



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill increases the procedural requirements for, and the cost of, a petition for name change.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Any person or family that wants to change their name must follow the procedural requirements established by s. 68.07, F.S. The person seeking a name change is called the petitioner, and the petitioner files his or her petition for a change of name in the county in which he or she resides.

Section 68.07(2), F.S., provides that the petition must include a copy of the petitioner's fingerprints taken by a law enforcement agency, except where a former name is being restored.<sup>1</sup> Section 68.07(2), F.S., also provides that the petition must be verified and show:

- That the petitioner is a bona fide resident of and domiciled in the county where the change of name is sought.
- If known, the date and place of birth of the petitioner, petitioner's father's name, mother's maiden name, and where the petitioner has resided since birth.
- If the petitioner is married, the name of petitioner's spouse and if the petitioner has children, the names and ages of each and where they reside.
- If the petitioner's name has previously been changed and when and where and by what court.
- The petitioner's occupation and where the petitioner is employed and has been employed for 5 years next preceding filing of the petition. If the petitioner owns and operates a business, the name and place of it shall be stated and the petitioner's connection therewith and how long the petitioner has been identified with said business. If the petitioner is in a profession, the profession shall be stated, where the petitioner has practiced the profession and if a graduate of a school or schools, the name or names thereof, time of graduation, and degrees received.
- Whether the petitioner has been generally known or called by any other names and if so, by what names and where.
- Whether the petitioner has ever been adjudicated a bankrupt and if so, where and when.
- Whether the petitioner has ever been arrested for or charged with, pled guilty or nolo contendere to, or been found to have committed a criminal offense, regardless of adjudication, and if so, when and where.
- Whether any money judgment has ever been entered against the petitioner and if so, the name of the judgment creditor, the amount and date thereof, the court by which entered, and whether the judgment has been satisfied.
- That the petition is filed for no ulterior or illegal purpose and granting it will not in any manner invade the property rights of others, whether partnership, patent, good will, privacy, trademark, or otherwise
- That the petitioner's civil rights have never been suspended, or if the petitioner's civil rights have been suspended, that full restoration of civil rights has occurred.<sup>2</sup>

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<sup>1</sup> A petitioner seeking to restore a former name is typically a divorced woman restoring a maiden name.

<sup>2</sup> Section 68.07(2), F.S.

A facially sufficient petition for change of name should be granted by the court in the absence of evidence of a wrongful or fraudulent purpose.<sup>3</sup> Upon entry of the final judgment, the clerk must send a report of the judgment to the Florida Department of Law Enforcement (FDLE). The FDLE must send a copy of the report to the Department of Highway Safety and Motor Vehicles. Any information retained by these Departments is to be revised to reflect the changes made by the name change. If a person has been convicted of a felony in another state or of a federal offense, the FDLE must send the report to the respective state's office of law enforcement records or to the office of the FBI. The FDLE may also forward the report to any other law enforcement agency it believes may retain information related to the petitioner.<sup>4</sup>

Section 68.07(3), F.S., provides that a hearing on a change of name petition may be immediately after the petition is filed.

### Effect of Bill

This bill amends s. 68.07(2), F.S., to require that a petition for name change, other than a petition seeking to restore a former name, must include 2 sets of the petitioner's fingerprints instead of just one, and must include a fingerprint-processing fee. The bill requires an additional fee in the amount set by s. 943.053, F.S.<sup>5</sup> for the state criminal history records check plus the amount established by the FBI<sup>6</sup> for the national criminal history records check. This bill requires the clerk of the court to forward one of the sets of fingerprints to the FDLE for a state and national criminal history records check. The results of the criminal history check are then to be returned to the clerk to be used by the court in determining whether to grant the petition for name change. If the judgment is granted the clerk must send the second set of fingerprints to the FDLE as required by s. 68.07(5), F.S.

This bill revises s. 68.07(3), F.S., to conform to the changes made in this bill requiring that a criminal history records check be performed and the results returned to the clerk before there may be a hearing on the petition, unless the petition is to restore a former name. This bill amends s. 68.07(3), F.S., to provide that, where a criminal history records check is required, the hearing on the petition for a change of name may be immediately after the results of the criminal history records check are returned to the clerk.

### C. SECTION DIRECTORY:

Section 1 amends s. 68.07, F.S., to require that certain name change petitions include 2 sets of fingerprints and a fingerprint-processing fee, and that the clerk of the court forward one set of fingerprints to the for a state and national criminal history records check.

Section 2 provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

(FY 06 07) Amount / FTE	(FY 07-08) Amount / FTE	(FY 08-09) Amount / FTE
\$78,660	\$78,660	\$78,660

<sup>3</sup> *In re Name Change Petition of Mullin*, 892 So.2d 1214 (Fla. 2nd DCA 2005)

<sup>4</sup> Section 68.07(5), F.S.

<sup>5</sup> The fee per record for criminal history information is \$23 per name submitted. s. 943.053(3)(b), F.S.

<sup>6</sup> FDLE requires a fee of \$47 to process and state and Federal (FBI) criminal history records check according to the FDLE website; [www.fdle.state.fl.us/CriminalHistory](http://www.fdle.state.fl.us/CriminalHistory). (accessed on January 06, 2006)

FDLE estimates that there are approximately 3,420 criminal record check requests for prospective name change petitions annually that would be subject to the \$23 fingerprint-processing fee (3,420 x \$23 = \$78,660).<sup>7</sup>

These revenues will be deposited into the FDLE Operating Trust Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill increases the cost to the individual seeking a change of name, other than an individual restoring a former name, by requiring the petitioner to pay a \$47 fingerprint-processing fee for the state and national criminal history records check.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 11, 2006, the Civil Justice Committee adopted one amendment to this bill. The amendment revises s. 68.07(3), F.S., to provide that, where a criminal history records check is required, the name change hearing may not be immediately, but must wait until the criminal history background is returned to the clerk. The bill was then reported favorably with a committee substitute.

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<sup>7</sup> Fiscal analysis prepared by the FDLE, December 1, 2005