

Act No. 106  
Public Acts of 1996  
Approved by the Governor  
March 4, 1996  
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March 5, 1996

**STATE OF MICHIGAN**  
**88TH LEGISLATURE**  
**REGULAR SESSION OF 1996**

Introduced by Senators Steil, Van Regenmorter, Cisky, Stille, Shugars, Bouchard, Stallings and Dingell

# **ENROLLED SENATE BILL No. 346**

AN ACT to amend section 1 of chapter XI of Act No. 288 of the Public Acts of 1939, entitled as amended "An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act," as amended by Act No. 370 of the Public Acts of 1988, being section 711.1 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 1 of chapter XI of Act No. 288 of the Public Acts of 1939, as amended by Act No. 370 of the Public Acts of 1988, being section 711.1 of the Michigan Compiled Laws, is amended to read as follows:

## **CHAPTER XI**

Sec. 1. (1) The probate court for a county may enter an order to change the name of a person who has been a resident of the county for not less than 1 year and who in accordance with subsection (2) makes a petition in writing to the court for that purpose showing a sufficient reason for the proposed change and that the change is not sought with any fraudulent intent. If the person who makes a petition for a name change has a criminal record, the person is presumed to be seeking a name change with a fraudulent intent. The burden of proof is on the petitioner who has a criminal record to rebut the presumption. When the petition is filed, the court shall set a time and place for hearing and order publication as provided by supreme court rule.

(2) A person who is 22 years of age or older and who makes a petition to have his or her name changed shall have 2 complete sets of his or her fingerprints taken at a local police agency. The fingerprints, along with a copy of the petition and the required processing fees, shall be forwarded to the department of state police. The department of state police shall compare those fingerprints with the records of the department and shall forward a complete set of fingerprints to the federal bureau of investigation for a comparison with the records available to that agency. The department of state police shall report to the court in which the application is filed the information contained in the department's records with respect to any pending charges against the applicant or any record of conviction of the applicant and shall report to the court similar information obtained from the federal bureau of investigation. If there are no pending charges against the applicant or any record of conviction against the applicant, the department of state police shall destroy their copy of the applicant's fingerprints. The court shall not act upon the petition for a name change until the department of state police reports the information required by this subsection to the court.

(3) If the court enters an order to change the name of a person who has a criminal record, the court shall forward the order to the central records division of the Michigan state police and to 1 or more of the following:

(a) The department of corrections if the person named in the order is in prison or on parole or has been imprisoned or released from parole in the immediately preceding 2 years.

(b) The sheriff of the county in which the person named in the order was last convicted, if the person was incarcerated in a county jail or released from a county jail within the immediately preceding 2 years.

(c) The probate court that has jurisdiction over the person named in the order if the person named in the order is under the jurisdiction of the probate court or has been discharged from the jurisdiction of the probate court within the immediately preceding 2 years.

(4) The court may permit a person having the same name, or a similar name to that which the petitioner proposes to assume, to intervene in the proceeding for the purpose of showing fraudulent intent.

(5) Except as provided in subsection (7), if the petitioner is a minor, the petition shall be signed by the mother and father jointly, or by the surviving parent if 1 is deceased, or if both parents are deceased, by the guardian of the minor, or by 1 of the minor's parents if there is only 1 legal parent available to give consent. If either parent has been declared mentally incompetent, the petition may be signed by the guardian for that parent. The written consent to the change of name of a minor 14 years of age or older, signed by the minor in the presence of the court, shall be filed with the court before any order changing the name of the minor is entered. If the court considers the child to be of sufficient age to express a preference, a minor under 14 years of age shall be consulted by the court as to a change in his or her name and his or her wishes shall be considered by the court.

(6) If the petitioner is married, the court, in its order changing the name of the petitioner, may include the name of the spouse, if the spouse consents, and may include the names of minor children of the petitioner of whom the petitioner has legal custody. The written consent to the change of name of a child 14 years of age or older, signed by the child in the presence of the court, shall be filed with the court before the court includes that child in its order. Except as provided in subsection (7), the name of a minor under 14 years of age may not be changed unless he or she is the natural or adopted child of the petitioner and unless consent is obtained from the mother and father jointly, or from the surviving parent if 1 is deceased, or from 1 of the minor's parents if there is only 1 legal parent available to give consent. If the court considers the child to be of sufficient age to express a preference, a minor under 14 years of age shall be consulted by the court as to a change in his or her name and his or her wishes shall be considered by the court.

(7) The name of a minor may be changed pursuant to subsection (5) or (6) with the consent or signature of the custodial parent upon notice to the noncustodial parent pursuant to supreme court rule and after a hearing if both of the following occur:

(a) The other parent, having the ability to support or assist in supporting the child, has failed or neglected to provide regular and substantial support for the child or, if a support order has been entered, has failed to substantially comply with the order, for a period of 2 years or more before the filing of the petition.

(b) The other parent, having the ability to visit, contact, or communicate with the child, has regularly and substantially failed or neglected to do so for a period of 2 years or more before the filing of the petition.

(8) A false statement that is intentionally included within a petition for a name change constitutes perjury under section 422 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.422 of the Michigan Compiled Laws.

Section 2. This amendatory act shall take effect April 1, 1996.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved -----

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Governor.