



Maine

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 the judgment against them. 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 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 notification of all judicial proceedings.

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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 generally has 21 days after sentencing to decide whether to appeal. If the convicted person appeals, the District Attorney's Office or [Attorney General's Office](#) assigns a lawyer to oppose the appeal for the state. 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.

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 principal form in Maine is a petition filed under the state's Postconviction Review Act. A convicted person may file a motion under that Act to set aside or correct their conviction or sentence based on legal errors in the proceedings or new evidence.

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DNA Testing

A person convicted of a felony in Maine may file a motion seeking DNA testing of evidence in the state's possession.

The court will not automatically grant the requested testing. Instead, the court will allow testing only if it finds the identity of the perpetrator was at issue during the criminal proceeding and that the evidence sought to be tested is material to the individual's guilt.

If the court grants testing and the evidence supports the convicted person's claim, the court must hold a hearing and the convicted 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 Maine 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

Victims have a right to be notified when the defendant files a post-conviction motion for DNA analysis.

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: community release or earning reductions to their sentences for good behavior or completion of rehabilitative, educational, or other programs (usually called "good-time credits").

Victims' Rights

Upon request, victims have the right to notification of the incarcerated person's release from confinement, escape, furlough, work release, release for funeral or deathbed visit, and release to home confinement.

Victims have the right to notification when probation is terminated.

Victims have a right to notification of the time that the incarcerated person will serve given deductions for time served and good behavior.

Victims have the right to be heard about motions to terminate probation and parole hearings.

Clemency

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

1. [Commutation](#): the reduction of a sentence to a less severe punishment
2. [Pardon](#): an official act of forgiveness that frees a convicted person from punishment that erases the legal consequences of the crime

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 request restitution.

Victims have the right to request compensation from the [Victim Compensation Board](#).

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.