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Bill Analysis

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SUMMARY

Conformity of a legal name

- Permits a person who wants to correct a misspelling, inconsistency, or other error of the person's legal name in an official identity document to file an application in a probate court to conform the person's name on the identity document to the person's current legal name.
- Permits an application to conform a legal name to be made on behalf of a minor by the minor's parents, a legal guardian, a legal custodian, or a guardian ad litem.
- Requires application to conform a legal name to set forth (1) that the applicant has been a resident of the county of filing for at least 30 days, (2) an explanation of the misspelling, inconsistency, or other error in the name, and (3) a description of the correction sought.
- Permits the probate court to hold a hearing on the application to conform a legal name and, if a hearing is ordered, it must set the manner, scope, and content of the hearing notice.
- Applies the consent requirements in continuing law for an application to change a legal name on behalf of a minor to an application to conform a legal name on behalf of a minor under the bill.
- Permits the probate court to issue an order to conform the applicant's name on proof that (1) the facts set forth in the application show that a misspelling, inconsistency, or other error exists and (2) reasonable and proper cause exists for issuing an order that resolves the discrepancy and conforms the applicant's name.
- Prohibits an action to conform the legal name of a person or on behalf of a minor in lieu of either (1) correction of a birth record or (2) changing a legal name to a name that is not used in any existing official identity documents.

Change of legal name

- Specifies requirements for a change of name application and for the applicant's affidavit to support the application.
- Permits the court to hold a hearing on the name change application and, if a hearing is ordered, it must set the manner, scope, and content of the hearing (instead of, as in current law, requiring a hearing and requiring service of a hearing notice in a local newspaper 30 days prior to the hearing).
- Permits the court, under continuing law, to grant an exception to a hearing notice if satisfactory proof that publication of the service of hearing notice or, under the bill, open records of the name change would jeopardize the applicant's personal safety.
- Permits the court to order the applicant's change of name upon proof (1) that the facts set forth in the application show that reasonable and proper cause exists for changing the applicant's name and (2) if applicable, that proper notice was served.

General name change/conformity provisions

- Permits the probate court, by local rule or order, to require a name conformity or name change applicant to submit a copy of the applicant's official identity documents or other documentary evidence the court deems relevant.
- Permits the probate court, on receipt of an application to conform or change a legal name, to require the applicant, at the applicant's expense, to submit to a criminal records check and request the Bureau of Criminal Identification and Investigation (BCII) superintendent to conduct a criminal records check on the applicant.
- Requires the BCII superintendent, on receipt of the applicant's completed documents, to conduct a criminal records check on the applicant.
- Modifies the existing law consent/notice requirements for the name change of a minor and also applies the law as modified to the name conformity requirements for minors.

DETAILED ANALYSIS

Overview

Under the bill, a probate court procedure is established to correct a misspelling, inconsistency, or other error of a person's legal name in an official identity document. Additionally, the bill amends the existing probate court procedure to change a legal name by making several changes, which include, for example, permitting the court to (1) determine if a hearing is required and, if so, set the hearing notice's manner, scope, and content, (2) by local rule or order, require the applicant to submit official identity documents, and (3) require a

criminal records check on the applicant. Finally, the bill recodifies (reorganizes) the Revised Code chapter governing the change of name process.

The bill defines the following terms:¹

- “Application” is, as context requires, an application to change an adult’s legal name, change a legal name on behalf of a minor, conform an adult’s legal name, or conform a legal name on behalf of the minor;
- “Applicant” is, as context requires, a person who makes the filing required to change an adult’s legal name or conform an adult’s legal name;
- “Official identity document” is a birth record, marriage record, divorce decree, driver’s license, state issued identification card, Social Security card with the Social Security number redacted, passport, or any other official government-issued document required or commonly used to verify a person’s identity.

Conformity of a legal name

Conformity of an adult’s name

The bill permits a person who wants to correct a misspelling, inconsistency, or other error of his or her legal name in an official identity document to file an application in the probate court of the county in which the person resides to resolve discrepancies in that official identity document and to confirm the person’s name on the identity document to the person’s current legal name.²

Application requirements

The bill requires, subject to the possible requirement of submission of official identity documents and a criminal records check (see “**Relevant identity documents required by court**” and “**Criminal records check**,” discussed below), an application to conform a legal name in an official identity document to set forth all of the following:

- That the applicant has been a bona fide resident of the county where the applicant is filing for at least 30 days prior to the filing of the application;
- An explanation of the misspelling, inconsistency, or other error in the name;
- A description of the correction sought to conform the name on all official identity documents.³

¹ R.C. 2717.01(A) to (C).

