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State of Minnesota
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

1.1 A bill for an act
1.2 relating to judiciary; modifying filing of petition for relief from conviction;
1.3 eliminating reimbursement report by Board of Public Defenders; modifying
1.4 notice to offender for restitution; amending Minnesota Statutes 2012, sections
1.5 590.02, subdivision 3; 611.20, subdivision 3; 611A.045, subdivision 3.

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

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

1.8 Subd. 3. **Filing.** When a petition is filed pursuant to section 590.01 it shall be filed
1.9 ~~with an original and three copies, each verified~~ signed by the petitioner or signed by the
1.10 petitioner's attorney. It shall be addressed to the district court of the judicial district in the
1.11 county where the 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 611.20, subdivision 3, is amended to read:

1.18 Subd. 3. **Reimbursement.** In each fiscal year, the commissioner of management
1.19 and budget shall deposit the payments in the special revenue fund and credit them to a
1.20 separate account with the Board of Public Defense. The amount credited to this account is
1.21 appropriated to the Board of Public Defense.

1.22 The balance of this account does not cancel but is available until expended.
1.23 Expenditures by the board from this account for each judicial district public defense office
1.24 must be based on the amount of the payments received by the state from the courts in

2.1 each judicial district. A district public defender's office that receives money under this
2.2 subdivision shall use the money to supplement office overhead payments to part-time
2.3 attorneys providing public defense services in the district. ~~By January 15 of each year,~~
2.4 ~~the Board of Public Defense shall report to the chairs and ranking minority members of~~
2.5 ~~the senate and house of representatives divisions having jurisdiction over criminal justice~~
2.6 ~~funding on the amount appropriated under this subdivision, the number of cases handled~~
2.7 ~~by each district public defender's office, the number of cases in which reimbursements~~
2.8 ~~were ordered, the average amount of reimbursement ordered, and the average amount of~~
2.9 ~~money received by part-time attorneys under this subdivision.~~

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

2.11 Subd. 3. **Dispute; evidentiary burden; procedures.** (a) At the sentencing,
2.12 dispositional hearing, or hearing on the restitution request, the offender shall have the
2.13 burden to produce evidence if the offender intends to challenge the amount of restitution
2.14 or specific items of restitution or their dollar amounts. This burden of production must
2.15 include a detailed sworn affidavit of the offender setting forth all challenges to the
2.16 restitution or items of restitution, and specifying all reasons justifying dollar amounts of
2.17 restitution which differ from the amounts requested by the victim or victims. The affidavit
2.18 must be served on the prosecuting attorney and the court at least five business days before
2.19 the hearing. A dispute as to the proper amount or type of restitution must be resolved
2.20 by the court by the preponderance of the evidence. The burden of demonstrating the
2.21 amount of loss sustained by a victim as a result of the offense and the appropriateness of a
2.22 particular type of restitution is on the prosecution.

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