

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

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.