

# HOUSE BILL NO. 5300

November 03, 2023, Introduced by Reps. Pohutsky, Dievendorf, Brabec, Scott and Morgan and referred to the Committee on Judiciary.

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

1 for that purpose, ~~showing~~ **and shows that** a sufficient reason for  
2 the proposed change **exists** and that the change is not sought with a  
3 fraudulent intent. If the ~~individual who petitions for a name~~  
4 ~~change~~ **petitioner** has a criminal record, ~~the individual is presumed~~  
5 ~~to be seeking a name change with a fraudulent intent. The burden of~~  
6 ~~proof is on a petitioner who has a criminal record to rebut the~~  
7 ~~presumption.~~ **including, but not limited to, a charge pending**  
8 **against the petitioner, the petitioner shall include the criminal**  
9 **record in the petition. If the petitioner does not have a criminal**  
10 **record, the petitioner shall state, in the petition, that the**  
11 **petitioner does not have a criminal record.** The court shall set a  
12 time and place for hearing ~~and, or,~~ except as provided **in**  
13 **subsection (6), enter the order without hearing. Except as provided**  
14 **in section 3 of this chapter, the court shall also** order  
15 publication as provided by supreme court rule.

16 ~~(2) An individual who is 22 years of age or older and who~~  
17 ~~petitions to have his or her name changed shall have 2 complete~~  
18 ~~sets of his or her fingerprints taken at a local police agency. The~~  
19 ~~fingerprints, along with a copy of the petition and the required~~  
20 ~~processing fees, must be forwarded to the department of state~~  
21 ~~police. The department of state police shall compare those~~  
22 ~~fingerprints with its records and shall forward a complete set of~~  
23 ~~fingerprints to the Federal Bureau of Investigation for a~~  
24 ~~comparison with the records available to that agency. The~~  
25 ~~department of state police shall report to the court in which the~~  
26 ~~petition is filed the information contained in the department's~~  
27 ~~records with respect to any pending charges against the petitioner~~  
28 ~~or a record of conviction of the petitioner and shall report to the~~  
29 ~~court similar information obtained from the Federal Bureau of~~

1 ~~Investigation. If there are no pending charges or record of~~  
 2 ~~conviction against the petitioner, the department of state police~~  
 3 ~~shall destroy its copy of the petitioner's fingerprints. The court~~  
 4 ~~shall not act upon the petition for a name change until the~~  
 5 ~~department of state police reports the information required by this~~  
 6 ~~subsection to the court.~~

7       (2) ~~(3)~~—If the court enters an order to change the name of an  
 8 individual who has a criminal record, the court shall forward the  
 9 order to the central records division of the department of state  
 10 police and to ~~1 or more~~ **all** of the following, **as applicable**:

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

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

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

23       (3) ~~(4)~~—The court may permit an individual ~~having~~ **that has** the  
 24 same name, or a similar name, to that which the petitioner proposes  
 25 to assume, to intervene in the proceeding ~~for the purpose of~~  
 26 ~~showing~~ **to show** fraudulent intent.

27       (4) ~~(5)~~—Except as provided in subsection ~~(7)~~, ~~(6)~~, if ~~the a~~  
 28 petitioner **under this section** is a minor, the petition must be  
 29 signed by the ~~mother and father~~ **minor's parents**, jointly; by the

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

17 (5) ~~(6)~~ ~~If the~~ **a** petitioner **under this section** is married, the  
 18 court, in its order ~~changing to change~~ the name of the petitioner,  
 19 may include the name of the spouse, if the spouse consents, and ~~may~~  
 20 ~~include~~ the names of minor children of the petitioner of whom the  
 21 petitioner has legal custody. ~~The~~ **If a minor described in this**  
 22 **subsection is 14 years of age or older,** written consent to the  
 23 **minor's name** change ~~of name of a child 14 years of age or older,~~  
 24 **must be** signed by the ~~child in the presence of the court,~~ ~~must be~~  
 25 **minor and** filed with the court before the court includes ~~that child~~  
 26 **the minor** in its order, **but the minor is not required to sign the**  
 27 **consent in the presence of the court.** Except as provided in  
 28 subsection ~~(7),~~ ~~the name of a minor under~~ ~~(6),~~ **if a minor described**  
 29 **in this subsection is less than** 14 years of age, ~~may~~ **the minor's**

