	No		
Coram Nobis	Superseded by rule.						

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California Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	Cal. Pen. Code § 1473.7	None. Prejudice required. § 1473.7(e)(1). Can be based on defendant's subjective inability to understand possible immigration consequences, or actual innocence	n/a	Yes, once defendant is on notice based on NTA, denied immigration application, or final removal order. § 1473.7(b)(2)	Cannot be in actual or constructive custody. § 1473.7(a)	Duty to advise about immigration consequences previously recognized under state constitution. <i>People v. Soriano</i> , 194 Cal.App.3d 1470, 1478-79 (1987)	ILRC for referrals and technical assistance: www.ilrc.org/immigrant-post-conviction-relief Immigrant Defenders Law Center: www.immdef.org/pcr Some county public defender offices file PCR in-house: www.cpda.org/County/CountyPDWebSites.html
Statute	Cal. Pen. Code § 1203.43	None. Deferred Entry of Judgement ("DEJ") vacatur available for DEJ entered after 1/1/1997	n/a	No	No		
Plea withdrawal	Cal Pen. Code § 1018	Before judgment or within 6 months of probation order if judgment suspended, based on "good cause" showing that the defendant failed to meaningfully understand the immigration consequences. <i>People v. Giron</i> , 11 Cal.3d 793 (1971)	No	No	No		
Habeas	Cal Pen. Code § 1473	None	n/a	Yes. <i>In re Robbins</i> , 18 Cal. 4th 770 (1998)	Yes, actual or constructive (incl. probation), but not ICE custody. <i>People v Villa</i> , 45 CAL. 4TH 1063, 202 P.3D 427		

California Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Judicial notification failure	Cal. Penal Code Ann. § 1016.5	Prejudice required, but no statutory deadline. <i>People v. Zamudio</i> , 23 Cal. 4th 183 (2000)	n/a	Yes, once defendant is aware of possible immigration consequences. <i>Zamudio</i> , 23 Cal. 4th at 207	No		
Late direct appeal	No. Cal. Rules of Court 8.60(d).						

Washington, D.C. Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	D.C. Code § 23-110	None. Otherwise follows construction of federal habeas statute, 28 U.S.C. § 2255. <i>Williams v. U.S.</i> , 878 A.2d 477 (D.C. 2005)	n/a	Yes, if delay "materially prejudiced" government. D.C. Code § 23-110(b)(2)	Yes	Undecided	n/a
Plea withdrawal	D.C. Super. Ct. R. Crim. P. 11(d)(3)	After sentencing only to correct manifest injustice	n/a	Yes. <i>Alpizar v. U.S.</i> , 595 A.2d 991, 994-95 (D.C. 1991)	No		
Habeas	Superseded by § 23-110.						
Judicial notification failure	D.C. Code § 16-713	None. Pet'r must show immigration consequences, but not prejudice. <i>Slytman v. United States</i> , 804 A.2d 1113, 1117-18 (D.C. 2002)	n/a	No, but unexplained delay after pet'r faces immigration consequences may affect credibility determination. <i>Zalmeron v. United States</i> , 125 A.3d 341, 347-48 (D.C. 2015)	No. <i>Daramy v. U.S.</i> , 750 A.2d 552, 554 (D.C. 2000)		
Late direct appeal	D.C. Ct. App. R. 4(b)(4)	Add'l 30 days from 30-day appeals deadline for "excusable neglect or good cause"	No. D.C. Ct. App. R. 26(b)(1)	No.	No		
Coram Nobis	Common law	None. <i>U.S. v. Hamid</i> , 531 A.2d 628, 632 (D.C. 1987). <u>Can</u> be used for legal error, including IAC. <i>Fatumababirtu v. United States</i> , 148 A.3d 260, 268 (D.C. 2016)	n/a	No. <i>U.S. v. Hamid</i> , 531 A.2d 628, 632 (D.C. 1987)	Cannot be in custody, including constructive		

