590.04 HEARINGS ON PETITION; EVIDENCE; ORDER.

Subdivision 1. **Early hearing.** Unless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief, the court shall promptly set an early hearing on the petition and response thereto, and promptly determine the issues, make findings of fact and conclusions of law with respect thereto, and either deny the petition or enter an order granting appropriate relief.

Subd. 2. **Open court hearing.** Hearings on a petition filed pursuant to section 590.01 shall be in open court in the judicial district in which the conviction took place or in the Second, Fourth, Seventh, or Tenth Judicial Districts in the discretion of the judge to whom the proceeding has been assigned.

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: *1967 c 336 s 4; 1969 c 491 s 2; 1977 c 190 s 1; 1983 c 247 s 202*