

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939
Chapter XI
CHANGE OF NAME OF ADULT OR MINOR

711.1 Order changing name of adult, minor, or spouse and minor children.

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, petitions in writing to the court for that purpose, and shows that a sufficient reason for the proposed change exists and that the change is not sought with a fraudulent intent. If the petitioner has a criminal record, including, but not limited to, a charge pending against the petitioner, the petitioner shall include the criminal record in the petition. If the petitioner does not have a criminal record, the petitioner shall state, in the petition, that the petitioner does not have a criminal record. The court may use L.E.I.N. or ICHAT to determine whether there is a criminal record. The court shall bear any cost associated with the court's use of L.E.I.N. or ICHAT, not the petitioner. As used in this subsection:

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

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

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

(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 department of state police and to all of the following, as applicable:

(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 that has the same name, or a similar name, to that which the petitioner proposes to assume, to intervene in the proceeding to show fraudulent intent.

(5) Except as provided in subsection (7), if a petitioner under this section is a minor, the petition must be signed by the minor's parents, jointly; by the surviving parent, if 1 parent is deceased; by the guardian of the minor; or by 1 of the minor's parents, if there is only 1 parent with legal custody available to give consent. If either parent has been declared mentally incompetent, the petition may be signed by the guardian for that parent. If the minor is 14 years of age or older, written consent to the minor's name change must be signed by the minor and filed with the court before an order to change the name of the minor is entered, but the minor is not required to sign the consent in the presence of the court. If the court considers the minor to be of sufficient age to express a preference, the court shall consult the minor, if the minor is less than 14 years of age, as to a change in the minor's name, and the court shall consider the minor's wishes.

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

(7) The name of a minor may be changed under 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 any 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 minor, has failed or neglected to provide regular and substantial support for the minor 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 minor, 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 minor or a sibling of the minor is a victim of the crime.

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

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

History: 1939, Act 288, Eff. Sept. 29, 1939 ;-- CL 1948, 711.1 ;-- Am. 1955, Act 89, Eff. Oct. 14, 1955 ;-- Am. 1956, Act 131, Eff. Aug. 11, 1956 ;-- Am. 1975, Act 47, Imd. Eff. May 16, 1975 ;-- Am. 1988, Act 370, Eff. Mar. 30, 1989 ;-- Am. 1996, Act 106, Eff. Mar. 31, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1996, Act 495, Eff. Mar. 31, 1997 ;-- Am. 2000, Act 111, Imd. Eff. May 24, 2000 ;-- Am. 2020, Act 40, Eff. June 1, 2020 ;-- Am. 2024, Act 229, Eff. Apr. 2, 2024

Former Law: See section 6 of Ch. 64 of Act 314 of 1915.

711.2 Fee; certified copy of order.

Sec. 2.

The judge of the family division of circuit court shall require the person making a petition under section 1 of this chapter to pay to the court to be remitted to the county treasurer for the use of the county a fee of \$10.00, and shall furnish to the petitioner, if desired, a certified copy of the order made in the matter, upon payment of the required statutory fee.

History: 1939, Act 288, Eff. Sept. 29, 1939 ;-- CL 1948, 711.2 ;-- Am. 1955, Act 49, Imd. Eff. Apr. 29, 1955 ;-- Am. 1963, Act 131, Eff. Sept. 6, 1963 ;-- Am. 1972, Act 264, Eff. Oct. 1, 1972 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998

Former Law: See section 7 of Ch. 64 of Act 314 of 1915, being CL 1915, § 14144; CL 1929, § 15957.

711.3 Publication or availability of record of proceeding; violation as misdemeanor; exemption from disclosure; definitions.

Sec. 3.

(1) In a proceeding under section 1 of this chapter, all of the following apply:

(a) If the court receives a petition that shows good cause, the court must order that no publication of the proceeding take place and that the record of the proceeding be confidential.

(b) A petition that shows good cause must state the reason or reasons why the petitioner or the endangered individual fears the publication or availability of the record of the proceeding, and the court must presume that a petition shows good cause if any of the following reasons are included in the statement:

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

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

(c) The court shall not require proof of an arrest or prosecution to find that a petition shows good cause.

(2) A court officer, employee, or agent that divulges, uses, or publishes, beyond the scope of the court officer's, employee's, or agent's 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.

(3) 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.

(4) As used in this section:

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

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

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

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

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

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

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

(i) A spouse or former spouse.

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

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

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

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

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

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

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

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

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

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

History: Add. 2000, Act 111, Imd. Eff. May 24, 2000 ;-- Am. 2024, Act 229, Eff. Apr. 2, 2024