

SUBSTITUTE FOR
HOUSE BILL NO. 5300

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 1 and 3 of chapter XI (MCL 711.1 and 711.3),
section 1 as amended by 2020 PA 40 and section 3 as added 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
6 for that purpose, ~~showing~~ **and shows that** a sufficient reason for
7 the proposed change **exists** and that the change is not sought with a

1 fraudulent intent. If the ~~individual who petitions for a name~~
2 ~~change~~ **petitioner** has a criminal record, ~~the individual is presumed~~
3 ~~to be seeking a name change with a fraudulent intent. The burden of~~
4 ~~proof is on a petitioner who has a criminal record to rebut the~~
5 ~~presumption. The~~ **including, but not limited to, a charge pending**
6 **against the petitioner, the petitioner shall include the criminal**
7 **record in the petition. If the petitioner does not have a criminal**
8 **record, the petitioner shall state, in the petition, that the**
9 **petitioner does not have a criminal record. The court may use**
10 **L.E.I.N. or ICHAT to determine whether there is a criminal record.**
11 **The court shall bear any cost associated with the court's use of**
12 **L.E.I.N. or ICHAT, not the petitioner. As used in this subsection:**

13 (a) "ICHAT" means the internet criminal history access tool
14 maintained by the department of state police.

15 (b) "L.E.I.N." means the law enforcement information network
16 regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL
17 28.211 to 28.215.

18 (2) **Except as provided in subsection (7), the court may, in**
19 **its discretion, enter an order under this section with or without a**
20 **hearing. If the court decides to proceed with a hearing, the court**
21 **shall set a time and place for hearing. and, ~~except~~ **Except** as**
22 **provided in section 3 of this chapter, the court shall also order**
23 **publication as provided by supreme court rule.**

24 ~~(2) An individual who is 22 years of age or older and who~~
25 ~~petitions to have his or her name changed shall have 2 complete~~
26 ~~sets of his or her fingerprints taken at a local police agency. The~~
27 ~~fingerprints, along with a copy of the petition and the required~~
28 ~~processing fees, must be forwarded to the department of state~~
29 ~~police. The department of state police shall compare those~~

1 ~~fingerprints with its records and shall forward a complete set of~~
2 ~~fingerprints to the Federal Bureau of Investigation for a~~
3 ~~comparison with the records available to that agency. The~~
4 ~~department of state police shall report to the court in which the~~
5 ~~petition is filed the information contained in the department's~~
6 ~~records with respect to any pending charges against the petitioner~~
7 ~~or a record of conviction of the petitioner and shall report to the~~
8 ~~court similar information obtained from the Federal Bureau of~~
9 ~~Investigation. If there are no pending charges or record of~~
10 ~~conviction against the petitioner, the department of state police~~
11 ~~shall destroy its copy of the petitioner's fingerprints. The court~~
12 ~~shall not act upon the petition for a name change until the~~
13 ~~department of state police reports the information required by this~~
14 ~~subsection to the court.~~

15 (3) If the court enters an order to change the name of an
16 individual who has a criminal record, the court shall forward the
17 order to the central records division of the department of state
18 police and to ~~1 or more~~ **all** of the following, **as applicable**:

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

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

26 (c) The court that has jurisdiction over the individual named
27 in the order, if the individual named in the order is under the
28 jurisdiction of the family division of the circuit court or has
29 been discharged from the jurisdiction of that court within the

1 immediately preceding 2 years.

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

6 (5) Except as provided in subsection (7), if ~~the a~~ petitioner
7 **under this section** is a minor, the petition must be signed by the
8 ~~mother and father~~ **minor's parents**, jointly; by the surviving
9 parent, if 1 **parent** is deceased; ~~if both parents are deceased,~~ by
10 the guardian of the minor; or by 1 of the minor's parents, if there
11 is only 1 ~~legal parent~~ **with legal custody** available to give
12 consent. If either parent has been declared mentally incompetent,
13 the petition may be signed by the guardian for that parent. ~~The~~ **If**
14 **the minor is 14 years of age or older**, written consent to the
15 **minor's name** change ~~of name of a minor 14 years of age or older,~~
16 **must be** signed by the minor ~~in the presence of the court,~~ ~~must be~~
17 **and** filed with the court before an order ~~changing to change~~ the
18 name of the minor is entered, **but the minor is not required to sign**
19 **the consent in the presence of the court.** If the court considers
20 the ~~child~~ **minor** to be of sufficient age to express a preference,
21 the court shall consult ~~a~~ **the** minor, ~~under~~ **if the minor is less**
22 **than** 14 years of age, as to a change in ~~his or her~~ **the minor's**
23 name, and the court shall consider the minor's wishes.

24 (6) If ~~the a~~ petitioner **under this section** is married, the
25 court, in its order ~~changing to change~~ the name of the petitioner,
26 may include the name of the spouse, if the spouse consents, and ~~may~~
27 ~~include~~ the names of minor children of the petitioner of whom the
28 petitioner has legal custody. ~~The~~ **If a minor described in this**
29 **subsection is 14 years of age or older**, written consent to the

1 ~~minor's name~~ change ~~of name of a child 14 years of age or older,~~
 2 ~~must be~~ signed by the ~~child in the presence of the court,~~ ~~must be~~
 3 ~~minor and~~ filed with the court before the court includes ~~that child~~
 4 ~~the minor~~ in its order, **but the minor is not required to sign the**
 5 **consent in the presence of the court.** Except as provided in
 6 subsection (7), ~~the name of a minor under~~ **if a minor described in**
 7 **this subsection is less than** 14 years of age, ~~may the minor's name~~
 8 **must** not be changed unless ~~he or she~~ **the minor** is ~~the~~ a natural or
 9 adopted child of the petitioner and ~~unless~~ consent is obtained from
 10 the ~~mother and father~~ **minor's parents**, jointly; ~~from the~~
 11 surviving parent, if 1 **parent** is deceased; ~~or from~~ 1 of the
 12 minor's parents, if there is only 1 ~~legal~~ **parent with legal custody**
 13 available to give consent. If the court considers the ~~child~~ **minor**
 14 to be of sufficient age to express a preference, the court shall
 15 consult ~~a~~ **the** minor, ~~under~~ **if the minor is less than** 14 years of
 16 age, as to a change in ~~his or her~~ **the minor's** name, and the court
 17 shall consider the minor's wishes.