1 **name must** not be changed unless ~~he or she~~ **the minor** is ~~the a~~  
 2 natural or adopted child of the petitioner and ~~unless~~ consent is  
 3 obtained from the ~~mother and father~~ **minor's parents**, jointly; ~~7~~  
 4 from the surviving parent, if 1 **parent** is deceased; ~~7~~ or from 1 of  
 5 the minor's parents, if there is only 1 ~~legal~~ parent **with legal**  
 6 **custody** available to give consent. If the court considers the ~~child~~  
 7 **minor** to be of sufficient age to express a preference, the court  
 8 shall consult ~~a~~ **the minor**, ~~under~~ **if the minor is less than** 14 years  
 9 of age, as to a change in ~~his or her~~ **the minor's** name, and the  
 10 court shall consider the minor's wishes.

11 (6) ~~(7)~~ The name of a minor may be changed ~~pursuant to~~ **under**  
 12 subsection ~~(5)~~ **(4)** or ~~(6)~~ **(5)** with the consent or signature of the  
 13 custodial parent upon notice to the noncustodial parent as provided  
 14 in supreme court rule and after a hearing in any of the following  
 15 circumstances:

16 (a) If both of the following occur:

17 (i) The other parent, having the ability to support or assist  
 18 in supporting the ~~child,~~ **minor**, has failed or neglected to provide  
 19 regular and substantial support for the ~~child~~ **minor** or, if a  
 20 support order has been entered, has failed to substantially comply  
 21 with the order, for 2 years or more before the filing of the  
 22 petition.

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

27 (b) The other parent has been convicted of a violation of  
 28 section 136b, 520b, 520c, 520d, 520e, or 520g of the Michigan penal  
 29 code, 1931 PA 328, MCL 750.136b, 750.520b to 750.520e, and

1 750.520g, and the ~~child-minor~~ or a sibling of the ~~child-minor~~ is a  
2 victim of the crime.

3 (c) The other parent has been convicted of a violation of  
4 section 316 or 317 of the Michigan penal code, 1931 PA 328, MCL  
5 750.316 and 750.317.

6 **(7)** ~~(8)~~—A false statement that is intentionally included  
7 ~~within~~**in** a petition for a name change constitutes perjury under  
8 section 422 of the Michigan penal code, 1931 PA 328, MCL 750.422.

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

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

19 **(b) (2)** ~~Evidence under subsection (1) of the possibility of~~  
20 ~~physical danger must include the petitioner's or the endangered~~  
21 ~~individual's sworn statement stating the reason for the fear of~~  
22 ~~physical danger if~~ **A petition that shows good cause must state the**  
23 **reason or reasons why the petitioner or the endangered individual**  
24 **fears the publication or availability of the** record ~~is published or~~  
25 ~~otherwise available. If evidence is offered of stalking or an~~  
26 ~~assaultive crime, of the proceeding, and the court must presume~~  
27 **that a petition shows good cause if any of the following reasons**  
28 **are included in the statement:**

29 **(i) The petitioner or the endangered individual is a victim of**

1 an assaultive crime, domestic violence, harassment, human  
2 trafficking, or stalking.

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

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

8 (2) ~~(3)~~ A court officer, employee, or agent ~~who~~ **that** divulges,  
9 uses, or publishes, beyond the scope of ~~his or her~~ **the court**  
10 **officer's, employee's, or agent's** duties with the court,  
11 information from a record made confidential under this section is  
12 guilty of a misdemeanor. This subsection does not apply to a  
13 disclosure under a court order.

14 (3) ~~(4)~~ A confidential record created under this section is  
15 exempt from disclosure under the freedom of information act, 1976  
16 PA 442, MCL 15.231 to 15.246.

17 (4) ~~(5)~~ As used in this section: ~~,"stalking"~~

18 (a) "Dating relationship" means frequent, intimate  
19 associations primarily characterized by the expectation of  
20 affectional involvement. Dating relationship does not include a  
21 casual relationship or an ordinary fraternization between 2  
22 individuals in a business or social context.

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

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

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

29 (iii) Causing or attempting to cause a family or household

1 member to engage in involuntary sexual activity by force, threat of  
2 force, or duress.

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

6 (c) "Family or household member" includes any of the  
7 following:

8 (i) A spouse or former spouse.

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

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

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

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

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

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

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

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

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



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