CHAPTER 590

POSTCONVICTION RELIEF

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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:

(1) the conviction obtained or the sentence or other disposition made violated the person's rights under the Constitution or laws of the United States or of the state; or

(2) scientific evidence not available at trial, obtained pursuant to a motion granted under subdivision 1a, establishes the petitioner's actual innocence;

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 the petitioner or grant a new trial or correct the sentence or make other disposition as may be appropriate. A petition for postconviction relief after a direct appeal has been completed may not be based on grounds that could have been raised on direct appeal of the conviction or sentence. 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.

Subd. 1a. **Motion for fingerprint or forensic testing not available at trial.** (a) A person convicted of a crime may make a motion for the performance of fingerprint or forensic DNA testing to demonstrate the person's actual innocence if:

(1) the testing is to be performed on evidence secured in relation to the trial which resulted in the conviction; and

(2) the evidence was not subject to the testing because either the technology for the testing was not available at the time of the trial or the testing was not available as evidence at the time of the trial.

The motion shall be filed before the district court that entered the judgment of conviction. Reasonable notice of the motion shall be served on the prosecuting attorney who represented the state at trial.

(b) A person who makes a motion under paragraph (a) must present a prima facie case that:

(1) identity was an issue in the trial; and

(2) the evidence to be tested has been subject to a chain of custody sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material aspect.

(c) The court shall order that the testing be performed if:

(1) a prima facie case has been established under paragraph (b);

(2) the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence; and

(3) the testing requested employs a scientific method generally accepted within the relevant scientific community. The court shall impose reasonable conditions on the testing designed to protect the state's interests in the integrity of the evidence and the testing process.

Subd. 2. **Remedy.** This remedy takes the place of any other common law, statutory or other remedies which may have been available for challenging the validity of a conviction, sentence, or other disposition and must be used exclusively in place of them unless it is inadequate or ineffective to test the legality of the conviction, sentence or other disposition.

Subd. 3. **Application for relief.** A person who has been convicted and sentenced for a crime committed before May 1, 1980, may institute a proceeding applying for relief under this chapter upon the ground that a significant change in substantive or procedural law has occurred which, in the interest of justice, should be applied retrospectively, including resentencing under subsequently enacted law.

No petition seeking resentencing shall be granted unless the court makes specific findings of fact that release of the petitioner prior to the time the petitioner would be released under the sentence currently being served does not present a danger to the public and is not incompatible with the welfare of society.

Subd. 4. **Time limit.** (a) No petition for postconviction relief may be filed more than two years after the later of:

(1) the entry of judgment of conviction or sentence if no direct appeal is filed; or

(2) an appellate court's disposition of petitioner's direct appeal.

(b) Notwithstanding paragraph (a), a court may hear a petition for postconviction relief if:

(1) the petitioner establishes that a physical disability or mental disease precluded a timely assertion of the claim;

(2) the petitioner alleges the existence of newly discovered evidence, including scientific evidence, that provides facts necessary to sustain one or more legally cognizable claims for postconviction relief, if such evidence could not have been ascertained by the exercise of due diligence by the petitioner or petitioner's attorney within the two-year time period for filing a postconviction petition, is not cumulative to evidence presented at trial, and is not for impeachment purposes;

(3) the petitioner asserts a new interpretation of federal or state constitutional or statutory law by either the United States Supreme Court or a Minnesota appellate court and the petitioner establishes that this interpretation is retroactively applicable to the petitioner's case;

(4) the petition is brought pursuant to subdivision 3; or

(5) the petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice.

(c) Any petition invoking an exception provided in paragraph (b) must be filed within two years of the date the claim arises.

[See Note.]

History: *1967 c 336 s 1; 1969 c 491 s 1; 1981 c 366 s 1; 1983 c 247 s 201; 1986 c 444; 1Sp1986 c 3 art 1 s 65; 1999 c 216 art 3 s 2,3; 2005 c 136 art 14 s 12,13; 2024 c 123 art 4 s 9*

NOTE: Subdivision 4 was held unconstitutional as applied to motions brought under Minnesota Rules of Criminal Procedure 27.03, subdivision 9, in *Reynolds v. State*, 888 N.W.2d 125 (Minn. 2016).

590.02 PETITION; FILING; SERVICE; COSTS.

Subdivision 1. **Petition.** The petition filed in the district court pursuant to section 590.01 shall be entitled in the name of the petitioner versus the state of Minnesota and shall contain:

(1) a statement of the facts and the grounds upon which the petition is based and the relief desired. All grounds for relief must be stated in the petition or any amendment thereof unless they could not reasonably have been set forth therein. It shall not contain argument or citation of authorities;

(2) an identification of the proceedings in which the petitioner was convicted including the date of the entry of judgment and sentence or other disposition complained of;

(3) an identification of any previous proceeding, together with the grounds therein asserted taken on behalf of the petitioner to secure relief from the conviction and sentence or other disposition;

(4) the name and address of any attorney representing the petitioner. In the event the petitioner is without counsel, the court administrator shall forthwith transmit a copy of the petition to the state public defender and shall advise the petitioner of such referral.

