

HOUSE BILL NO. 4128

February 05, 2019, Introduced by Rep. Miller and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 1 of chapter XI (MCL 711.1), as amended by 2000
PA 111.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XI
2 Sec. 1. (1) The family division of the circuit court for a
3 county may enter an order to change the name of an individual who
4 has been a resident of the county for not less than 1 year and who
5 in accordance with subsection (2) petitions in writing to the court

1 for that purpose showing a sufficient reason for the proposed
2 change and that the change is not sought with a fraudulent intent.
3 If the individual who petitions for a name change has a criminal
4 record, the individual is presumed to be seeking a name change with
5 a fraudulent intent. The burden of proof is on a petitioner who has
6 a criminal record to rebut the presumption. The court shall set a
7 time and place for hearing and, except as provided in section 3 of
8 this chapter, order publication as provided by supreme court rule.

9 (2) An individual who is 22 years of age or older and who
10 petitions to have his or her name changed shall have 2 complete
11 sets of his or her fingerprints taken at a local police agency. The
12 fingerprints, along with a copy of the petition and the required
13 processing fees, ~~shall~~**must** be forwarded to the department of state
14 police. The department of state police shall compare those
15 fingerprints with its records and shall forward a complete set of
16 fingerprints to the ~~federal bureau of investigation~~**Federal Bureau**
17 **of Investigation** for a comparison with the records available to
18 that agency. The department of state police shall report to the
19 court in which the petition is filed the information contained in
20 the department's records with respect to any pending charges
21 against the petitioner or a record of conviction of the petitioner
22 and shall report to the court similar information obtained from the
23 ~~federal bureau of investigation~~**Federal Bureau of Investigation**.
24 If there are no pending charges or record of conviction against the
25 petitioner, the department of state police shall destroy its copy
26 of the petitioner's fingerprints. The court shall not act upon the
27 petition for a name change until the department of state police
28 reports the information required by this subsection to the court.

29 (3) If the court enters an order to change the name of an

1 individual who has a criminal record, the court shall forward the
2 order to the central records division of the ~~Michigan~~ **department of**
3 state police and to 1 or more of the following:

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

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

11 (c) The court that has jurisdiction over the individual named
12 in the order if the individual named in the order is under the
13 jurisdiction of the family division of the circuit court or has
14 been discharged from the jurisdiction of that court within the
15 immediately preceding 2 years.

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

20 (5) Except as provided in subsection (7), if the petitioner is
21 a minor, the petition ~~shall~~ **must** be signed by the mother and father
22 jointly; by the surviving parent if 1 is deceased; if both parents
23 are deceased, by the guardian of the minor; or by 1 of the minor's
24 parents if there is only 1 legal parent available to give consent.
25 If either parent has been declared mentally incompetent, the
26 petition may be signed by the guardian for that parent. The written
27 consent to the change of name of a minor 14 years of age or older,
28 signed by the minor in the presence of the court, ~~shall~~ **must** be
29 filed with the court before an order changing the name of the minor

1 is entered. If the court considers the child to be of sufficient
2 age to express a preference, the court shall consult a minor under
3 14 years of age as to a change in his or her name, and the court
4 shall consider the minor's wishes.

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

22 (7) The name of a minor may be changed pursuant to subsection
23 (5) or (6) with the consent or signature of the custodial parent
24 upon notice to the noncustodial parent as provided in supreme court
25 rule and after a hearing in ~~either~~**any** of the following
26 circumstances:

27 (a) If both of the following occur:

28 (i) The other parent, having the ability to support or assist
29 in supporting the child, has failed or neglected to provide regular

1 and substantial support for the child or, if a support order has
2 been entered, has failed to substantially comply with the order,
3 for 2 years or more before the filing of the petition.

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

8 (b) The other parent has been convicted of a violation of
9 section 136b, 520b, 520c, 520d, 520e, or 520g of the Michigan penal
10 code, 1931 PA 328, MCL 750.136b, 750.520b to 750.520e, and
11 750.520g, and the child or a sibling of the child is a victim of
12 the crime.

13 **(c) The other parent has been convicted of a violation of**
14 **section 316 or 317 of the Michigan penal code, 1931 PA 328, MCL**
15 **750.316 and 750.317.**

16 (8) A false statement that is intentionally included within a
17 petition for a name change constitutes perjury under section 422 of
18 the Michigan penal code, 1931 PA 328, MCL 750.422.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.