² R.C. 2717.13. A technical amendment is needed to change “confirm” to “conform” regarding identity documents. For purposes of consistency in construction, the use of “person” instead of “his or her” might also be advisable.

³ R.C. 2717.14.

Hearing and hearing notice

The bill permits the probate court to hold a hearing on the application to conform a legal name. If a hearing is ordered, the court must set the manner, scope, and content of the hearing notice the applicant must serve.⁴

Court order to conform

Under the bill, on proof that (1) the facts set forth in the application to conform a legal name show that a misspelling, inconsistency, or other error of the applicant's legal name on an official identity document exists and (2) reasonable and proper cause exists for issuing an order that resolves the discrepancy and conforms the applicant's legal name, the probate court may issue an order to conform the name of the person.⁵

Conformity of a minor's name

The bill also permits an application to conform a legal name to correct a misspelling, inconsistency, or other error in an official identity document to be made on behalf of a minor by either of the minor's parents, a legal guardian, a legal custodian, or a guardian ad litem, subject to certain consent/notice requirements (see below, "**Consent/notice requirements for minors**").⁶

Prohibited actions

The bill prohibits an action to conform the legal name of a person or on behalf a minor in lieu of either of the following:⁷

- Correction of a birth record;⁸
- Changing a legal name to a name that is not used in any existing official identity documents.

Change of legal name

Legal name change of adult

Continuing law permits a person desiring a change of name to file an application in the probate court where the person resides.⁹

⁴ R.C. 2717.15.

⁵ R.C. 2717.16.

⁶ R.C. 2717.17.

⁷ R.C. 2717.18.

⁸ R.C. 3705.15, not in the bill.

⁹ R.C. 2717.03.

Application and affidavit requirements

The bill requires, subject to the possible requirement for the submission of official identity documents and a criminal records check (see “**Relevant identity documents required by court**” and “**Criminal records check**,” discussed below), a change of name application to set forth that the applicant has been a bona fide resident of the county for at least 30 days (instead of one year, as in current law) prior to filing the application. Continuing law requires the application to set forth the reason for which the name change is sought and the requested new name.¹⁰

Additionally, the bill requires the application to be supported by the applicant’s affidavit verifying all of the following:

- The applicant’s residency in the county for a period of at least 30 days;
- That the application is not made for the purpose of evading any creditors or other obligations;
- That the applicant is not a debtor in any currently pending bankruptcy proceeding;
- That the applicant has not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for identity fraud or has a duty to register as a sex offender because the applicant was convicted of, or pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim oriented offense;
- That all of the documentary evidence submitted with the application is true, accurate, and complete;
- Any other information the probate court may require.

Under current law, the application (instead of the affidavit as required by the bill) requires 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 register as a sex offender 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.¹¹

Hearing and hearing notice

The bill permits the probate court to hold a hearing on the application for change of name. If the court requires a hearing, it must set the manner, scope, and content of the hearing notice the applicant must serve. Current law governing the application (which the bill replaces) provides for a hearing and for the hearing notice to (1) be given once by publication in a newspaper of general circulation in the county at least 30 days before the hearing and (2) set

¹⁰ R.C. 2717.04.

¹¹ R.C. 2717.05.

forth the probate court where the application was filed, the case number, and the hearing date and time.

Under the bill, the probate court may grant an exception to a hearing notice requirement if the applicant submits, with the name change application, satisfactory proof that open records of the name change or publication of the service of hearing notice¹² would jeopardize the applicant's personal safety.

If the hearing notice exception is granted in order to protect the applicant's personal safety, the bill requires both of the following to apply:

- The probate court must waive the hearing notice requirement.
- If the probate court orders the change of name, it must order the records of the proceeding to be sealed and to be opened only by order of the court for good cause shown or at the request of the applicant for any reason.¹³

Court order to change name

The bill substantially preserves the law that permits the probate court to order the applicant's change of name upon proof (1) that the facts set forth in the application show that reasonable and proper cause exists for changing the applicant's name and (2) if applicable, that proper notice was served.¹⁴

Legal name change for minor

The bill maintains current law permitting an application for a change of name to be filed on behalf of a minor by the minor's parents, a legal guardian, a legal custodian, or a guardian ad litem, subject to certain consent/notice requirements (see below, "**Consent/notice requirements for minors**").¹⁵

Prohibited actions

The bill substantially maintains current law that prohibits the probate court from ordering a change of name if either of the following apply to the applicant:

- Has a duty to register as a sex offender 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;

¹² It is not clear what is meant by "publication of the service of hearing notice."