Subd. 2. **Costs.** The filing of the petition and any document subsequent thereto and all proceedings thereon shall be without costs or any fees charged to the petitioner.

Subd. 3. **Filing.** When a petition is filed pursuant to section 590.01 it shall be signed by the petitioner or signed by the petitioner's attorney with proof of service on the attorney general and county attorney. It shall be addressed to the district court of the judicial district in the county where the conviction took place.

In those cases in which the petitioner is represented by counsel or in which the petitioner has filed a written waiver of right to counsel, the court administrator of the district court shall immediately direct attention of the filing thereof to the chief judge or judge acting in the chief judge's behalf who shall promptly assign the matter to a judge in said district.

History: *1967 c 336 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2014 c 245 s 1*

590.03 PLEADINGS AND PRACTICE AFTER FILING A POSTCONVICTION PETITION.

Within 45 days after the filing of the petition pursuant to section 590.01 or within such time as the judge to whom the matter has been assigned may fix, the county attorney, or the attorney general, on behalf of the state, shall respond to the petition by answer or motion which shall be filed with the court administrator of district court and served on the petitioner if unrepresented or on the petitioner's attorney. No further pleadings are necessary except as the court may order. The court may at any time prior to its decision on the merits permit a withdrawal of the petition, may permit amendments thereto, and to the answer. The court shall

liberally construe the petition and any amendments thereto and shall look to the substance thereof and waive any irregularities or defects in form.

History: *1967 c 336 s 3; 1Sp1986 c 3 art 1 s 82; 2024 c 123 art 4 s 10*

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*

590.05 INDIGENT PETITIONERS.

A person financially unable to obtain counsel who desires to pursue the remedy provided in section 590.01 may apply for representation by the state public defender. The state public defender shall represent such person under the applicable provisions of sections 611.14 to 611.27, if the person has not already had a direct appeal of the conviction. The state public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel.

History: *1967 c 336 s 5; 1991 c 345 art 3 s 1; 1993 c 13 art 2 s 1; 1Sp2003 c 2 art 3 s 2; 2007 c 61 s 2*

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 court administrator 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 the petitioner's attorney. No fees or bond for costs shall be required for the appeal.

History: *1967 c 336 s 6; 1983 c 247 s 203; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

590.10 PRESERVATION OF EVIDENCE.

Subdivision 1. **Preservation.** Notwithstanding any other provision of law, all appropriate governmental entities shall retain any biological evidence relating to the identification of a defendant used to secure a conviction in a criminal case until expiration of sentence unless earlier disposition is authorized by court order after notice to the defendant and defense counsel. No order for earlier disposition of this evidence shall be issued if the defendant or defense counsel objects.

The governmental entity need retain only the portion of such evidence as was used to obtain an accurate biological sample used to obtain a conviction. If the size of the biological sample requires that it be consumed in analysis, the Minnesota Rules of Criminal Procedure shall apply. If evidence is intentionally destroyed after the filing of a petition under section 590.01, subdivision 1a, the court may impose appropriate sanctions on the responsible party or parties.

Subd. 2. **Definition.** For purposes of this section, "biological evidence" means:

(1) the samples obtained in a sexual assault examination kit; or

(2) any item that contains blood, semen, hair, saliva, skin, tissue, or other identifiable biological material present on physical evidence or preserved on a slide or swab if such evidence relates to the identification of the defendant.

History: *2005 c 136 art 12 s 8*

590.11 ORDER DETERMINING ELIGIBILITY FOR COMPENSATION BASED ON EXONERATION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Exonerated" means that:

(1) a court:

(i) vacated, reversed, or set aside a judgment of conviction on grounds consistent with innocence and there are no remaining felony charges in effect against the petitioner from the same behavioral incident, or if there are remaining felony charges against the petitioner from the same behavioral incident, the prosecutor dismisses those remaining felony charges; or

(ii) ordered a new trial on grounds consistent with innocence and the prosecutor dismissed all felony charges against the petitioner arising from the same behavioral incident or the petitioner was found not guilty of all felony charges arising from the same behavioral incident at the new trial;

(2) the time for appeal of the order resulting in exoneration has expired or the order has been affirmed and is final; and

(3) 60 days have passed since the judgment of conviction was reversed or vacated, and the prosecutor has not filed any felony charges against the petitioner from the same behavioral incident, or if the prosecutor

did file felony charges against the petitioner from the same behavioral incident, those felony charges were dismissed or the defendant was found not guilty of those charges at the new trial.

