



HOUSE BILL No. 4817

May 11, 1995, Introduced by Reps. Geiger, Varga, Dobb, McBryde, Bush, Berman, Johnson, Goschka, Perricone, Hammerstrom, Jellema, Hill, Byl, DeMars, Cherry, Hanley, Jaye and Ryan and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 1 of chapter XI of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

as amended by Act No. 370 of the Public Acts of 1988, being section 711.1 of the Michigan Compiled Laws; and to add section 3 to chapter XI.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1 of chapter XI of Act No. 288 of the
2 Public Acts of 1939, as amended by Act No. 370 of the Public Acts
3 of 1988, being section 711.1 of the Michigan Compiled Laws, is
4 amended and section 3 is added to chapter XI to read as follows:

CHAPTER XI

5
6 Sec. 1. (1) The probate court for a county may enter an
7 order to change the name of ~~a person~~ AN INDIVIDUAL who has been
8 a resident of the county for not less than 1 year and who makes a
9 petition in writing to the court for that purpose showing a suf-
10 ficient reason for the proposed change and that the change is not
11 sought with ~~any~~ fraudulent intent. When the petition is filed,
12 the court shall set a time and place for hearing and, EXCEPT AS
13 OTHERWISE PROVIDED IN SECTION 3 OF THIS CHAPTER, order publica-
14 tion as provided by ~~supreme~~ court rule. Upon the filing of a
15 petition, the court may permit a person having the same name, or
16 a similar name to that which the petitioner proposes to assume,
17 to intervene in the proceeding for the purpose of showing fraudu-
18 lent intent.

19 (2) Except as provided in subsection ~~(3)~~ (4), if the peti-
20 tioner UNDER THIS SECTION is a minor, the petition shall be
21 signed by the mother and father jointly; ~~or~~ by the surviving
22 parent if 1 is deceased; ~~or~~ if both parents are deceased, by
23 the guardian of the person of the minor; ~~or~~ or by the minor's
24 parent, if there is not another legal parent to give consent. If
25 either parent has been declared mentally incompetent, the
26 petition may be signed by the guardian for that parent. The

1 written consent to the change of name of a minor 14 years of age
2 or older, signed by the minor in the presence of the court, shall
3 be filed with the court before ~~any~~ AN order changing the name
4 of the minor is entered. If the court considers the child to be
5 of sufficient age to express a preference, a minor under 14 years
6 of age shall be consulted by the court as to a change in his or
7 her name, and his or her wishes shall be considered by the
8 court.

9 (3) ~~(2)~~ If the petitioner is married, the court, in its
10 order changing the name of the petitioner, may include the name
11 of the spouse, if the spouse consents, and may include the names
12 of minor children of the petitioner of whom the petitioner has
13 legal custody. The written consent to the change of name of a
14 child 14 years of age or older, signed by the child in the pres-
15 ence of the court, shall be filed with the court before the court
16 includes that child in its order. Except as provided in subsec-
17 tion ~~(3)~~ (4), the name of a minor under 14 years of age may not
18 be changed unless he or she is the natural or adopted child of
19 the petitioner and unless consent is obtained from the mother and
20 father jointly, ~~or~~ from the surviving parent if 1 is deceased,
21 or from the minor's parent if there is not another legal parent
22 to give consent. If the court considers the child to be of suf-
23 ficient age to express a preference, a minor under 14 years of
24 age shall be consulted by the court as to a change in his or her
25 name, and his or her wishes shall be considered by the court.

26 (4) ~~(3)~~ The name of a minor may be changed ~~pursuant to~~
27 UNDER subsection ~~(1)~~ ~~or~~ (2) OR (3) with the consent or

1 signature of the custodial parent upon notice to the noncustodial
2 parent ~~pursuant to supreme~~ AS PROVIDED BY court rule and after
3 hearing if both of the following occur:

4 (a) The other parent, having the ability to support ~~—~~ or
5 assist in supporting ~~—~~ the child, has failed or neglected to
6 provide regular and substantial support for the child or, if a
7 support order has been entered, has failed to substantially
8 comply with the order, for a period of 2 years or more before the
9 filing of the petition.

10 (b) The other parent, having the ability to visit, contact,
11 or communicate with the child, has regularly and substantially
12 failed or neglected to do so for a period of 2 years or more
13 before the filing of the petition.

14 SEC. 3. (1) IN AN ACTION FILED UNDER SECTION 1 OF THIS
15 CHAPTER, THE COURT MAY ORDER FOR GOOD CAUSE THAT NO PUBLICATION
16 OF THE ACTION TAKE PLACE AND THAT THE RECORD OF THE ACTION BE
17 CONFIDENTIAL. GOOD CAUSE UNDER THIS SECTION INCLUDES, BUT IS NOT
18 LIMITED TO, A SHOWING THAT PUBLICATION OR AVAILABILITY OF A
19 RECORD OF THE ACTION COULD PLACE THE PETITIONER OR ANOTHER INDI-
20 VIDUAL IN PHYSICAL DANGER SUCH AS PROOF THAT THE PETITIONER HAS
21 BEEN THE VICTIM OF STALKING.

22 (2) A PERSON WHO KNOWS OR SHOULD HAVE KNOWN THAT THE RECORD
23 OF AN ACTION UNDER THIS CHAPTER IS CONFIDENTIAL WHO DIVULGES,
24 USES, OR PUBLISHES INFORMATION CONCERNING THE ACTION IS GUILTY OF
25 A MISDEMEANOR. THIS SUBSECTION DOES NOT APPLY TO THE PETITIONER
26 IN THE ACTION OR DISCLOSURE UNDER A COURT ORDER.

1 (3) A CONFIDENTIAL RECORD CREATED UNDER THIS SECTION IS
2 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, ACT
3 NO. 442 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO
4 15.246 OF THE MICHIGAN COMPILED LAWS.

5 (4) AS USED IN THIS SECTION, "STALKING" MEANS THAT TERM AS
6 DEFINED IN SECTION 711H OF THE MICHIGAN PENAL CODE, ACT NO. 328
7 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.711H OF THE
8 MICHIGAN COMPILED LAWS.