

Legislative Analysis



FOREIGN ADOPTION NAME CHANGES

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House Bill 4242 (Substitute H-1)

Sponsor: Rep. Scott Hummel

Committee: Judiciary

First Analysis (3-24-05)

BRIEF SUMMARY: The bill would allow the name of an adopted child who was born outside of the United State to be changed at the same time that a delayed registration of birth was filed.

FISCAL IMPACT: The bill has minimal fiscal impact on state and local government.

THE APPARENT PROBLEM:

Many adoptive parents choose to adopt children from foreign countries. The policies and procedures surrounding foreign adoptions vary from country to country. In some countries, the adoptive parents are made guardians of the child and adoption is finalized after the parents and child return to the United States, whereas other countries require the adoption to be completed before the parents bring the child home.

When a country requires a foreign adoption to be completed before the child is removed to the U.S., the adoptive parents may or may not be allowed to change the child's name. For instance, some countries allow the last name to be changed to that of the adoptive parents but do not allow the child's first and middle names to be changed.

Apparently, the process and ease by which adoptive parents can change the child's first and/or middle names after bringing the child to the U.S. differs depending in which county in Michigan they reside. For instance, some counties allow adoptive parents to change the name of a foreign-born adopted child at the same time that a delayed registration of birth is filed with the Department of Community Health. Other counties require the adopted child to reside in the county for at least one year before the adoptive parents can petition a county court to change the child's name under provisions of the Probate Code.

Reportedly, the delay in changing the child's name results in additional legal expenses and paperwork to correct a child's name that has already been recorded on legal documents such birth certificates; passports; adoption papers; social security cards; wills; trusts; and school, insurance, and medical records. Some feel that a delay in being able to change the child's name also has an effect on the family bonding with the child. To address these concerns, legislation is being offered to permit adoptive parents, in the case of foreign adoptions that were finalized in a foreign country, to change the child's name at the same time that a delayed registration of birth is filed.

THE CONTENT OF THE BILL:

Under provisions of the Public Health Code, a delayed registration of birth may be filed with the Department of Community Health (DCH) for an adoption involving a child who was born outside of the United States, a territory of the U.S., or Canada. House Bill 4242 would amend the code to allow the adopted child's name to be changed at the time the delayed registration of birth was filed if the adoption occurred under the laws of a foreign country.

Currently, an adopting parent may petition a court to file a delayed registration of birth if the child was born outside of the U.S., its territories, or Canada. The delayed registration must contain the date and place of birth of the child along with other information required by the DCH.

Under the bill, an adopting parent could request the court to enter a new name for the child on the delayed registration of birth if the child had been adopted under the laws of a foreign country and the child's name had not been changed as a part of the foreign adoption process. The new name would then be the child's legal name.

MCL 333.2830

ARGUMENTS:

For:

When a child born in a foreign country is adopted, the adoptive parents may face some challenges in changing the child's name, particularly if the child's birth country requires the adoption to be finalized in that country and prohibits the adoptive parents from changing the child's first and middle names. Whereas some parents can simply change the child's name at the time that they file a delayed registration of birth with the state health department, other counties in the state require the adoptive parents to wait a year or more and then follow procedures established in the Probate Code.

Often the delay in legally renaming the child means that documents bearing the child's old name must be changed, resulting in much paperwork and additional legal fees. In addition, some feel that the time delay in being able to legally rename the child also delays the family's attachment to that child. Since many counties already allow adoptive parents to change the child's name at the same time that a delayed registration of birth is issued, the bill would merely resolve an inconsistency.

It is important to note that the bill would only apply to those foreign adoptions that were finalized in the child's birth country and then only if the country did not allow the parents to rename the child during the adoption process.

Against:

The bill limits its applicability to renaming a child adopted under the laws of a foreign country whose name "was not changed as part of the foreign adoption process." Some

countries do allow the child's last name to be changed to that of the adoptive parents. Would a strict reading of the bill's language then prevent the adoptive parents from changing the child's first and middle names under the bill's provisions if the child's last name had already been changed during the adoption process? If so, that would defeat the stated intent of the bill.

In addition, there may be a reason that some foreign countries attempt to restrict adoptive parents' attempts to change the names of the children. Names can link people to a geographic region or to certain cultures. Many feel that it is important for the development of children born in other countries to retain some sense of their heritage after adoption. By delaying a child's name change, some adoptive parents may reconsider and so choose to keep the child's original first and/or middle names.

POSITIONS:

A representative of the Michigan Department of Community Health indicated support for the bill. (3-23-05)

A representative of the Michigan Probate Judges Association indicated support for the bill. (5-23-05)

A representative of Hands Across The Water, an adoption agency, testified in support of the bill. (3-23-05)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.