

Act No. 111
Public Acts of 2000
Approved by the Governor
May 23, 2000
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**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Reps. Geiger, Martinez, Bovin, Pappageorge, Birkholz, Allen and Kuipers

ENROLLED HOUSE BILL No. 5044

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties," 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

Sec. 1. (1) The family division of the circuit court for a county may enter an order to change the name of an individual who has been a resident of the county for not less than 1 year and who in accordance with subsection (2) 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. If the individual who petitions for a name change has a criminal record, the individual is presumed to be seeking a name change with a fraudulent intent. The burden of proof is on a petitioner who has a criminal record to rebut the presumption. The court shall set a time and place for hearing and, except as provided in section 3 of this chapter, order publication as provided by supreme court rule.

(2) An individual who is 22 years of age or older and who petitions to have his or her name changed shall have 2 complete sets of his or her fingerprints taken at a local police agency. The fingerprints, along with a copy of the petition and the required processing fees, shall be forwarded to the department of state police. The department of state police shall compare those fingerprints with its records and shall forward a complete set of fingerprints to the federal bureau of investigation for a comparison with the records available to that agency. The department of state police shall report to the court in which the petition is filed the information contained in the department's records with respect to any pending charges against the petitioner or a record of conviction of the petitioner and shall report to the court similar information obtained from the federal bureau of investigation. If there are no pending charges or record of conviction against the petitioner, the department of state police shall destroy its copy of the petitioner's fingerprints. The court shall not act upon the petition for a name change until the department of state police reports the information required by this subsection to the court.

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

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

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

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

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

(5) Except as provided in subsection (7), if the petitioner is a minor, the petition shall be signed by the mother and father jointly; by the surviving parent if 1 is deceased; if both parents are deceased, by the guardian of the minor; or by 1 of the minor's parents if there is only 1 legal parent available to give consent. If either parent has been declared mentally incompetent, the petition may be signed by the guardian for that parent. The written consent to the change of name of a minor 14 years of age or older, signed by the minor in the presence of the court, shall be filed with the court before an order changing the name of the minor is entered. If the court considers the child to be of sufficient age to express a preference, the court shall consult a minor under 14 years of age as to a change in his or her name, and the court shall consider the minor's wishes.

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

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

(a) If both of the following occur:

(i) 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 2 years or more before the filing of the petition.

(ii) 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.

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

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

Sec. 3. (1) In a proceeding under section 1 of this chapter, the court may order for good cause that no publication of the proceeding take place and that the record of the proceeding be confidential. Good cause under this section includes, but is not limited to, evidence that publication or availability of a record of the proceeding could place the petitioner or another individual in physical danger, such as evidence that the petitioner or another individual has been the victim of stalking or an assaultive crime.

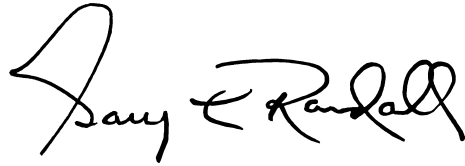
(2) Evidence under subsection (1) of the possibility of physical danger must include the petitioner's or the endangered individual's sworn statement stating the reason for the fear of physical danger if the record is published or otherwise available. If evidence is offered of stalking or an assaultive 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).

(3) A court officer, employee, or agent who divulges, uses, or publishes, beyond the scope of his or her duties with the court, information from a record made confidential under this section is guilty of a misdemeanor. This subsection does not apply to a disclosure under a court order.

(4) A confidential record created under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) As used in this section, “stalking” means that term as defined in sections 411h and 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.