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Federal Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	Statute of Limitations exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	Habeas corpus statute, 28 U.S.C. § 2255	1 year from finality, or from relevant new facts which could have been discovered with due diligence. 28 U.S.C. § 2255(f)(1)-(4)	Impeded by unlawful gov't action, 28 U.S.C. § 2255(f)(2); new retroactive constitutional right recognized by SCOTUS, <i>id.</i> § 2255(f)(3)	Yes	Yes, actual or constructive	No, <i>Chaidez v. United States</i> , 568 U.S. 342 (2013)	<p>Model 2255 materials available from U.S. Courts website:</p> <p>www.uscourts.gov/sites/default/files/AO_243_0.pdf</p> <p>Some District Courts have pro se clerks offices that may have materials</p>
Plea withdrawal	Fed. R. Crim. Pro. 11(d)	Before sentencing, defendant must show “fair and just reason for requesting the withdrawal.” R. 11(d)(2)(B)	If not preserved, post-sentencing request to withdraw plea is reviewed under plain-error standard on appeal. <i>Puckett v. United States</i> , 556 U.S. 129 (2009)	No	No		
Habeas	Superseded by 28 U.S.C. § 2255						
Judicial notification failure	Fed. R. Crim. Pro. 11(b)(1)(O)	1 year or direct appeal claim. No due process right, but may be a reversible procedural violation on direct appeal. <i>Cf. U.S. v. Gonzales</i> , 884 F.3d 457, 462 (2d Cir. 2018); <i>U.S. v. Ataya</i> , 884 F.3d 318, 326 (6th Cir. 2018)	Rule 11 violations may not be challenged in § 2255 proceedings absent a “complete miscarriage of justice.” <i>United States v. Timmreck</i> , 441 U.S. 780 (1979)	Yes, if brought through 2255	No		
Late direct appeal	Fed. R. App. Pro. 4(b)(4)	Add'l 30 days from 14-day appeals deadline, if “excusable neglect or good cause”	No	n/a	No		
Coram Nobis	Common law	None. <u>Can</u> be used for legal error. See <i>United States v. Morgan</i> , 346 U.S. 502, 74 S. Ct. 247, 98 L. Ed. 248 (1954)	n/a	Yes.	Cannot be in actual/constructive custody (including supervised release)		

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Florida Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Rule	Fla. Rule of Crim. Proc. 3.850	2 years from final judgment	R. 3.850(b) et seq: “affirmative steps... to discover the effect of the plea” R. 3.850(b)(1); new retroactive constitutional rights; neglect by PCR counsel (up to two addt’l years); or “excusable neglect” under R. 3.050	Yes. <i>State v. Green</i> , 944 So. 2d 208, 218 (Fla. 2006)	No, “both custodial and noncustodial movants may rely on and be governed by the rule.” <i>Wood v. State</i> , 750 So. 2d 592, 595 (Fla. 1999)	No, <i>Hernandez v. State</i> , 124 So. 3d 757, 764 (Fla. 2012)	For amicus or consulting support, contact: St. Thomas University College of Law Professor Michael Vastine, mvastine@stu.edu ,
Plea withdrawal	Fla Rule of Crim. Proc. 3.170(l)	Up to 30 days after sentencing, but only if waived appeal and on grounds specified in Fl R. App. Pro. 9.140(b)(2)(A)(ii)(a)-(e), including “involuntary”	No	No	No		
Habeas	Superseded by rule.						
Judicial notification failure	Fla. Rule Crim. Proc. 3.172(c)(8)	2 years from judgment. Must show prejudice. R. 3.172(j)	Only if pet’r “could not have ascertained” immigration consequences within 2 years. Rule 3.850, <i>State v. Green</i> , 944 So. 2d 208, 219 (Fla. 2006)	Yes	No		

Florida Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Late direct appeal	Fla. Rule. App. Proc. 9.141(c)	2 years from expiration of 30-day appeal period. R. 9.141(c)(5). Must show failure by counsel or misadvice, or other circumstances outside pet'r's control. R. 9.141(c)(4)(F)	Up to 4 years from deadline, if: Pet'r unaware notice of appeal not filed; not advised of right to appeal; or prevented by circumstances outside pet'r's control	Yes	No		
Coram Nobis	Cannot be used for legal error. <i>Wood v. State</i> , 750 So.2d 592 (Fla. 1999)	2 years from sentence	Previously unavailable facts	Yes	No		

