

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 130

SPONSOR: Senator Dockery

SUBJECT: Name Change Petitions

DATE: February 10, 2004 REVISED: 02/18/04 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lang</u>	<u>Lang</u>	<u>JU</u>	<u>Fav/1 amendment</u>
2.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>ACJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill requires the 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. Every petitioner seeking a name change would be required to submit with the petition a set of the petitioner's fingerprints made by a law enforcement agency. The petitioner must show if he or she has ever been charged with, pled guilty or nolo contendere to, or been found to have committed any criminal offense. The cost of obtaining fingerprints is to be paid for by the petitioner.

FDLE must provide to the Department of Highway Safety and Motor Vehicles (DHSMV) a copy of each report of name change, including the set of fingerprints. FDLE and DHSMV may update their files to reflect the name change. FDLE could send the name change to any other law enforcement agency it believes may retain information related to the petitioner.

This bill substantially amends s. 68.07, Florida Statutes.

II. Present Situation:

Section 68.07, F.S., prescribes the requirements for obtaining a name change, including the requirements of the petitioner's 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., FDLE determines if the petitioner has a record as a convicted felon if the petitioner indicates on the petition form that he or she has been convicted of a felony.

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 stated 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 or the Federal Bureau of Investigation.

The 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 off on it if the paperwork is in order. No formal hearings are held.

III. Effect of Proposed Changes:

The bill requires the clerk to send to FDLE a report of *every* name change judgment accompanied by a set of the petitioner's fingerprints.

The bill requires every petitioner for a name change to submit with the petition a set of fingerprints made by a law enforcement agency. 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 ever been charged with, pled guilty or nolo contendere to, or been found to have committed any criminal offense.

The bill requires FDLE to copy the DHSMV electronically with the report, including the set of fingerprints, on those whose name has been changed. FDLE and DHSMV may revise their records to reflect the name change. FDLE may forward the report to any law enforcement agency it believes may retain information relating to the petitioner.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Petitioners will have to pay for a set of fingerprints to be taken by a law enforcement agency for the purpose of obtaining a name change. A telephonic survey of ten sheriff's departments located throughout the state found that most perform the service for \$5 or for no charge, although one jurisdiction charges up to \$15. A petitioner will also have to provide information on a broader range of his or her criminal activity than just a felony conviction.

C. Government Sector Impact:

Additional reporting requirements are placed on clerks of court, FDLE and DHSMV when a person's name is changed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Judiciary:

Adds to the list of criminal history information a petitioner for a name change must show. The petitioner also must show whether he or she has been arrested for a criminal offense.

#1 by Criminal Justice:

The amendment exempts persons who are having a former name restored from the requirement to submit fingerprints along with the name change petition. (WITH TITLE AMENDMENT)