



# Ohio

## 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 new evidence or legal errors in the proceedings
- For an acquittal
- To arrest the judgment
- To withdraw the plea
- To correct the sentence

### 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 proceedings free from unreasonable delay and a prompt conclusion to the case.

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

Victims have the right to notice of public proceedings, upon request.

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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 the entry of judgment to decide whether to appeal. If the person decides to appeal, the local prosecutor and/or the state [Attorney General's Office](#) assigns a lawyer to oppose the appeal. The state lawyer 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 notice of an appeal and a brief explanation of the appellate process.

Victims have the right to information and notification regarding the convicted person's release pending the outcome of the appeal.

Victims have the right to notice of the time and place of appellate proceedings and any subsequent change in the time and place of those proceedings.

Victims have the right to notice of the result of the appeal and notification if the convicted individual is released or if their sentence is modified as a result of the appeal.

Victims have the right to attend oral arguments related to the direct appeal.

## 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. In Ohio, the main forms of post-conviction relief are:

- Postconviction Remedy Act: The convicted person may file a motion under this Act to challenge their conviction or sentence based on new evidence or legal errors in the proceedings.
- Motion for a belated appeal: If the convicted person fails to file a timely appeal and has a good reason for that failure, they may ask permission to file one late.
- Motion to reopen appeal: If a person received ineffective assistance of counsel on direct appeal or in death penalty proceedings before the Ohio Supreme Court, they may seek to reopen their appeal.
- State habeas corpus: A convicted person may seek relief through a process called "habeas corpus." The scope of this relief in Ohio is very limited because most claims must proceed under the Act.

## DNA Testing

People convicted of certain felonies 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 must allow testing only if it finds (among other things) that the identity of the perpetrator was at issue in the trial proceedings and exculpatory DNA results would prove the person's innocence.

If the court grants testing and the results exculpate the convicted person, the person may file a motion under the Postconviction Remedy Act asking the court to vacate the conviction or grant a new trial or other relief. If the court grants a new trial, the case starts over.

### Victims' Rights

Victims have the right to attend hearings in post-conviction.

Victims have the right to speak with the prosecutor before a hearing.

Victims have the right to notification of the results of the post-conviction motion.

Victims have the right to notification if the convicted individual is released or if their sentence is modified as a result of the post-conviction motion.

## Federal Habeas Corpus

After seeking post-conviction relief in state court, a person convicted under Ohio 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 earlier than expected through one of these programs in Ohio: earning "credits" for good behavior, maintaining a minimum-security classification in prison, or participating in vocational, rehabilitative, educational, or other programs; parole; release as if on parole; medical release; or judicial release.

### Victims' Rights

Victims have the right to notification before parole is granted, upon request.

Victims have the right to send a written statement to the parole board or request a conference with the Parole Board.

Victims have the right to notification of the incarcerated individual's expected release date and notification before a hearing regarding the release of the incarcerated individual, upon request.

Victims have the right to make a statement regarding release, and victims have the right to notification of release decisions, upon request. Victims have the right to information about the terms of the release.

Victims have the right to prompt notification of an incarcerated individual's escape, apprehension, or death.

## Prosecutorial Review

In [Franklin County](#), [Summit County](#), [Hamilton County](#), and [Cuyahoga County](#), the local prosecutors' offices have established units dedicated to reviewing past cases in which the convicted person has a plausible claim of innocence.

## Clemency

The governor can grant clemency to people convicted under Ohio law. The [Parole Board](#) supports the governor in this work. Clemency typically takes one of three forms in Ohio:

1. Commutation: the reduction of a sentence to a less severe punishment
2. Reprieve: a temporary delay of a sentence being carried out
3. 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 speak with the prosecutor.

### Victims' Rights

Victims have the right to notification before any recommendation that pardon or commutation be granted.

Victims have the right to submit a written statement for consideration during clemency proceedings.

Victims have the right to attend clemency hearings.

### Victims' Rights

Victims have the right to seek restitution and to apply for the [Crime Victim Compensation Fund](#).

*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.*