Georgia Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	O.C.G.A. § 5-5-40 (extraordinary motion for new trial)	30 days from final judgment; only available after trial	Previously unavailable facts and no adequate alternative remedy, such as habeas corpus. <i>Mitchum v. State</i> , 834 S.E.2d 65 (Ga. 2019)	Yes	No	No. <i>State v. Sosa</i> , 733 S.E.2d 262, 265 (Ga. 2012)	<p>Contact the circuit defender in the county of conviction:</p> <p>www.gapubdef.org/index.php/circuit-public-defender-offices</p> <p>For possible low bono representation, contact:</p> <p>Jessica Stern, jessica@sternlawfirm.us</p>
Plea withdrawal	O.C.G.A. § 17-7-93	Must be before the term of the sentencing court ends. ¹ <i>Davis v. State</i> , 561 S.E.2d 119 (Ga. 2002). After sentencing, only permitted to correct “manifest injustice,” including <i>Padilla</i> IAC. <i>Smith v. State</i> , 697 S.E.2d 177, 186 (Ga. 2010)	After expiration of term, must bring habeas corpus or out-of-time direct appeal. <i>Brown v. state</i> , 631 S.E.2d 687 (Ga. 2006)	No	No		
Habeas	O.C.G.A. § 9-14-42	4 years (felony) or 1 year (misdemeanor) from final conviction date. Constitutional violations only	Unconstitutional impediment to filing; newly recognized right; discovery of new facts	Yes	Yes, but interpreted broadly. <i>Parris v. State</i> , 208 S.E.2d 493, 495 (Ga. 1974)		

¹ Terms of Georgia trial courts vary by county and judicial circuit. *See* O.C.G.A. § 15-6-3.

Georgia Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Judicial notification failure	O.C.G.A. § 17-7-93(c)	Only applies to pleas after July 1, 2000. Reversible only on appeal or motion to withdraw plea, if prejudiced. <i>Smith v. State</i> , 697 S.E.2d 177, 185-88 (Ga. 2010)	May be challenged through late direct appeal if def. does not meet deadlines for withdrawal or appeal	State may argue prejudicial delay. <i>Collier v. State</i> , 834 S.E.2d 769, 779-80 (Ga. 2019)	No		
Late direct appeal	<i>Rowland v. State</i> , 452 S.E.2d 756 (1995)	Must show that counsel's deficient performance deprived defendant of right to appeal. Not time-limited. <i>Hudson v. State</i> , 603 S.E.2d 242 (Ga. 2004)	n/a	State may argue prejudicial delay. <i>Collier v. State</i> , 834 S.E.2d 769, 779-80 (Ga. 2019)	No		
Coram Nobis	Superseded by O.C.G.A. § 5-5-41.						

Illinois Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	725 Ill. Comp. Stat. Ann. § 5/122-1	3 years from conviction date if no direct appeal; if defendant files direct appeal, deadline is 6 months from deadline for filing certiorari petition with SCOTUS	Delay was not due to culpable negligence; actual innocence	Yes, if based on new evidence supporting a claim of innocence. <i>People v. Barrow</i> , 195 Ill.2d 506, 541, 749 N.E.2d 892, 913 (2001)	Yes, including supervised release and probation	Undecided; No, per 1st Dist Ct of Appeals, <i>People v. Cabue</i> , 2014 Ill. App. Unpub. LEXIS 1427 (Dist. Ct. App. June 30, 2014), and 5th Dist Ct of Appeals, <i>People v. Delacruz</i> , 2013 Ill. App. Unpub. LEXIS 1315 (Dist. Ct. App. June 17, 2013)	Illinois State appellate defender criminal handbook chapter on collateral remedies: www2.illinois.gov/osad/Publications/DigestbyChapter/CH%2009%20Collateral%20Remedies.pdf
Plea withdrawal	Ill. Sup. Ct. R. 604(d)	30 days from sentence imposition, to correct manifest injustice	Yes, if trial court failed to admonish defendant of written motion requirement for appeal. <i>People v. Foster</i> , 171 Ill. 469 (1996)	n/a	No		
Habeas	735 Ill. Comp. Stat. Ann. § 5/10-124	Only available when court lacked personal or subject-matter jurisdiction, or post-conviction events entitle defendant to release. <i>Beacham v. Walker</i> , 231 Ill.2d 51, 896 N.E.2d 327 (2008). No statutory deadline	No	n/a	Yes		
Judicial notification failure	725 Ill. Comp. Stat. Ann. § 5/113-8	For def arraigned on or after Jan. 1, 2020, can withdraw on motion within 2 years of conviction. § 5/113-8(b)	If arraignment was before Jan. 1, 2020, can only be challenged through Rule 604(d) motion. <i>People v. Delvillar</i> , 235 Ill. 2d 507, 522 (2009)	n/a	No		