¹³ R.C. 2717.06 and 2717.08.

¹⁴ R.C. 2717.07.

¹⁵ R.C. 2717.09.

- Has pleaded guilty to, been convicted of, or been adjudicated a delinquent child for identity fraud or theft, unless the guilty plea, conviction, or adjudication has been reversed on appeal.¹⁶

Recodification

The bill recodifies the section in current law governing the change of legal name process under Chapter 2717 of the Revised Code.¹⁷ The table below gives a brief description of each recodified section, the new section number under the bill, and the section number under current law.

Recodification of R.C. Chapter 2717		
Subject	New section number	Current section number
Definitions applicable to R.C. Chapter 2717	R.C. 2717.01(D)	R.C. 2717.01(C)(3)
Permission to file for legal name change	R.C. 2717.03	R.C. 2717.01(A)(1)
Requirements for name change application	R.C. 2717.04	R.C. 2717.01(A)(1)
Applicant's affidavit requirements (part of application requirements under current law)	R.C. 2717.05	R.C. 2717.01(A)(1)
Hearing notice	Repealed	R.C. 2717.01(A)(2)
Granting application for adult name change	R.C. 2717.07	R.C. 2717.01(A)(3)
Exception to hearing notice requirement	R.C. 2717.08	R.C. 2717.01(A)(4)
Permission to file for minor name change	R.C. 2717.09	R.C. 2717.01(B)
Court prohibited from ordering name change	R.C. 2717.10	R.C. 2717.01(C)(1) and (2)
Notice requirements for minor name change	R.C. 2717.22	R.C. 2717.01(B)

¹⁶ R.C. 2717.10.

¹⁷ R.C. 2717.01 to 2717.10 and 2717.22.

General name change/conformity provisions

Relevant identity documents required by court

Under the bill, a probate court may, by local rule or order, require an applicant to submit a copy of any or all of the applicant's official identity documents or other documentary evidence relating to the applicant's identity that the court deems relevant to the application.¹⁸

Criminal records check

The bill permits the probate court, on receipt of an application, to do the following:

- Require the applicant to submit one complete set of fingerprint impressions directly to the Bureau of Criminal Identification and Investigation (BCII) superintendent to conduct a criminal records check. The applicant must provide the fingerprint impressions using a method the superintendent prescribes and fill out the form the superintendent prescribes.
- Request the BCII superintendent to conduct a criminal records check based on the applicant's fingerprint impressions.
- Request that criminal record information based on the applicant's fingerprints be obtained from the Federal Bureau of Investigation as part of the criminal records check.

Any fee required for the criminal records check must be paid by the applicant.¹⁹

The bill requires the BCII superintendent, on receipt of an applicant's completed form and a set of fingerprint impressions obtained as prescribed by the superintendent, to conduct a criminal records check to determine whether any information exists indicating that the applicant has been convicted of or pleaded guilty to any misdemeanor or felony in Ohio or equivalent offenses in any other state or the United States.²⁰

Consent/notice requirements for minors

For name change

The bill generally maintains the consent/notice requirements of current law with respect to name change applications for minors, except for the changes as explained above regarding the following:

- The addition of the supporting affidavit for the name change and the change from one year to 30 days regarding the county residency requirement (see "**Application and affidavit requirements**" discussed above);

¹⁸ R.C. 2717.20.

¹⁹ R.C. 2717.21.

²⁰ R.C. 109.572(A)(18).

- The hearing notice and hearing changes that replace current law (see “**Hearing and hearing notice**” discussed above).

For name conformity

The proof of consent/notice requirements for a name change application on behalf of a minor under continuing law, as modified by the bill, are applied to a name conformity application on behalf of a minor under the bill. So, when a name conformity application is made on behalf of a minor, in addition to the proof required under the name conformity application requirements applicable to adults (see “**Application requirements**” discussed above) and, if applicable, proof of notice, one of the following also shall apply:

- The consent of both of the minor’s living, legal parents must be filed;
- Notice of the hearing must be given to the parent or parents not consenting by certified mail, return receipt requested.

If there is no known father of the minor, the notice must be given to the person who the minor’s mother alleges to be the father. If no father is alleged, or if either parent or the address of either parent is unknown, notice by publication in the county’s newspaper of general circulation at least 30 days before the hearing must be sufficient as to the father or parent.

Any additional notice may be waived in writing by any person entitled to the notice.²¹

HISTORY

Action	Date
Introduced	10-13-20

S0373-I-133/ts

²¹ R.C. 2717.22.