



HOUSE BILL No. 6082

September 12, 1996, Introduced by Reps. Crissman, Gire, Bodem, Dobb, Jamian, Yokich, Brewer, Hill, Geiger, Middleton, Johnson, Dolan, Dalman, Hammerstrom, Goschka, Rocca, Green, McBryde, Oxender, Horton, Martinez, Galloway and Kaza and referred to the Committee on Judiciary and Civil Rights.

A bill 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. 106 of the Public Acts of 1996, being section 711.1 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1 of chapter XI of Act No. 288 of the
2 Public Acts of 1939, as amended by Act No. 106 of the Public Acts
3 of 1996, being section 711.1 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER XI

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

18 (2) A person who is 22 years of age or older and who makes a
19 petition to have his or her name changed shall have 2 complete
20 sets of his or her fingerprints taken at a local police agency.
21 The fingerprints, along with a copy of the petition and the
22 required processing fees, shall be forwarded to the department of
23 state police. The department of state police shall compare those
24 fingerprints with ~~the~~ ITS records ~~of the department~~ and shall
25 forward a complete set of fingerprints to the federal bureau of
26 investigation for a comparison with the records available to that

1 agency. The department of state police shall report to the court
2 in which the application is filed the information contained in
3 the department's records with respect to any pending charges
4 against the applicant or any record of conviction of the appli-
5 cant and shall report to the court similar information obtained
6 from the federal bureau of investigation. If there are no pend-
7 ing charges against the applicant or any record of conviction
8 against the applicant, the department of state police shall
9 destroy ~~their~~ ITS copy of the applicant's fingerprints. The
10 court shall not act upon the petition for a name change until the
11 department of state police reports the information required by
12 this subsection to the court.

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

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

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

24 (c) The probate court that has jurisdiction over the person
25 named in the order if the person named in the order is under the
26 jurisdiction of the probate court or has been discharged from the

1 jurisdiction of the probate court within the immediately
2 preceding 2 years.

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

7 (5) Except as provided in subsection (7), if the petitioner
8 is a minor, the petition shall be signed by the mother and father
9 jointly; ~~or~~ by the surviving parent if 1 is deceased; ~~or~~
10 if both parents are deceased, by the guardian of the minor; ~~or~~
11 or by 1 of the minor's parents if there is only 1 legal parent
12 available to give consent. If either parent has been declared
13 mentally incompetent, the petition may be signed by the guardian
14 for that parent. The written consent to the change of name of a
15 minor 14 years of age or older, signed by the minor in the pres-
16 ence of the court, shall be filed with the court before any order
17 changing the name of the minor is entered. If the court consid-
18 ers the child to be of sufficient age to express a preference,
19 THE COURT SHALL CONSULT a minor under 14 years of age ~~shall be~~
20 ~~consulted by the court~~ as to a change in his or her name and
21 ~~his or her wishes shall be considered by~~ the court SHALL CON-
22 sider THE MINOR'S WISHES.

23 (6) If the petitioner is married, the court, in its order
24 changing the name of the petitioner, may include the name of the
25 spouse, if the spouse consents, and may include the names of
26 minor children of the petitioner of whom the petitioner has legal
27 custody. The written consent to the change of name of a child 14

1 years of age or older, signed by the child in the presence of the
 2 court, shall be filed with the court before the court includes
 3 that child in its order. Except as provided in subsection (7),
 4 the name of a minor under 14 years of age may not be changed
 5 unless he or she is the natural or adopted child of the peti-
 6 tioner and unless consent is obtained from the mother and father
 7 jointly, ~~or~~ from the surviving parent if 1 is deceased, or from
 8 1 of the minor's parents if there is only 1 legal parent avail-
 9 able to give consent. If the court considers the child to be of
 10 sufficient age to express a preference, THE COURT SHALL CONSULT a
 11 minor under 14 years of age ~~shall be consulted by the court~~ as
 12 to a change in his or her name and ~~his or her wishes shall be~~
 13 ~~considered by~~ the court SHALL CONSIDER THE MINOR'S WISHES.

14 (7) The name of a minor may be changed ~~pursuant to~~ UNDER
 15 subsection (5) or (6) with the consent or signature of the custo-
 16 dial parent upon notice to the noncustodial parent ~~pursuant to~~
 17 IN ACCORDANCE WITH supreme court rule and after a hearing ~~if~~ IN
 18 EITHER OF THE FOLLOWING CIRCUMSTANCES:

19 (A) IF both of the following occur:

20 (i) ~~(a)~~ The other parent, having the ability to support or
 21 assist in supporting the child, has failed or neglected to pro-
 22 vide regular and substantial support for the child or, if a sup-
 23 port order has been entered, has failed to substantially comply
 24 with the order, for a period of 2 years or more before the filing
 25 of the petition.

26 (ii) ~~(b)~~ The other parent, having the ability to visit,
 27 contact, or communicate with the child, has regularly and

1 substantially failed or neglected to do so for a period of 2
2 years or more before the filing of the petition.

3 (B) THE OTHER PARENT HAS BEEN CONVICTED OF A VIOLATION OF
4 SECTION 136B, 520B, 520C, 520D, 520E, OR 520G OF THE MICHIGAN
5 PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SEC-
6 TIONS 750.136B, 750.520B TO 750.520E, AND 750.520G OF THE
7 MICHIGAN COMPILED LAWS. AND THE CHILD OR A SIBLING OF THE CHILD
8 IS A VICTIM OF THE CRIME.

9 (8) A false statement that is intentionally included within
10 a petition for a name change constitutes perjury under section
11 422 of the Michigan penal code, Act No. 328 of the Public Acts of
12 1931, being section 750.422 of the Michigan Compiled Laws.