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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2386

- 02/27/2014 Authored by Johnson, S.,
The bill was read for the first time and referred to the Committee on Judiciary Finance and Policy
- 03/28/2014 Adoption of Report: Amended and Placed on the General Register
Read Second Time
- 05/02/2014 Calendar for the Day
Read Third Time
Passed by the House and transmitted to the Senate

1.1 A bill for an act
 1.2 relating to judiciary; modifying filing of petition for relief from conviction;
 1.3 modifying notice to offender for restitution; amending Minnesota Statutes 2012,
 1.4 sections 590.02, subdivision 3; 611A.045, subdivision 3.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 590.02, subdivision 3, is amended to read:

1.7 Subd. 3. **Filing.** When a petition is filed pursuant to section 590.01 it shall be ~~filed~~
 1.8 ~~with an original and three copies, each verified~~ signed by the petitioner or signed by the
 1.9 petitioner's attorney with proof of service on the attorney general and county attorney.

1.10 It shall be addressed to the district court of the judicial district in the county where the
1.11 conviction took place.

1.12 In those cases in which the petitioner is represented by counsel or in which the
 1.13 petitioner has filed a written waiver of right to counsel, the court administrator of the district
 1.14 court ~~shall deliver a copy of the petition to the county attorney and to the attorney general~~
 1.15 ~~and~~ shall immediately direct attention of the filing thereof to the chief judge or judge acting
 1.16 in the chief judge's behalf who shall promptly assign the matter to a judge in said district.

1.17 Sec. 2. Minnesota Statutes 2012, section 611A.045, subdivision 3, is amended to read:

1.18 Subd. 3. **Dispute; evidentiary burden; procedures.** (a) At the sentencing,
 1.19 dispositional hearing, or hearing on the restitution request, the offender shall have the
 1.20 burden to produce evidence if the offender intends to challenge the amount of restitution
 1.21 or specific items of restitution or their dollar amounts. This burden of production must
 1.22 include a detailed sworn affidavit of the offender setting forth all challenges to the
 1.23 restitution or items of restitution, and specifying all reasons justifying dollar amounts of

2.1 restitution which differ from the amounts requested by the victim or victims. The affidavit
2.2 must be served on the prosecuting attorney and the court at least five business days before
2.3 the hearing. A dispute as to the proper amount or type of restitution must be resolved
2.4 by the court by the preponderance of the evidence. The burden of demonstrating the
2.5 amount of loss sustained by a victim as a result of the offense and the appropriateness of a
2.6 particular type of restitution is on the prosecution.

2.7 (b) An offender may challenge restitution, but must do so by requesting a hearing
2.8 within 30 days of receiving written notification of the amount of restitution requested,
2.9 or within 30 days of sentencing, whichever is later. ~~Notice to the offender's attorney is~~
2.10 ~~deemed notice to the offender.~~ The hearing request must be made in writing and filed
2.11 with the court administrator. A defendant may not challenge restitution after the 30-day
2.12 time period has passed.