



**House  
Legislative  
Analysis  
Section**

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**CRIMINAL NAME CHANGES**

**House Bill 4694 as enrolled  
Public Act 104 of 1996  
Sponsor: Rep. Charles Perricone**

**Senate Bill 318 as enrolled  
Public Act 105 of 1996  
Sponsor: Sen. William Van Regenmorter**

**Senate Bill 346 as enrolled  
Public Act 106 of 1996  
Sponsor: Sen. Glenn Steil**

**Senate Committee: Judiciary  
House Committee: Judiciary and Civil  
Rights**

**Second Analysis (3-6-96)**

House Bill 4694 and Senate Bills 318 and 346 (3-6-96)

***THE APPARENT PROBLEM:***

It is relatively easy in Michigan for a person to change his or her name, either through probate court proceedings or through the simple exercise of the common law right to do so. Changing names can allow an individual to secure a new birth certificate, which, in turn, can enable the person to obtain a new Social Security number. Reportedly, it is not uncommon for prisoners to take advantage of these simple procedures to change their names while incarcerated. Some people believe that, to ensure accurate accounts of criminal records, and to make sure that crime victims are notified of information regarding their assailants, steps should be taken both to make it harder for criminals to change their names and to put in place a system for keeping track of criminal name changes.

***THE CONTENT OF THE BILLS:***

The bills would prohibit "administrative" name changes by prisoners, require criminal record checks of people who petitioned the probate court for a name change, and require notification of victims and reporting to certain state and local agencies when criminals changed their names.

Senate Bill 346 would amend the probate code (MCL 711.1) to require anyone 22 years or older who petitioned the probate court for a name change to undergo a criminal records check. If a petitioner had a

criminal record, he or she would be presumed to be seeking a name change with a fraudulent intent, and the burden of proof would be on the petitioner to rebut that presumption.

A person 22 years old or older who petitioned to have his or her name changed would be required to have two complete sets of fingerprints taken at a local police agency. The fingerprints, along with a copy of the petition and the required processing fees, would be forwarded to the Department of State Police, who would compare the fingerprints with its records and forward a complete set of fingerprints to the Federal Bureau of Investigation (FBI) for comparison with its records. The state police would be required to report to the court information (from its files and from the FBI) on any pending charges or record of convictions of the applicant. The court would be prohibited from acting on a name change petition until the state police reported the required information. The bill would also require the state police to destroy its copy of the applicant's fingerprints if it were determined that the applicant had no criminal record or charges pending against him or her.

If the court entered an order to change the name of someone with a criminal record, the court would be required to forward the order to the central records division of the state police and to one or more of the following: (1) The Department of Corrections (DOC),

if the person named in the order was in prison, on parole, or had been imprisoned or released from parole in the immediately preceding two years; (2) the sheriff of the county in which the person was last convicted, if the person was incarcerated in a county jail or released from a county jail within the immediately preceding two years; or (3) the probate court that had jurisdiction over the person named in the order, if he or she was under the court's jurisdiction or had been discharged from its jurisdiction within the immediately preceding two years.

The bill would also specify that a false statement intentionally included in a petition for a name change would constitute perjury under the Michigan Penal Code.

Senate Bill 346 would take effect April 1, 1996.

House Bill 4694 would amend the Department of Corrections (DOC) act (MCL 791.206 and 791.265d) to prohibit the director of the department and the Corrections Commission from promulgating a rule or adopting a guideline which would allow a prisoner to change his or her name. However, if the Michigan Supreme Court determined that the bill's restrictions violated the First or Fourteenth Amendments to the U.S. Constitution and Article I, Sections 2 and 4 of the Michigan Constitution of 1963 the bill would specify that the remaining sections of the code should stay in effect. Further, the bill would specify that if the Michigan Supreme Court rules that sections 45 and 46 of the Administrative Procedures Act are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after such a ruling, the department would not be allowed to promulgate any rules under the bill.

Currently, the department is required to make an entry into the Law Enforcement Information Network (LEIN) whenever a prisoner escapes from a state correctional facility or a parole violation warrant is issued. The department must also make information available on the LEIN through the corrections management information system whenever a person's parole status changes, or a prisoner is transferred into a community residential program or into a minimum custody correctional facility of any kind. The bill would require that whenever such information or entries are made or provided, the prisoner's former name would have to be provided along with his or her current name, any physical descriptions, the amount of time remaining in his or her sentence, and any other information deemed relevant by the department.