Illinois Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence req'd?	Custody req'd?	Padilla retroactive?	Pro bono resources
Late direct appeal	Ill. Sup. Ct. R. 606(c)	Up to 60 days from conviction date based on reasonable excuse, or 7 months from conviction date if demonstrate merits to appeal and failure to file not based on negligence If defendant pleaded guilty, a R. 604(d) plea withdrawal motion is required before appeal, and limitations period runs from date the motion is denied., unless trial court failed to advise that filing a motion to withdraw plea was prerequisite to appeal. <i>People v. Flowers</i> , 208 Ill.2d 291, 301 (2003)	n/a	Yes. Reasonable excuse within 60 days, or not based on culpable negligence <i>and</i> merit to appeal within 7 months	No		
Coram Nobis	Superseded by 735 Ill. Comp. Stat. Ann. § 5/2-1401. May not be used for legal error. <i>People v. Pinkonsky</i> , 207 Ill.2d 555 (2003)	2 years from entry of judgment	Legal disability, duress, fraudulent concealment of information. <i>People v. Caballero</i> , 179 Ill.2d 205, 688 N.E.2d 658 (1997)	Yes. <i>Smith v. Airoom, Inc.</i> , 114 Ill.2d 209, 220–21, 499 N.E.2d 1381 (1986)	No		

Massachusetts Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	Mass. R. of Crim. Proc. R. 30 (a)	None	n/a	Yes. <i>Commonwealth v. Weichell</i> , 446 Mass. 785 (2006)	Yes (imprisoned or liberty restrained pursuant to criminal conviction). <i>Commonwealth v. Lupo</i> , 394 Mass. 644, 646 (1985)	Yes, if final after 4/24/1996, <i>Commonwealth v. Mercado</i> , 474 Mass. 80, 81 (2016)	Appointment of counsel requests for eligible, indigent individuals should include docket numbers and contact information and be sent to: CPCS Crim. Appeals Unit, Private Counsel Division, 44 Bromfield St Boston, MA 02108
Plea withdrawal	Mass. R. Crim. Proc. 30(b) (motion for new trial). <i>See Commonwealth v. Fanelli</i> , 412 Mass. 497, 504 (1992)	None	n/a	Yes. <i>Commonwealth v. Weichell</i> , 446 Mass. 785 (2006)	No		
Habeas	Superseded by Rule 30(a) for most claims						
Judicial notification failure	Mass. Gen. Laws, ch. 278, § 29D	Must show actual immigration consequence of conviction or admission. <i>Commonwealth v. Petit-Homme</i> , 482 Mass. 775, 784 (2019). No statutory deadline	n/a	No	No		

Massachusetts Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence req'd?	Custody req'd?	Padilla retroactive?	Pro bono resources
Late direct appeal	Mass. R. App. Proc. 14(b)	1 year from judgment or sentencing, whichever is later, for good cause shown	No	No	No		
Coram Nobis	Superseded by Mass. R. Crim. Proc. 30(b)						

Maryland Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	Md. Crim. Proc. Code § 7-101 <i>et seq</i>	10 years from date sentence imposed if after 10/1/1995. § 7-103(b); <i>State v. Williamson</i> , 408 Md. 269 (2009). No deadline for sentences imposed before 10/1/1995. <i>Lopez v. State</i> , 72 A.3d 579 (2013)	Extraordinary cause	No, if timely filed. After 10 years, state may argue laches. Waiver under § 7-106(b) may apply to non-IAC claims	Yes, includes probation & parole. <i>Fairbanks v. State</i> , 331 Md. 482, 629 A.2d 63 (1993)	No, <i>Miller v. State</i> , 435 Md. 174, 77 A.3d 1030, 1044-45 (Ct. App. 2013)	<p>For possible pro bono counsel through the Office of the Public Defender, please email:</p> <p>Nadine Weston, Director, Immigration Division, Maryland Office of the Public Defender: nwettstein@opd.state.md.us</p>
Plea withdrawal	Md. Rule 4-242(h)	Within 10 days of sentence imposition	No	No	No		
Habeas	Superseded by statute						
Judicial notification failure	Md. Rule 4-242(f)	Cannot be used to set aside plea. <i>Miller v. State</i> , 435 Md. 174, 199 (2013). Allows prosecutors to give notification as well	n/a	n/a	n/a		
Late direct appeal	As a post-conviction motion under § 7-101. <i>Garrison v. State</i> , 711 A.2d 170, 177 (Md. 1998)	None. Only if counsel failed to file appeal or defendant was not at fault for failure to timely file, including counsel's failure to consult about an appeal	n/a	Yes, defendant must have "been diligent in attempting to assert his appeal rights." <i>Garrison v. State</i> , 711 A.2d 170, 175 (Md. 1998)	No		
Coram Nobis	Md. Rule 15-1201 <i>et seq</i>	None. <u>Can</u> be used for legal error. <i>State v Smith</i> , 443 Md. 572, 576, 117 A.3d 1093, 1096 (2015). Collateral consequences must be unknown at time of plea. <i>Vaughn v. State</i> , 232 Md. App. 421, 429 (2017)	n/a	Yes, if state is prejudiced by delay. <i>Jones v. State</i> , 445 Md. 324, 363 (2015)	No		

