

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1787 Name Change Petitions
SPONSOR(S): Committee on Judiciary and Rep. Kottkamp
TIED BILLS: **IDEN./SIM. BILLS:** SB 130

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary	16 Y, 0 N	Havlicak	Havlicak
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

A person may petition a court for a change of name. Florida law requires the petitioner in such action to file a petition with the court in the county in which he or she resides. The petition must contain certain personal information as set for in current law. If the petitioner is a convicted felon, this must be disclosed in the petition and upon a final judgment on the name change petition the clerk of court must notify the Florida Department of Law Enforcement of the name change.

This bill requires petitioners in every name change action, except those in dissolution of marriage or adoption proceedings or where a one's former name is being restored, to include a copy of their fingerprints with their petition. These fingerprints must be done by a law enforcement agency and at the expense of the petitioner. Additionally, the bill would require every petitioner for a name change to identify in their petition whether they have ever been arrested for, charged with, or pled guilty or nolo contendere to any criminal offense.

The bill further requires that clerk of court to submit a report of every name change judgment to the Florida Department of Law Enforcement (FDLE) along with the fingerprints of the person whose name has been changed. In turn, the bill requires FDLE to provide to the Department of Highway Safety and Motor Vehicles (DHSMV) a copy of each report of name change, including fingerprints. FDLE and DHSMV may update their files to reflect the name change. FDLE is further permitted to send the name change to any other law enforcement agency it believes may retain information related to the petitioner.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1787.ju.doc
DATE: March 25, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|----------------------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

Government is not reduced by this bill because it will require the clerk of courts to submit a report including the fingerprints of all final judgments in name change petitions to the Florida Department of Law Enforcement. FDLE is then required to forward a copy of the report and fingerprints to the Department of Highway Safety and Motor Vehicles.

Because this bill requires petitioners in a name change action to submit fingerprints and disclose all criminal arrests, charges, and convictions, this bill may reduce individual freedom.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 68.07, F.S., prescribes the requirements for obtaining a name change, including the information the petitioner must include in his or her affidavit. The forms required may be picked up from any county courthouse. The generic forms approved by the Florida Supreme Court can also be found on-line at www.flcourts.org. Currently, there is no requirement for the petitioner to submit a set of fingerprints.

Under s. 68.07(2)(h), F.S., a petitioner is required to disclose any felony convictions. Section 68.07(5), F.S., requires the clerk of the court to notify FDLE of those name change judgments in which the petitioner has indicated in the affidavit that he or she is a convicted felon. The statute requires the clerk to submit information to FDLE on FDLE’s form sufficient to identify the original criminal record of the petitioner, the new name of the petitioner, and the file number of the judgment. If the petitioner was convicted in another state or of a federal offense, FDLE must notify that state’s law enforcement department or the Federal Bureau of Investigation.

In 2003, staff of the House of Representatives contacted several clerks of court regarding their procedures for reviewing information in a name change petition.¹ These clerks reported that they accept the signed and notarized affidavit from a petitioner as fact. No further investigation of any of the information on the affidavit is done, including whether or not the petitioner has a criminal history. All of the counties contacted indicated that the judge is given a packet, which includes the petitioner’s affidavit. The judge reviews it and signs the final order if all of the paperwork is in order. No formal hearings are held.

¹ See House of Representative Staff Analysis of HB 1875 (2003) at p. 2 (House staff contacted the Clerks of the Court for Escambia, Leon, Duval, Volusia, Hillsborough, and Miami-Dade counties).

Proposed Changes

The bill requires every petitioner for a name change, except those in dissolution of marriage or adoption proceedings or where a one's former name is being restored, to submit with the petition a set of fingerprints made by a law enforcement agency.² The cost of having law enforcement take a set of fingerprints is to be paid by the petitioner. Instead of requiring a petitioner to swear whether he or she is a convicted felon, the bill requires the petitioner to swear whether he or she has been arrested for, charged with, pled guilty or nolo contendere to, or been found to have committed any criminal offense.

The bill requires the clerk of court to send to FDLE a report of every name change judgment accompanied by a set of the petitioner's fingerprints. FDLE is then required to send a copy of the report to DHSMV, including the set of fingerprints, on those whose name has been changed. Forwarding this report to DHSMV may be done electronically. The FDLE and DHSMV may revise their records to reflect the name change. Additionally, the FDLE may forward the report to any law enforcement agency it believes may retain information relating to the petitioner.

C. SECTION DIRECTORY:

Section 1: Amends s. 68.07, F.S., relating to change of name petitions.

Section 2: Reenacts s. 382.016, F.S., to incorporate the reference to s. 68.07, F.S.

Section 3: Provides for an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because petitioners for a name change will be required to submit their fingerprints with their petitions, some may incur an expense to get their fingerprints taken by a law enforcement agency.³

² Current law exempts from the requirements of s. 68.07, F.S., any change of name proceedings for dissolution of marriage or for adoption of children. See s. 68.07(8), F.S.

³ Senate staff surveyed ten Florida sheriff's offices and found that most offices perform the service for \$5 or for no charge. One office does charge up to \$15. See *Senate Staff Analysis and Economic Impact Statement of SB 130 (2004)* at p.3.

D. FISCAL COMMENTS:

There may be additional expenses on clerks of courts and FDLE in satisfying the new reporting requirements of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 15, 2004, House Judiciary Committee adopted one amendment to this bill which exempted petitioner's who are restoring a former name from the requirement of submitting a copy of fingerprints with the name change petition.

This analysis is drafted to the bill as amended.