(c) "On grounds consistent with innocence" means either:

(1) exonerated, through a pardon or sentence commutation, based on factual innocence; or

(2) exonerated because the judgment of conviction was vacated or reversed, or a new trial was ordered, and there is any evidence of factual innocence whether it was available at the time of investigation or trial or is newly discovered evidence.

Subd. 2. **Procedure.** A petition for an order declaring eligibility for compensation based on exoneration under sections 611.362 to 611.368 must be brought before the district court where the original conviction was obtained. The state must be represented by the office of the prosecutor that obtained the conviction or the prosecutor's successor. Within 60 days after the filing of the petition, the prosecutor must respond to the petition. A petition must be brought within two years, but no less than 60 days after the petitioner is exonerated. If before July 1, 2019, a person did not meet both requirements of Minnesota Statutes 2018, section 590.11, subdivision 1, clause (1), item (i), and did not file a petition or the petition was denied, that person may commence an action meeting the requirements under subdivision 1, paragraph (b), clause (1), item (i), on or after July 1, 2019, and before July 1, 2021.

Subd. 3. **Compensation based on exoneration in the interests of justice.** (a) An individual who is exonerated is eligible for compensation in the interests of justice, if the prosecutor, within 60 days of filing the petition, joins the petition and indicates that it is likely that the original complaint or indictment would not have been filed or sought or would have been dismissed with the knowledge of all of the circumstances. Joinder and agreement to compensation based on the interests of justice by the prosecutor shall conclusively establish eligibility for compensation precluding any further proceedings under paragraph (b). Upon receipt of prosecutor's joinder and agreement, the court shall issue an order as described in subdivision 7, granting petitioner's eligibility for compensation under this subdivision.

(b) If the prosecutor does not join and agree as provided under paragraph (a), the court shall determine if an individual who is exonerated is eligible for compensation based on the establishment of innocence if the petitioner establishes that a crime was not committed or that the crime was not committed by the petitioner. The petitioner's burden of proof and the procedures set forth in section 590.04, subdivision 3, apply to this proceeding.

Subd. 4. **Evidence.** Court records related to the conviction and the exoneration are admissible in a proceeding under this section. A written statement filed in court or oral statement on the record by the office of the prosecutor that obtained the conviction is admissible to support or refute the petition. The prosecutor may address the prosecutor's decision to dismiss the charges or other information that may not be fully reflected in the proceedings resulting in exoneration. Both the petitioner and the prosecutor have the right to present additional evidence. The court may consider acts by the petitioner that may have contributed to bringing about the conviction and any other offenses that may have been committed by the petitioner in the same behavioral incident, except for those acts contained in subdivision 5, paragraph (c). The victim of the offense has a right to submit an oral or written statement before the court issues its order. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the petition should be granted or denied.

Subd. 5. **Elements.** (a) A claim for compensation arises if a person is eligible for compensation under subdivision 3 and:

(1) the person was convicted of a felony and served any part of the imposed sentence;

(2) in cases where the person was convicted of multiple charges arising out of the same behavioral incident, the person was exonerated for all of those charges;

(3) the person did not commit or induce another person to commit perjury or fabricate evidence to cause or bring about the conviction; and

(4) the person was not serving a term of incarceration for another crime at the same time, except:

(i) if the person served additional time in prison or jail due to the conviction that is the basis of the claim, the person may make a claim for that portion of time served in prison or jail during which the person was serving no other sentence; or

(ii) if the person served additional executed sentences that had been previously stayed, and the reason the additional stayed sentences were executed was due to the conviction that is the basis for the claim.

(b) A claimant may make a claim only for that portion of time served in prison or jail during which the claimant was serving no other sentence, unless the other sentence arose from the circumstances described in paragraph (a), clause (4), item (ii).

(c) A confession or admission later found to be false or a guilty plea to a crime the claimant did not commit does not constitute bringing about the claimant's conviction for purposes of paragraph (a), clause (3).

Subd. 6. **Hearing.** Unless the petition and the files and records of the proceeding conclusively show that the petitioner is not eligible for compensation, the court shall set a hearing on the petition and response thereto.

Subd. 7. **Order.** If, after considering all the files and records admitted and any evidence admitted at a hearing held pursuant to subdivision 4, the court determines that the petitioner is eligible for compensation, the court shall issue an order containing its findings and, if applicable, indicate the portion of the term of incarceration for which the petitioner is entitled to make a claim. The court shall notify the petitioner of the right to file a claim for compensation under sections 611.362 to 611.368 and provide the petitioner with a copy of those sections. The petitioner must acknowledge receipt of the notice and a copy of those sections in writing or on the record before the court.

Subd. 8. **Appeal.** An order issued pursuant to subdivision 3, paragraph (b), may be appealed as provided for under section 590.06. The petitioner may not appeal an order granting eligibility pursuant to subdivision 3, paragraph (a).

History: *2014 c 269 s 1; 1Sp2019 c 5 art 2 s 13-16*