

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5044 (Substitute H-1 as passed by the House)
Sponsor: Representative Terry Geiger
House Committee: Family and Civil Law
Senate Committee: Families, Mental Health and Human Services

Date Completed: 4-11-00

CONTENT

The bill would amend the Probate Code to allow the family division of circuit court (family court) to order that, under certain circumstances, there be no publication of a proceeding to change a person's name and that the record of the proceeding be confidential.

The Code allows the family court for a county to enter an order to change an individual's name if he or she has been a resident of that county for at least one year and petitions the court in writing for the name change, showing sufficient reason for the change and that the change is not sought with a fraudulent intent. (If the petitioner has a criminal record, he or she is presumed to be seeking a name change with a fraudulent intent, and the burden to rebut that presumption is on the petitioner.) The court is required to set a time and place for a hearing and to order publication of the proceeding under Supreme Court rule.

Under the bill, in a proceeding to change a person's name, the family court could order, for "good cause", that no publication of the proceeding take place and that the record of the proceeding remain confidential. For purposes of this provision, "good cause" would include, but would not be limited to, evidence that publication or availability of a record of the proceeding could place the petitioner or another person in physical danger, such as evidence that the petitioner or another individual had been the victim of stalking or an assaultive crime. Evidence of the possibility of physical danger would have to include the petitioner's or endangered individual's sworn statement giving the reason for the fear of physical danger if the record were published or otherwise made available. If evidence of stalking or an assaultive crime were offered, the court could not require proof of an arrest or prosecution for that crime in order to reach a finding of good cause.

A court officer, employee, or agent who divulged, used, or published, beyond the scope of his or her duties with the court, information from a record made confidential under the bill would be guilty of a misdemeanor. This penalty would not apply to a disclosure under a court order.

A confidential record created under the bill would be exempt from disclosure under the Freedom of Information Act.

MCL 711.1 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

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

Fiscal Analyst: B. Bowerman

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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.