



# Missouri

## Post-Conviction Case Activity & Victims' Rights

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### 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 set aside the judgment
- To arrest the judgment
- To withdraw their plea
- To reduce the punishment

The prosecution may also move to vacate or set aside a conviction at any time if they have information that the convicted person may be innocent or may have been erroneously convicted.

### Victims' Rights

Victims have the right to presence at all criminal proceedings where the convicted individual has a right to be present.

Victims have the right to the return of property when it is no longer needed as evidence.

## 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 10 days after the criminal judgment becomes final 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 speedy appellate review.

Victims have the right to notification of appellate procedure and information about the status of the appeal 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 Missouri:

- Rules of Criminal Procedure 24.035 or 29.15: A person convicted of a felony may seek to invalidate their conviction or sentence based on legal errors in the proceedings.
- State habeas corpus: A convicted person may challenge their sentence or conviction through a process called "habeas corpus." In Missouri, state habeas corpus relief is very limited because claims are supposed to proceed under the Rules.

The prosecution may also file a motion to vacate the judgment at any time if it has evidence of the convicted person's actual innocence.

## DNA Testing

An incarcerated person may file a motion seeking DNA testing of evidence collected in the case.

The court will not automatically grant the requested testing. Instead, the court may allow testing only if it finds that there is a reasonable probability that the person would not have been convicted if the requested DNA testing had been done earlier and the results had been exculpatory.

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.

### Victims' Rights

Victims have the right to speedy appellate review.

Victims have the right to notification of appellate procedure and information about the status of the state post-conviction motion if requested.

## Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Missouri 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. The main types of early-release programs in Missouri are: “good-time credits,” which are reductions in sentences awarded for good behavior and completion of rehabilitative programs, reconsideration of the person’s sentence by the [Parole Board](#) if the person was under 18 at the time of their offense, parole, or medical parole.

### Victims’ Rights

Victims have the right to information about release for any reason, escape, recapture, or death of the incarcerated individual upon request.

Victims have the right to notification of the projected release date of the incarcerated individual.

Victims have the right to information and notification about probation revocation and parole hearings and notification of any changes in the scheduling of those hearings, upon request. Notification must be given to victims 30 days before the hearing.

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

## Prosecutorial Review

The prosecutor’s offices in [St. Louis](#) and [Jackson County](#), Missouri have established conviction-integrity units to review past cases in which a convicted person has a plausible claim of actual innocence.

Additionally, a [new state law](#) empowers the Missouri Office of Prosecution Services to establish a conviction review unit to investigate claims of actual innocence of any defendant. The law requires the Office to create an application process, though none appears to have been established yet.

## Clemency

The governor can grant clemency to people convicted under Missouri law. In this work, 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 information about clemency.

Victims have the right to notification when the governor grants 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 seek restitution and compensation from the [Crime Victims' Compensation Program](#).

*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.*