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

23 (a) If both of the following occur:

24 (i) The other parent, having the ability to support or assist
 25 in supporting the ~~child,~~ **minor**, has failed or neglected to provide
 26 regular and substantial support for the ~~child~~ **minor** or, if a
 27 support order has been entered, has failed to substantially comply
 28 with the order, for 2 years or more before the filing of the
 29 petition.

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

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

10 (c) The other parent has been convicted of a violation of
11 section 316 or 317 of the Michigan penal code, 1931 PA 328, MCL
12 750.316 and 750.317.

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

16 Sec. 3. (1) In a proceeding under section 1 of this chapter,
17 **all of the following apply:**

18 **(a) If the court receives a petition that shows good cause,**
19 the court ~~may must~~ order ~~for good cause~~ that no publication of the
20 proceeding take place and that the record of the proceeding be
21 confidential. ~~Good cause under this section includes, but is not~~
22 ~~limited to, evidence that publication or availability of a record~~
23 ~~of the proceeding could place the petitioner or another individual~~
24 ~~in physical danger, such as evidence that the petitioner or another~~
25 ~~individual has been the victim of stalking or an assaultive crime.~~

26 **(b) ~~(2) Evidence under subsection (1) of the possibility of~~**
27 ~~physical danger must include the petitioner's or the endangered~~
28 ~~individual's sworn statement stating the reason for the fear of~~
29 ~~physical danger if~~ **A petition that shows good cause must state the**

1 reason or reasons why the petitioner or the endangered individual
2 fears the publication or availability of the record is ~~published or~~
3 ~~otherwise available. If evidence is offered of stalking or an~~
4 ~~assaultive crime, of the proceeding, and the court must presume~~
5 that a petition shows good cause if any of the following reasons
6 are included in the statement:

7 (i) The petitioner or the endangered individual is a victim of
8 an assaultive crime, domestic violence, harassment, human
9 trafficking, or stalking.

10 (ii) The petitioner or the endangered individual seeks to
11 affirm their gender identity.

12 (c) The court shall not require proof of an arrest or
13 prosecution ~~for that crime to reach a finding of~~ find that a
14 petition shows good cause. ~~under subsection (1).~~

15 (2) ~~(3)~~ A court officer, employee, or agent ~~who~~ that divulges,
16 uses, or publishes, beyond the scope of ~~his or her~~ the court
17 officer's, employee's, or agent's duties with the court,
18 information from a record made confidential under this section is
19 guilty of a misdemeanor. This subsection does not apply to a
20 disclosure under a court order.

21 (3) ~~(4)~~ A confidential record created under this section is
22 exempt from disclosure under the freedom of information act, 1976
23 PA 442, MCL 15.231 to 15.246.

24 (4) ~~(5)~~ As used in this section: ~~,"stalking"~~

25 (a) "Dating relationship" means frequent, intimate
26 associations primarily characterized by the expectation of
27 affectional involvement. Dating relationship does not include a
28 casual relationship or an ordinary fraternization between 2
29 individuals in a business or social context.

1 (b) "Domestic violence" means the occurrence of any of the
2 following acts by a person that is not an act of self-defense:

3 (i) Causing or attempting to cause physical or mental harm to a
4 family or household member.

5 (ii) Placing a family or household member in fear of physical
6 or mental harm.

7 (iii) Causing or attempting to cause a family or household
8 member to engage in involuntary sexual activity by force, threat of
9 force, or duress.

10 (iv) Engaging in activity toward a family or household member
11 that would cause a reasonable person to feel terrorized,
12 frightened, intimidated, threatened, harassed, or molested.

13 (c) "Family or household member" includes any of the
14 following:

15 (i) A spouse or former spouse.

16 (ii) An individual with whom the person resides or has resided.

17 (iii) An individual with whom the person has or has had a dating
18 relationship.

19 (iv) An individual with whom the person is or has engaged in a
20 sexual relationship.

21 (v) An individual to whom the person is related or was
22 formerly related by marriage.

23 (vi) An individual with whom the person has a child in common.

24 (vii) The minor child of an individual described in
25 subparagraphs (i) to (vi).

26 (d) "Gender identity" means an individual's gender-related
27 self-identity, regardless of whether the self-identity is
28 associated with the individual's assigned sex at birth.

1 (e) "Good cause" includes, but is not limited to, evidence
2 that the publication or availability of the record of a proceeding
3 under section 1 of this chapter could place the petitioner or
4 another individual in physical danger, at an increased likelihood
5 of physical danger, or at risk of unlawful discrimination or
6 retaliation.

7 (f) "Human trafficking" means a violation of chapter LXVIIA of
8 the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

9 (g) "Stalking" means that term as defined in sections 411h ~~and~~
10 to 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h ~~and~~
11 to 750.411i.