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Nevada Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	Nev. Rev. Stat. § 34.724	1 year from final judgment	Delay not fault of defendant and dismissal will unduly prejudice defendant, Nev. Rev. Stat. § 34.726	Yes, if state is prejudiced by delay. If more than 5 years after conviction, rebuttable presumption of prejudice. Nev. Rev. Stat. § 34.800	Yes, including probation and parole. <i>Coleman v. State</i> , 130 Nev. 190 (2014)	Undecided. Unpublished Supreme Ct decisions: No, <i>see e.g. Felix v. State</i> , 2014 Nev. Unpub. LEXIS 771 (May 13, 2014) Yes, <i>see e.g. Nev. v. Canedo</i> , 2013 Nev. Dist. LEXIS 7 (Nev. Dist. Ct. July 1, 2013)	n/a
Plea withdrawal	Nev. Rev. Stat. § 176.165	After sentencing, may only correct manifest injustice, including IAC. <i>Rubio v. State</i> , 124 Nev. 1032, 1039 (2008). Post-sentencing withdrawal motions are construed as habeas petitions unless (1) first postconviction motion, (2) within 1 year of conviction, (3) not incarcerated, (4) not barred by laches. Nev. Rev. Stat. § 34.724(3)	Specific facts demonstrating that external impediment precluded bringing motion earlier. Nev. Rev. Stat. § 34.724(3)(b)	No, but if more than 5 years after conviction, rebuttable presumption of prejudice based on laches. Nev. Rev. Stat. § 34.724(3)(d)	No		
Habeas	Superseded by statute						
Judicial notification failure	None						

Nevada Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence req'd?	Custody req'd?	Padilla retroactive?	Pro bono resources
Late direct appeal	Nev. R. App. Pro. 4(c)	Only available if timely habeas petition establishes deprivation of right to appeal	Same as habeas statute	Same as habeas statute	Same as habeas statute		
Coram Nobis	Common law	Cannot be used for legal error. See <i>Trujillo v. State</i> , 129 Nev. 706, 716, 310 P3d 594, 601 (2013) (IAC is legal error, unreviewable by coram)	n/a	n/a	No		

New Jersey Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Rule	N.J. Ct. R. 3:22-1 (superior court); R. 7:10-2 (municipal court)	5 yrs from final judgment	Excusable neglect and reasonable probability if true would result in fundamental injustice, R. 3:22-12(a)(1); new constitutional right or factual predicate, if filed within 1 year, R. 3:22-12(a)(2)	Yes, if based on new evidence. R. 3:22-12(a)(2)(B)	No. <i>See State v. Roper</i> , 827 A.2d 1099 (N.J. App. Div. 2003)	No, <i>State v. Gaitan</i> , 209 N.J. 339, 372, 37 A.3d 1089, 1108 (2012)	Right to court-appointed counsel for first motion under court rules, R. 3:22-6(a) (Superior Court) and R. 7:10-2(e) (Municipal Court).
Plea withdrawal	N.J. Ct. R. 3:21-1 (superior court); R. 7:6-2(b) (municipal court)	Before sentencing	Manifest injustice, which is not always met by ineffective assistance. <i>State v. Slater</i> , 198 N.J. 145, 156 (2009)	Yes. <i>Slater</i> , 198 N.J. at 160 (“In general, the longer the delay in raising a reason for withdrawal, or asserting one's innocence, the greater the level of scrutiny needed to evaluate the claim.”)	No. <i>See State v. Stoeckel</i> , 2019 WL 980588 (N.J. App. Div. 2019)		For Superior Court convictions, contact the New Jersey Office of the Public Defender Conviction Integrity Unit for Superior Court convictions: www.state.nj.us/defender/structure/pcr/
Habeas	Superseded by rule						
Judicial notification failure	N.J. Directives Dir. 09-11 (municipal court only); Dir. 05-11 (superior court - plea form)	Not grounds for reversal	n/a	n/a	n/a		For municipal court convictions, the court requires submission of an indigency application: www.njcourts.gov/forms/10693_5a_indigency.pdf
Late direct appeal	N.J. Court Rule 2:4-4(a)	Add'l 30 days from 45-day appeals deadline for “good cause”	45 days from post-conviction relief based on failure of trial counsel to appeal. R. 2:4-1(a)(2)	No	n/a		
Coram Nobis	Superseded by rule						

