

SUBSTITUTE FOR
HOUSE BILL NO. 5044

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
1996 PA 495, and by adding section 3 to chapter XI.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XI

1
2 Sec. 1. (1) The family division of the circuit court ~~—, or~~
3 ~~until January 1, 1998, the probate court,~~ for a county may enter
4 an order to change the name of ~~a person~~ AN INDIVIDUAL who has
5 been a resident of the county for not less than 1 year and who in
6 accordance with subsection (2) petitions in writing to the court
7 for that purpose showing a sufficient reason for the proposed
8 change and that the change is not sought with ~~any~~ A fraudulent
9 intent. If the ~~person~~ INDIVIDUAL who petitions for a name
10 change has a criminal record, the ~~person~~ INDIVIDUAL is presumed

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1 to be seeking a name change with a fraudulent intent. The burden
2 of proof is on a petitioner who has a criminal record to rebut
3 the presumption. The court shall set a time and place for hear-
4 ing and, EXCEPT AS PROVIDED IN SECTION 3 OF THIS CHAPTER, order
5 publication as provided by supreme court rule.

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

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1 (3) If the court enters an order to change the name of ~~a~~
2 ~~person~~ AN INDIVIDUAL who has a criminal record, the court shall
3 forward the order to the central records division of the Michigan
4 state police and to 1 or more of the following:

5 (a) The department of corrections if the ~~person~~ INDIVIDUAL
6 named in the order is in prison or on parole or has been impris-
7 oned or released from parole in the immediately preceding 2
8 years.

9 (b) The sheriff of the county in which the ~~person~~
10 INDIVIDUAL named in the order was last convicted if the ~~person~~
11 INDIVIDUAL was incarcerated in a county jail or released from a
12 county jail within the immediately preceding 2 years.

13 (c) The court that has jurisdiction over the ~~person~~
14 INDIVIDUAL named in the order if the ~~person~~ INDIVIDUAL named in
15 the order is under the jurisdiction of the family division of the
16 circuit court ~~, or until January 1, 1998, the probate court,~~ or
17 has been discharged from the jurisdiction of that court within
18 the immediately preceding 2 years.

19 (4) The court may permit ~~a person~~ AN INDIVIDUAL having the
20 same name, or a similar name to that which the petitioner pro-
21 poses to assume, to intervene in the proceeding for the purpose
22 of showing fraudulent intent.

23 (5) Except as provided in subsection (7), if the petitioner
24 is a minor, the petition shall be signed by the mother and father
25 jointly; by the surviving parent if 1 is deceased; if both par-
26 ents are deceased, by the guardian of the minor; or by 1 of the
27 minor's parents if there is only 1 legal parent available to give

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1 consent. If either parent has been declared mentally
2 incompetent, the petition may be signed by the guardian for that
3 parent. The written consent to the change of name of a minor 14
4 years of age or older, signed by the minor in the presence of the
5 court, shall be filed with the court before ~~any~~ AN order chang-
6 ing the name of the minor is entered. If the court considers the
7 child to be of sufficient age to express a preference, the court
8 shall consult a minor under 14 years of age as to a change in his
9 or her name, and the court shall consider the minor's wishes.

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

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1 (7) The name of a minor may be changed pursuant to
2 subsection (5) or (6) with the consent or signature of the
3 custodial parent upon notice to the noncustodial parent ~~pursuant~~
4 ~~to~~ AS PROVIDED IN supreme court rule and after a hearing in
5 either of the following circumstances:

6 (a) If both of the following occur:

7 (i) The other parent, having the ability to support or
8 assist in supporting the child, has failed or neglected to pro-
9 vide regular and substantial support for the child or, if a sup-
10 port order has been entered, has failed to substantially comply
11 with the order, for 2 years or more before the filing of the
12 petition.

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

17 (b) The other parent has been convicted of a violation of
18 section 136b, 520b, 520c, 520d, 520e, or 520g of the Michigan
19 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
20 ~~tions 750.136b, 750.520b to 750.520e, and 750.520g of the~~
21 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.136B, 750.520B TO
22 750.520E, AND 750.520G, and the child or a sibling of the child
23 is a victim of the crime.

24 (8) A false statement that is intentionally included within
25 a petition for a name change constitutes perjury under section
26 422 of the Michigan penal code, ~~Act No. 328 of the Public Acts~~

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1 of 1931, being section 750.422 of the Michigan Compiled Laws
2 1931 PA 328, MCL 750.422.

3 SEC. 3. (1) IN A PROCEEDING UNDER SECTION 1 OF THIS CHAP-
4 TER, THE COURT MAY ORDER FOR GOOD CAUSE THAT NO PUBLICATION OF
5 THE PROCEEDING TAKE PLACE AND THAT THE RECORD OF THE PROCEEDING
6 BE CONFIDENTIAL. GOOD CAUSE UNDER THIS SECTION INCLUDES, BUT IS
7 NOT LIMITED TO, [EVIDENCE THAT PUBLICATION OR AVAILABILITY OF A
8 RECORD OF THE PROCEEDING COULD PLACE THE PETITIONER OR ANOTHER
9 INDIVIDUAL IN PHYSICAL DANGER, SUCH AS EVIDENCE THAT THE PETITIONER
10 OR ANOTHER INDIVIDUAL HAS BEEN THE VICTIM OF STALKING OR AN
11 ASSAULTIVE CRIME.

12 (2) EVIDENCE UNDER SUBSECTION (1) OF THE POSSIBILITY OF
13 PHYSICAL DANGER MUST INCLUDE THE PETITIONER'S OR THE ENDANGERED
INDIVIDUAL'S SWORN STATEMENT STATING THE REASON FOR THE FEAR OF
PHYSICAL DANGER IF THE RECORD IS PUBLISHED OR OTHERWISE AVAILABLE.
IF EVIDENCE IS OFFERED OF STALKING OR AN ASSAULTIVE CRIME, THE COURT
SHALL NOT REQUIRE PROOF OF AN ARREST OR PROSECUTION FOR THAT CRIME
TO REACH A FINDING OF GOOD CAUSE UNDER SUBSECTION (1).]

14 [(3)] A COURT OFFICER, EMPLOYEE, OR AGENT WHO DIVULGES, USES,
15 OR PUBLISHES, BEYOND THE SCOPE OF HIS OR HER DUTIES WITH THE
16 COURT, INFORMATION FROM A RECORD MADE CONFIDENTIAL UNDER THIS
17 SECTION IS GUILTY OF A MISDEMEANOR. THIS SUBSECTION DOES NOT
18 APPLY TO A DISCLOSURE UNDER A COURT ORDER.

19 [(4)] A CONFIDENTIAL RECORD CREATED UNDER THIS SECTION IS
20 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976
21 PA 442, MCL 15.231 TO 15.246.

22 [(5)] AS USED IN THIS SECTION, "STALKING" MEANS THAT TERM AS
23 DEFINED IN SECTIONS 411H AND 411I OF THE MICHIGAN PENAL CODE,
24 1931 PA 328, MCL 750.411H AND 750.411I.