

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

RECEIVED

FEB 08 1989

House Bill 4030 (Substitute S-4 as reported)**Sponsor:** Representative Thomas Hickner**House Committee:** Judiciary**Senate Committee:** Judiciary

Mich. State Law Library

Date Completed: 11-23-88**RATIONALE**

In order to change the name of a minor legally, a petition must be filed in the Probate Court. If the child is the petitioner, then the petition must be signed by both parents if both are alive and the child is not in the custody of a legal guardian. When a parent petitions to have the name of a child changed, the consent of the other parent must be obtained before the change can be approved. In effect, these requirements make name-changing impossible for children in single-parent homes whose other parent has lost touch with the family.

Changing the name of children abandoned by one parent has been addressed in the Adoption Code. The stepparent adoption procedures in that Code provide that when a parent who could have and should have been contributing to support, or at least making contact with the children, fails to do so for two years, his or her parental rights can be terminated without consent. Thus, it is easier for such a child to be adopted by a stepparent than it is to have his or her name changed without adoption proceedings. Some people think that the procedures used in the stepparent adoption law should be applied to the changing of a minor's name as well.

In addition, current law states that changing the name of a minor over the age of 16 years requires the written consent of that minor. Some people think that the age should be lowered to 14 to allow younger minors to have more control over their names. Similarly, while children under the age of 14 may or may not have strong feelings about their names, some people think that even some younger children should at least be consulted before such action is considered.

CONTENT

The bill would amend Public Act 288 of 1939, which regulates name changes, to permit the changing of a minor's name with the consent of the custodial parent upon notice to the noncustodial parent pursuant to Supreme Court rule and after hearing if both of the following occurred:

- The other parent, having the ability to support or assist in supporting the child, failed or neglected to provide regular and substantial support or, if a support order had been entered, failed to comply substantially with the order for at least two years or more.
- The other parent, having the ability to visit, contact, or communicate with the child, regularly and substantially failed or neglected to do so for at least two years.

The bill also would require that written consent to the name change be obtained from minors 14 years of age or older, instead of from minors over the age of 16. In addition, the bill would require that the court consult a minor under 14 years of age as to the name change, if the court considered the child to be old enough to express a preference. The court would have to consider his or her wishes. In addition, the bill would allow a petition to change a minor's name to be signed by only one parent, if there were not another legal parent to give consent.

MCL 711.1

SENATE COMMITTEE ACTION

The Senate Judiciary Committee adopted a substitute (S-4) to the bill which differs from the House-passed version of the bill in that it would allow a minor's name to be changed with the consent of the custodial parent upon notice to the noncustodial parent pursuant to Supreme Court rule. The House-passed version would not require notice to be given, if the noncustodial parent could not be located. In addition, the substitute would require a child's written consent to a name change if the child were 14 years of age or older, while the House-passed version would require such consent from a minor 12 years of age or older. Finally, the substitute would require the court to consult a minor under 14 years of age as to the name change only if the court considered the child to be old enough to express a preference. The House-passed version would require the court to consult children under the age of 12 years.

FISCAL IMPACT

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

ARGUMENTS**Supporting Argument**

The bill would enable a minor to have his or her name changed in circumstances under which the law now makes such changes virtually impossible. The typical situation that the bill would address is that of a family abandoned by the child's father. Often, in such cases, the mother chooses to use her maiden name and would prefer for her children to share the same name rather than that of their absent father; yet, it is the father's dereliction of his parental duty that makes the name change impossible. While the bill would address this situation, it also would respect the parental rights of a noncustodial parent, by allowing such a parent who maintained even minimal contact with his or her children to prevent the name change, if he or she so desired, by withholding consent.

OVER

H.B. 4030 (11-23-88)

Opposing Argument

The bill could make it too difficult for a custodial parent to change a child's name. Any contact from the noncustodial parent over a two-year period could be sufficient to block the name change. A single postcard or telephone call from an irresponsible parent should not be enough to prevent a change of name desired by both the custodial parent and the child.

Legislative Analyst: P. Affholter

Fiscal Analyst: B. Bowerman

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.