

## CHAPTER 590

### POST CONVICTION REMEDY

590.01 Availability, conditions.  
 590.04 Hearings on petition; evidence; order.  
 590.06 Appeals.

#### 590.01 AVAILABILITY, CONDITIONS.

Subdivision 1. **Petition.** Except at a time when direct appellate relief is available, a person convicted of a crime, who claims that the conviction was obtained, or that the sentence or other disposition made violated his rights under the constitution or laws of the United States or of the state, may commence a proceeding to secure relief by filing a petition in the district court in the county in which the conviction was had to vacate and set aside the judgment and to discharge the petitioner or to resentence him or grant a new trial or correct the sentence or make other disposition as may be appropriate. Nothing contained herein shall prevent the supreme court or the court of appeals, upon application by a party, from granting a stay of a case on appeal for the purpose of allowing an appellant to apply to the district court for an evidentiary hearing under the provisions of this chapter. The proceeding shall conform with sections 590.01 to 590.06.

*[For text of subds 2 and 3, see M.S.1982]*

**History:** 1983 c 247 s 201

#### 590.04 HEARINGS ON PETITION; EVIDENCE; ORDER.

*[For text of subds 1 and 2, see M.S.1982]*

Subd. 3. **Hearing.** The court may order the petitioner to be present at the hearing. If the petitioner is represented by an attorney, the attorney shall be present at any hearing.

A verbatim record of any hearing shall be made and kept.

Unless otherwise ordered by the court, the burden of proof of the facts alleged in the petition shall be upon the petitioner to establish the facts by a fair preponderance of the evidence.

In the discretion of the court, it may receive evidence in the form of affidavit, deposition, or oral testimony. The court may inquire into and decide any grounds for relief, even though not raised by the petitioner.

The court may summarily deny a second or successive petition for similar relief on behalf of the same petitioner and may summarily deny a petition when the issues raised in it have previously been decided by the court of appeals or the supreme court in the same case.

**History:** 1983 c 247 s 202

#### 590.06 APPEALS.

An appeal may be taken to the court of appeals or, in a case involving a conviction for first degree murder, to the supreme court from the order granting relief or denying the petition within 60 days after the entry of the order.

The appealing party shall, within the 60 days, serve a notice of appeal from the final order upon the clerk of district court and the opposing party. If the appeal is by the petitioner, the service shall be on the county attorney and the attorney general. If the appeal is by the state, the service shall be on the petitioner or his attorney. No fees or bond for costs shall be required for the appeal.

**History:** 1983 c 247 s 203