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House Bill 4128 (as passed by the House)
Sponsor: Representative Aaron Miller
House Committee: Families, Children and Seniors
 Ways and Means
Senate Committee: Families, Seniors and Veterans

Date Completed: 10-22-19

CONTENT

The bill would amend Chapter XI (Change of Name of Adult or Minor) of the Probate Code to allow the name of a minor to be changed with the consent of the custodial parent and after a hearing, if the other parent had been convicted of first-or second-degree murder.

Under the Probate Code, the family division of the circuit court for a county can enter an order to change the name of an individual who has been a resident of the country for not less than one year and who petitions in writing to the court for that purpose showing a sufficient reason for the proposed change and that the change is not sought with a fraudulent intent.

Except as otherwise provided, if the petitioner is a minor, the petition must be signed by the mother and father jointly; by the surviving parent if one is deceased; if both parents are deceased, by the guardian of the minor; or by one of the minor's parents if there is only one legal parent available to give consent. If the petitioner is married, the court, in its order changing the name of the petitioner, can include the name of the spouse, if the spouse consents, and the names of minor children of the petitioner whom the petitioner has legal custody.

The Code allows the name of a minor to be changed as described above with the consent or signature of the custodial parent upon notice to the noncustodial parent as provided in the Michigan Court Rules (MCR) and after a hearing in either of the following circumstances:

- If 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 two years or more before the filing of the petition; and 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 2 years or more before the filing of the petition.
- The other parent has been convicted of child abuse, first-, second-, third-, or fourth-degree criminal sexual conduct (CSC), or assault with intent to commit CSC.

(Michigan Court Rule 3.613 (Change of Name) requires service on a noncustodial parent of a minor who is the subject of a petition for change of name to be made as follows: 1) if the noncustodial parent's address or whereabouts is known, that parent must be served with a copy of the petition and a notice of hearing at least 14 days; or 2) if the noncustodial parent's address or whereabouts is not known and cannot be ascertained after diligent inquiry, that

parent must be served with a notice of hearing by publishing in a newspaper and filing a proof of service.)

Under the bill, the name of a minor also could be changed as described above with the consent or signature of the custodial parent upon notice to the noncustodial parent as provided in the MCR and after a hearing in which the other parent had been convicted of a violation of Section 316 or 317 of the Michigan Penal Code.

(Section 316 of the Penal Code prescribes the parameters and penalty for first-degree murder. Section 317 of the Michigan Penal Code prescribes the penalty for second-degree murder.)

The bill would take effect 90 days after its enactment.

MCL 711.1

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.