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New York Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	N.Y. Crim. Proc. Law § 440.10	None	n/a	Not for IAC. § 440.10(3)(a).	No	No, <i>People v. Baret</i> , 23 N.Y.3d 777, 786, 16 N.E.3d 1216, 1221 (N.Y. 2014)	<p>New York State Regional Immigration Assistance Centers:</p> <p>http://www.ils.ny.gov/content/regional-immigration-assistance-centers</p> <p>For New York City convictions, IDP has a webform at:</p> <p>www.immdefense.org/what-we-do/legal-advice/pcr-referral-form/</p>
Plea withdrawal	N.Y. Crim. Proc. Law § 220.60(3)	Before sentencing only, based on court's discretion	n/a	n/a	n/a		
Habeas	Replaced by N.Y. Crim. Proc. Law § 440						
Judicial notification failure	<i>People v. Peque</i> , 22 N.Y.3d 168 (2013) and N.Y. Crim. Proc. Law § 220.50(7)	Only raisable on direct appeal; 11/19/2013 effective date	n/a	No	No		
Late direct appeal	N.Y. Crim. Proc. Law § 460.30	1 year, 30 day deadline from sentencing if failure to file based on improper conduct of public servant, or improper conduct, death, disability, or failure to communicate appeal right by defense counsel	Coram nobis petition in limited circumstances	Yes	No		
Coram Nobis	Common law	Only legal error by appellate counsel with strict due diligence requirements. <i>People v. Bachert</i> , 69 N.Y.2d 593 (N.Y. 1987)	None. <i>People v. D'Alessandro</i> , 13 N.Y.3d 216, 221 (2009)	Yes, if based on failure to file notice of appeal. <i>People v. Rosario</i> , 26 N.Y.3d 597, 604 (2015)	No		

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Pennsylvania Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	42 Pa.C.S. § 9541 <i>et seq</i>	1 year from final judgment (at conclusion of direct review or expiration of time for seeking review)	Delay result of government interference; facts unknown to defendant; or new retroactive constitutional right. 42 Pa.C.S. § 9545(b)(1)	Yes, if government prejudiced by delay. 42 Pa.C.S. § 9543(b)	Yes, including probation or parole.	Undecided	<p>Right to court-appointed counsel on first petition under Pa. R. Crim. P. 904(C), pro se petitioner form provided by the Pennsylvania Department of Corrections available at:</p> <p>www.immigrantdefenseproject.org/wp-content/uploads/2020/10/PA-PCR-Form-DC198.pdf</p>
Plea withdrawal	Pa. R. Crim. P. 591	<p>Two standards. Pre-sentence, withdrawal motions are in court's discretion but liberally granted.</p> <p>Post-sentence withdrawal requires timely post-sentence motion within 120 days and showing of manifest injustice. <i>See Com. v. Bomar</i>, 573 Pa. 426, 464-65 (Pa. 2003). IAC claims normally require PCR motion under the statute</p>	n/a	May be denied if government prejudiced	No		
Habeas	Superseded by statute. <i>Com. ex rel. Dadario v. Goldberg</i> , 773 A.2d 126, 127 (Pa 2001)						

Pennsylvania Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Judicial notification failure	n/a						
Late direct appeal	None. See Pa. R. Crim. P. 903 for appeal deadlines	30 days after judgment, or within 30 days of post-sentence motions (if any)	None. See Official Note to the rule.	n/a	n/a		
Coram Nobis	Superseded by statute. <i>Com. v. Descardes</i> , 136 A.3d 493 (2016)						

