



Ohio Legislative Service Commission

Bill Analysis

Dennis M. Papp

Am. H.B. 95

128th General Assembly
(As Passed by the House)

Reps. Skindell, Murray, Evans, Letson, Ujvagi, Phillips, Luckie, Harris, Yuko, DeGeeter, S. Williams, Boyd, Hagan, Stewart, Domenick, Harwood, Bolon, Chandler, Koziura, Okey, Dolan, Bacon, Bubp, Celeste, Coley, Blessing, Amstutz, Belcher, Book, Boose, Burke, Carney, Combs, Daniels, DeBose, Dodd, Driehaus, Dyer, Fende, Foley, Gardner, Garland, Garrison, Gerberry, Goyal, Grossman, Hackett, Heard, Hite, Hottinger, Jones, Maag, Mallory, Mandel, Martin, Mecklenborg, Moran, Newcomb, Oelslager, Otterman, Patten, Pryor, Ruhl, Sayre, Sears, Slesnick, Snitchler, Uecker, Weddington, B. Williams, Winburn, Yates, Zehringer

BILL SUMMARY

- Requires that an application for a statutory change of name require the applicant to state whether the applicant has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for identity fraud or has a duty to comply with the registration or notice of intent to reside requirements of the Sexual Offender Registration and Notification (SORN) Law because the applicant was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim oriented offense.
- Prohibits a court from granting an application for a statutory change of name if the applicant or a minor on whose behalf an application is made (1) is required under the SORN Law to register or provide notice of intent to reside because the applicant or minor was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim oriented offense or (2) has pleaded guilty to, been convicted of, or been adjudicated a delinquent child for committing identity fraud.

CONTENT AND OPERATION

Change of name

Existing law

Under existing law, a person desiring a change of name may file an application in the probate court of the county in which the person resides.¹ The application must state that the applicant has been a *bona fide* resident of that county for at least one year before the filing of the application, the cause for which the change of name is sought, and the requested new name. Notice of the application must be given once by publication in a newspaper of general circulation in the county at least 30 days before the hearing on the application. Upon proof that proper notice was given and that the facts set forth in the application show reasonable and proper cause for changing the applicant's name, the court may order the change. (R.C. 2717.01(A).)

Existing law authorizes the parents, legal guardian, or guardian *ad litem* of a minor to apply for change of name on behalf of the minor. In such a case, in addition to the notice and proof described in the preceding paragraph, the consent of both living, legal parents of the minor must be filed, or notice of the hearing must be given to the parent or parents not consenting by certified mail, return receipt requested. If the minor has no known father, the notice is given to the person alleged by the mother to be the father. If the mother does not allege a father, or if either parent or the address of either parent is unknown, then the notice by publication suffices as to the father or parent. Any additional notice described in this paragraph may be waived by the person entitled to it. (R.C. 2717.01(B).)

Operation of the bill

Application

The bill imposes the additional requirement that an application for a change of name require the applicant to state whether the applicant has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for identity fraud (see **COMMENT**) or has a duty to comply with the registration and notice of intent to reside requirements of the Sexual Offender Registration and Notification (SORN) Law because the applicant was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim oriented offense.

¹ The statutory procedure for changing one's name supplements the common law, under which a person may change his or her name at will if there is no intent to deceive or defraud. *State ex rel. Morrison v. Franklin County Bd. of Elections* (1980), 63 Ohio St.2d 336.

(There is no specific statutory requirement that probate courts have standard application forms.) (R.C. 2717.01(A).)

Prohibitions against granting of application

The bill prohibits a court from ordering a change of name under the above-described application procedure if the applicant or the minor on whose behalf the application is made has a duty under the SORN Law to register or provide notice of intent to reside because the applicant or minor was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim oriented offense. The bill also prohibits the court from ordering the requested change of name if the applicant or minor for whom the application is made has pleaded guilty to, been convicted of, or been adjudicated a delinquent child for committing identity fraud (see **COMMENT**) unless the guilty plea, conviction, or adjudication has been reversed on appeal. (R.C. 2717.01(A) and (C)(1) and (2).)

Definitions

The bill specifies that, as used in its change-of-name provisions, "sexually oriented offense" and "child-victim oriented offense" have the same meanings as under the SORN Law (R.C. 2717.01(C)).

COMMENT

The identity fraud statute (R.C. 2913.49, not in the bill) prohibits a person, without the express or implied consent of the other person, from using, obtaining, or possessing any personal identifying information of another person with intent to do either of the following:

- (1) Hold the person out to be the other person;
- (2) Represent the other person's personal identifying information as the person's own personal identifying information.

The statute further prohibits a person from (1) creating, obtaining, possessing, or using the personal identifying information of any person with the intent to aid or abet another person in committing the acts described in the preceding paragraph, (2) with intent to defraud, permitting another person to use the person's own personal identifying information, or (3) using, obtaining or possessing, with intent to defraud any person by doing the acts described in the preceding paragraph, another's personal identifying information that the person has permission to use.

"Personal identifying information" includes, but is not limited to, the following: the name, address, telephone number, driver's license, driver's license number, commercial driver's license, commercial driver's license number, state identification card, state identification card number, social security card, social security number, birth certificate, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password, or credit card number of a living or dead individual.

HISTORY

ACTION	DATE
Introduced	03-24-09
Reported, H. Judiciary	05-13-09
Passed House (97-0)	05-27-09

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