



Michigan

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 an acquittal
- For a new trial based on jury misconduct, new evidence, legal errors at trial, or other problems with the proceedings
- To modify the sentence
- To withdraw their plea

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 timely disposition of the case.

Victims have the right to notification of the final disposition of the case.

Victims have the right to be reasonably protected from the accused throughout the criminal justice process.

Victims have the right to notification of court proceedings.

Victims have the right to notification if the convicted person is released pending appeal if notification is requested by the victim.

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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 42 days after sentencing or ruling on a motion for a new trial (if one is filed) to decide whether to appeal. If the convicted person appeals, the [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.

Victims' Rights

Victims have the right to notification of an appeal if notification is requested by the victim.

Victims have the right to notification of the results of the appeal if notification is requested by the victim.

Victims have the right to an explanation of the appeal process.

Victims have the right to attend court proceedings.

Victims have the right to notification of the time and place of any appellate court arguments and notification if the time and place of those arguments change.

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 following are the most common in Michigan:

- Post-appeal relief: A convicted person may challenge the judgment against them on any available legal grounds, and may seek relief in the form of setting aside or modifying that judgment.
- State habeas corpus: A convicted person may challenge their sentence or conviction through a process called "habeas corpus." In Michigan, state habeas corpus relief is very limited because claims are supposed to proceed through the post-appeal relief process.

DNA Testing

A person convicted of a felony may file a motion seeking forensic testing of evidence collected in the case.

The court will not automatically grant the requested testing. Instead, the court must allow testing only if the evidence to be tested is material to determining the identity of the perpetrator of the crime and the identity of the perpetrator was at issue during the trial.

If the court grants testing and the evidence supports the convicted person's claim, the court must hold a hearing. During or after that hearing, the convicted person may seek to vacate their conviction, obtain a new trial, or other relief. If the court grants a new trial, the case starts over.

Victims' Rights

Victims have the right to notification of a post-conviction motion, if notification is requested by the victim.

Victims have the right to notification of the results of the appeal, if requested.

Victims have the right to an explanation of the appeal process.

Victims have the right to attend court proceedings.

Victims' Rights

Victims have the right to notification if the convicted person files a motion for post-conviction DNA testing.

Victims have a right to notification of the time and place of any hearing regarding the post-conviction DNA testing if notification is requested by the victim.

Victims have the right to notification of the court's decision on post-conviction DNA motions if notification is requested by the victim.

Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Michigan 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, medical parole, or earning reductions to their sentences for good behavior or completion of rehabilitative, educational, or other programs (usually called “good-conduct credits”).

Victims’ Rights

Victims have the right to information about the sentence, imprisonment, and release of the convicted individual.

Victims have the right to notification of the convicted individual’s probation revocation, transfer, or escape.

Victims have the right to notification of parole hearings.

Victims have the right to be present and be heard at parole hearings.

Victims have the right to notice if the convicted person files an application for their conviction to be set aside.

Victims have the right to appeal a parole decision in certain circumstances.

Prosecutorial Review

The state-wide Michigan Attorney General’s [Office](#) – as well as local prosecutors offices in [Wayne County](#), [Macomb County](#), [Oakland County](#), and [Washtenaw County](#) – have established units to reconsider past convictions where the convicted person has a claim of innocence.

Victims’ Rights

Victims have the right to confer with the prosecution.

Clemency

The governor can grant clemency to people convicted under Michigan law. The [Parole Board](#) assists the governor with 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

Victims' Rights

Victims have the right to address or submit a written statement to the parole board if a commutation of sentence is being considered.

Victims, upon request, have the right to notification of pending clemency hearings and notification of their rights in clemency proceedings.

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 restitution and the right to apply for [Crime Victim 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.