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Senate Bills 915 and 916 (as introduced 11-20-07)
Sponsor: Senator Tom George
Committee: Judiciary

Date Completed: 2-25-08

CONTENT

Senate Bills 915 and 916 would amend the Probate Code and the Code of Criminal Procedure, respectively, to do all of the following:

- **Require a petitioner for a legal name change to be a citizen of the United States.**
- **Specify that the petitioner would have the burden of proving that he or she was a U.S. citizen and had been a resident of the county where he or she sought the name change for at least one year.**
- **Revise the sentencing guidelines designations for intentionally making a false statement in a name change petition, and committing repeat violations involving adoption or a court order under the juvenile code.**

The bills are tie-barred.

Senate Bill 915

Under the Probate Code, the family division of the circuit court (family court) may enter an order to change the name of an individual who has been a resident of the county for not less than one year and who petitions the court in writing for that purpose, showing a sufficient reason for the proposed change and that the change is not sought with a fraudulent intent.

The bill would allow the family court to enter an order for a name change only if the person also was a citizen of the United States. The bill specifies that, at the hearing on a petition for a name change, the petitioner would have the burden of proving that he or she was a U.S. citizen and had been a county resident for at least one year.

Senate Bill 916

False Statement

Under the section of the Probate Code that Senate Bill 915 proposes to amend, intentionally including a false statement in a petition for a name change constitutes perjury under the Michigan Penal Code. Perjury is a felony punishable by up to 15 years' imprisonment, as a rule. The bill would change the Michigan Compiled Law reference for an intentional false statement in a name-change petition (making it consistent with Senate Bill 915).

Adoption Code: Subsequent Violation

The Michigan Adoption Code prohibits the placement of a child for adoption until an order terminating parental rights has been entered and the court formally has approved

placement. A violation of this prohibition is a misdemeanor and a subsequent conviction is a felony. The sentencing guidelines description of the felony violation refers to a Michigan adoption law subsequent offense. The bill would refer instead to a subsequent offense of unlawful placement of a child for adoption.

Juvenile Code: Subsequent Violation

The juvenile code allows the court to issue an order that affects a nonparent adult and does one or more of the following:

- Requires the nonparent adult to participate in the development of a case service plan for a juvenile under the family court's jurisdiction.
- Requires the nonparent adult to comply with a case service plan.
- Permanently removes the nonparent adult from the home of the child.
- Permanently restrains the nonparent adult from coming into contact with or within close proximity of the child.

A nonparent adult who violates an order is guilty of a misdemeanor. A violation after one or more prior convictions for violating an order is a felony punishable by up to two year's imprisonment and/or a maximum fine of \$2,000. The sentencing guidelines description of the felony violation refers to a subsequent conviction for a violation of a court order. The bill would refer to a subsequent conviction for a violation of a court order regarding a child by a nonparent adult.

MCL 711.1 (S.B. 915)
777.15f (S.B. 916)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many more offenders, if any, would be convicted of intentionally including a false statement in a name change petition, if citizenship were required. An offender convicted of the Class E offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. To the extent that the bills resulted in increased convictions, local governments would incur increased costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$33,000. Additional penal fine revenue would benefit public libraries.

The bills would have no fiscal impact on the judiciary. In 2006, 2,845 petitions for name changes were filed.

Fiscal Analyst: Lindsay Hollander
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.