



Kansas

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 their conviction or sentence. For example, they may file:

- A motion for a new trial based on jury misconduct, new evidence, legal errors at trial, or other problems with the proceedings
- A motion to arrest the judgment
- A motion to withdraw a plea
- A motion to modify the sentence

The prosecution may also file a motion 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.

Victims have the right to prompt and fair redress for harm victims have suffered.

Victims have the right to be informed of and present at public hearings.

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 has between 14 and 30 days of sentencing to decide whether to appeal, depending on where the case began. If the convicted person appeals, the state [Solicitor General's Office](#) assigns a lawyer to oppose the appeal. The prosecutor 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 have the right to prompt and fair redress for harm victims have suffered.

Victims have the right to be informed of and present at public hearings.

Victims have the right to protection of their private information including their location.

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. These motions can seek many outcomes, but the main requests and outcomes in Kansas are the following:

- Kansas Statutes Section 60-1507: A person convicted of a crime may file a petition under this law to seek to invalidate their conviction or sentence based on new evidence, legal errors in the proceedings, or other claims.
- State habeas corpus: A convicted person may seek relief through a process called “habeas corpus.” In Kansas, state habeas corpus relief is available only when relief is not available under Section 60-1507.

Victims’ Rights

Victims have the right to be informed of and present at public hearings.

Victims have the right to protection of their private information including their location.

DNA Testing

A convicted person may file a motion seeking DNA testing of physical evidence.

The court will not automatically grant the requested testing. Instead, the court will allow testing only if it finds that testing may produce noncumulative, exculpatory evidence relevant to the claim that the convicted individual was wrongfully convicted or sentenced.

If the court grants testing and the evidence supports the convicted person’s claim, that person may seek to vacate their conviction, obtain a new trial, or other relief. If the court grants a motion for a new trial, the case starts over.

Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Kansas 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 from prison earlier than expected through: parole, terminal illness release, functional incapacitation release, or earning reductions to their sentences for good behavior (usually called "good-time credits").

Victims' Rights

Victims have the right to be heard and submit a statement to the parole board. Victims have the right to have their comments considered by the parole board.

Victims have the right to be notified two weeks before the incarcerated individual's expected release date and whether the convicted individual will return to the community where the victim lives.

Victims have the right to notification if the incarcerated individual escapes, transfers, or dies.

Victims also have the right to notice if the incarcerated person is considered for parole. Victims have a right to notification if the incarcerated individual is released due to parole, community programming, functional incapacitation, terminal medical condition, or involuntary commitment.

Prosecutorial Review

People who claim to have been wrongly convicted of felonies in Wyandotte County, Kansas may ask for their case to be reviewed by the local prosecutor's [office](#). Wyandotte County appears to be the only prosecutor's office in the state that has established this type of conviction review unit.

Victims' Rights

Victims have the right to be notified before the prosecuting attorney dismisses charges or offers a plea agreement.

Victims have the right to have their views and concerns ascertained throughout the criminal process.

Victims have the right to have their views or concerns brought to the attention of the court.

Clemency

The governor can grant clemency to people convicted under Kansas law. The [Prisoner Review Board](#) helps the governor in this process. Clemency typically takes one of two forms:

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

Victims' Rights

Victims have the right to notification of a convicted individual's application for clemency.

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 information about restitution and [crime victims compensation](#).

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.