Texas Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	Tex. Code Crim. Proc. Art. 11.07 (felonies), Art. 11.09 (misdemeanors)	None	n/a	Court may consider laches. <i>Ex parte Bowman</i> , 447 S.W.3d 887 (Tex. Crim. App. 2014)	Yes, but custody includes collateral consequences. <i>Ex Parte Harrington</i> , 310 S.W.3d 452 (Tex. Crim. App. 2010). <i>See also State v. Jimenez</i> , 987 S.W.2d 886, 888-89 (Tex. Crim. App. 1999) (“That a guilty plea may result in deportation is generally considered a collateral consequence”)	No, <i>Ex parte De Los Reyes</i> , 392 S.W.3d 675 (Tex. Crim. App. 2013)	Court-appointed counsel possible under Tex. Code Crim. Proc. Art. 1.051(d)(3) for habeas petitions. Immigrant Rights Clinic, Texas A&M School of Law, Professor Fatma Marouf: fatma.marouf@law.tamu.edu
Plea withdrawal	Post-sentencing, requires motion for new trial under Tex. R. App. Proc. 21. <i>State v. Evans</i> , 843 S.W.2d 576, 577 (Tex. Crim. App. 1992)	30 days from imposition of sentence, for good cause	No	n/a	No		
Habeas	Superseded by Code Crim. Proc. Art. 11						

Texas Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence req'd?	Custody req'd?	Padilla retroactive?	Pro bono resources
Judicial notification	Tex. Code. Crim. Proc., Art. 26.13(a)(4)	Reversible on appeal if record is insufficient to determine citizenship. <i>VanNortrick v. State</i> , 227 S.W.3d 706, 714 (Tex. Crim. App. 2007). Requires prejudice if challenged in habeas. <i>Ex parte Tovar</i> , 901 S.W.2d 484, 486 (Tex. Crim. App. 1995)	n/a	n/a	n/a		
Late direct appeal	Tex. R. App. Proc. 26.3	Add'l 15 days from 30-day appeals deadline, if "reasonably explain[ed]" R. 10.5(b)(2)	No. <i>Slaton v. State</i> , 981 S.W.2d 208 (Tex. Crim. App. 1998)	n/a	No		
Coram Nobis	Not recognized; may be construed as habeas petition. <i>Ex parte Massey</i> , 249 S.W.2d 599 (Tex. Crim. App. 1952)						

Virginia Post-Conviction Relief Chart (October 2020)

Vehicle	Authority	Statute of Limitations/Rule	SOL exceptions?	Due diligence required?	Custody required?	Padilla retroactive?	Pro bono resources
Statute	Va. Code § 8.01-654	2 years from trial court final judgment (21 days after signed) or 1 year from direct appeal, whichever later	May be tolled if delay is the result of obstruction by the state, <i>Hicks v. Director</i> , 289 Va. 288, 297 (2015). No tolling of SOL based on previously unavailable evidence, <i>see Brown v. Booker</i> , 297 Va. 245 (2019)	No	Yes, including probation and parole (but not immigration detention). <i>Escamilla v. Superintendent</i> , 290 Va. 374, 380 (2015)	Undecided by highest court. No. <i>See. e.g. Ibrahim v. Superintendent, Rappabannock Reg'l Jail</i> , 82 Va. Cir. 353 (Cir. Ct. 2011)	n/a
Plea withdrawal	Va. Code § 19.2-296	Before sentence imposed or suspended	21 days after entry of final order if "manifest injustice," which does not include collateral consequences. <i>Brown v. Commonwealth</i> , 297 Va. 295, 302-03 (2019); <i>but see id.</i> n.2 (deportation not before the court)	No	No		
Habeas	Superseded by statute.						
Judicial notification failure	None						
Late direct appeal	Va. Code § 19.2-321.1	6 months from finality, if failure to file notice of appeal was due to IAC	No	No	No		
Coram Nobis ¹	Va. Code § 8.01-677	Coram vobis cannot be used for legal error. <i>Com. v. Morris</i> , 705 S.E.2d 503 (Va. 2011) (no coram vobis for <i>Padilla</i> -based IAC)	n/a	No	No		

¹ Referred to as "coram vobis" in the State of Virginia. *See Neighbors v. Commonwealth*, 650 S.E.2d 514, 517 n.5 (2007).

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