House Bill 4694 is tie-barred to Senate Bill 346 and would take effect on April 1, 1996.

Senate Bill 318 would amend the Crime Victim's Rights Act (MCL 780.769 et al.) to require, upon the written request of a victim of a crime or serious misdemeanor, that the sheriff or the DOC mail a notice to the victim when the prisoner imprisoned for the commission of that crime or serious misdemeanor legally changed his or her name. This requirement would apply to prisoners who changed their names while on parole or within 2 years of release from parole and to county inmates either while in a county jail or within two years of release from the county jail. The bill would also require that the court or Department of Social Services make a good faith effort to notify the victim of a crime that a juvenile who had committed the crime had legally changed his or her name while the juvenile was under the jurisdiction of the probate court or within two years of his or her discharge from the court's jurisdiction.

The sheriff or DOC notify a victim of any reduction in prisoner's sentence under the prison overcrowding emergency powers act (MCL 800.71 et al) which was repealed by Public Acts 100 and 101 of 1987.

The bill would take effect April 1, 1996.

#### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, House Bill 4694 will have no fiscal impact on either the judiciary or the Department of Corrections. Senate Bill 318 would have no fiscal impact on state or local government. The DOC is already required to enter information regarding escapes and parole violations into the LEIN system. The addition of legal name changes should not result in increased costs to the department. (8-10-95) Further, according to the HFA, Senate Bill 346 should be cost neutral to the state and local government provided that fees for fingerprints/searches be imposed as provided by law and as required under the bill's provisions. (9-19-96)

#### ***ARGUMENTS:***

##### ***For:***

The simplicity of changing one's name in Michigan undermines legal efforts to protect victims of crime, by allowing prisoners and others with criminal records to circumvent the laws intended to protect victims. Although the Department of Corrections or a county sheriff, whichever has jurisdiction over the incarcerated person, must notify victims of certain developments related to the prisoner's confinement, the current law does not require that the victim be notified if the offender has his or her name changed. This contradicts

the rationale of the Crime Victims' Rights Act: that the victim should be kept apprised of the offender's status within the criminal justice system. (However, after a highly publicized case of a convicted rapist who changed his name in 1994, the department has administratively implemented a system to notify victims of prisoner name changes.) In addition, although information about a prisoner's escape, transfer, or parole is required to be entered into the LEIN, a name change is not required to be entered. By requiring LEIN entries and victim notification when a prisoner changes his or her name, the bills would address these problems with the current law.

Further, under current law a convicted felon can change his or her name through probate procedure, thereby possibly leaving behind his or her criminal record. In order to prevent convicted felons from avoiding their criminal records through abuse of this process, the bills would bar a convicted felon from receiving a probate name change during his or her incarceration and would require that the criminal history of anyone seeking a name change be checked before allowing the name change to proceed. If a person seeking a name change was found to have a criminal record, he or she would have the burden of proving that the name change was not for a fraudulent purpose.

Finally, the Department of Corrections receives and grants requests for common law name changes from approximately 1,000 prisoners per year, and has responded to these requests with an administrative procedure. These requests are a burden on the DOC, which must keep track administratively of these changes. The bills would eliminate these "administrative name changes", thereby easing the department's administrative burden while at the same time placing an obstacle in the path of those seeking to escape their criminal records by changing their names.

**Response:**

While the bill would prevent the department from allowing prisoner name changes by rule, it would not actually prevent prisoners from changing their names. The Michigan Court of Appeals has ruled that people have a common law right to adopt any name they wish, without going to court. Besides, the bills may be subject to constitutional challenge, as many prisoner name changes are allegedly for religious reasons.

**Rebuttal:**

While the common law right to a name change would still exist, the bills, taken together, would go a long way toward preventing convicted criminals from escaping their pasts by simply changing their names. Without a court-ordered name change, a person can't get a new driver's license or Social Security number. Furthermore, the bills provide for the possibility of a

constitutional challenge and would allow for only the constitutionally offensive portion of the legislation to be stricken.

**Against:**

Is it right to place a person who was convicted of a crime and has completed his or her debt to society in the position of being presumed to have a fraudulent intent when seeking a name change? If an individual has completed his or her sentence shouldn't he or she be given the same presumption as any other person seeking to undergo a legal change of his or her name? It is already up to the probate judge's discretion to approve a name change petition; there is no need to infringe on the judge's ability to make an appropriate decision as to whether or not a such a petition should be granted.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.