



Mississippi

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
- To vacate the judgment
- 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 be notified of criminal proceedings if requested.

Victims have the right to receive a transcript of the trial if requested.

Victims have the right to information and instructions on requesting notice about appeals.

Victims have the right to notification if the convicted individual is released pending appeal if requested.

Victims have the right to the return of property as soon as possible.

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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 30 days after sentencing (or denial of a motion for a new trial, if one was filed) to decide whether to appeal. In felony cases, the [Attorney General](#) assigns a lawyer to oppose the appeal for the state. In appeals from misdemeanors, the prosecutor from the county where the case was tried will represent 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 information about the status of appeals and court decisions about appeals if requested.

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 Mississippi:

- Uniform Postconviction Collateral Relief Act: A convicted person may seek to invalidate their conviction or sentence, or permission to file a belated direct appeal. These claims may be based on a violation of the person's legal rights in the criminal proceedings, new biological evidence, or new facts.
- State habeas corpus: A convicted person may challenge their sentence or conviction through a process called "habeas corpus." In Mississippi, state habeas corpus relief is very limited because claims are supposed to proceed under the Act.

Victims' Rights

Victims have the right to notification of the status of any post-conviction court review and any decision from post-conviction review if requested.

DNA Testing

Anyone convicted of a crime may file a motion seeking forensic testing of evidence collected in the case. This testing is sought by filing a motion under the Uniform Postconviction Collateral Relief Act, discussed above.

The court will not automatically grant the requested testing. Instead, the court may allow testing only if it finds that testing would demonstrate by reasonable probability that the petitioner would not have been convicted or would have received a lesser sentence if favorable results had been obtained through DNA testing at the time of the original prosecution.

If the court grants testing and the evidence supports the convicted person's claim, then the 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.

Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Mississippi 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: good behavior in prison (often called “earned time allowance” or “earned release supervision”), parole, geriatric parole, or conditional medical release.

Victims’ Rights

Victims have the right to notification about the release, escape, recapture, medical release, and death if requested.

Victims have the right to notification about the right to be heard regarding release and change in custodial status of the incarcerated individual if requested.

Victims have the right to be notified and to submit a written or recorded statement during parole proceedings if requested.

Victims have the right to submit a written statement, audio, or video recording to be placed with the incarcerated individual’s records and considered at any review for community status or release of the incarcerated individual.

Clemency

The governor can grant clemency to people convicted under Mississippi law. The governor is assisted by the [Parole Board](#). 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 be notified and to submit a written or recorded statement during pardon proceedings if requested.

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 seek restitution and the right to apply for [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.