

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1875 (PCB PS 03-14) Name Change Notification
SPONSOR(S): Public Safety & Crime Prevention
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2482

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety & Crime Prevention</u>	<u>14 Y, 0 N</u>	<u>Cole</u>	<u>De La Paz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

A name change packet can be obtained from any county courthouse from the Clerk of the Court's office. The generic forms that have been approved by the Florida Supreme Court may also be obtained on-line at www.flcourts.org.

FDLE is currently only notified of name changes of those people who have been convicted of a felony if those petitioners admit to the conviction on the name change affidavit. A sampling of Clerk's offices across the state showed that all of the offices contacted accept the notarized affidavit of a name change petitioner as fact. No subsequent investigation is done to verify any of the information provided on the affidavit. The counties contacted indicated that they do not have formal hearings before a judge to approve a name change petition. Instead, the court reviews the application affidavit and signs off on the petition if the paperwork is in order. Section 68.07(2)(h), F.S., requires that the court verify whether or not the petitioner has been convicted of a felony.

Information on name changes of people who were born in Florida is sent to the Office of Vital Statistics in the Department of Health. Approximately 2000 people per year for the last three years have had name changes approved that the Office of Vital Statistics was notified of. If a petitioner was born outside of the state or country, that information is forwarded to the appropriate state or country. Section 68.07(5), F.S., requires the Clerk of the Court to notify the Florida Department of Law Enforcement (FDLE) if a convicted felon has his or her name changed. FDLE was notified of 358 felon name changes in 2003 and twenty nine year to date.

HB 1875 will widen the scope of criminal history information currently provided to FDLE when a person changes their name. The bill amends s. 68.07(2)(h), F.S., to require the court to verify whether the petitioner has ever been charged with, pled guilty or nolo contendere to, or been found to have committed any criminal offense. The bill also requires a set of the petitioner's fingerprints and a FDLE provided report identifying the petitioner, be sent to FDLE on every name change petition filed within the state. The cost of having law enforcement take these fingerprints is to be paid for by the petitioner. The bill requires FDLE to notify the Department of Highway Safety and Motor Vehicles of these name changes.

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

STORAGE NAME: h1875.pscp.doc
DATE: April 16, 2003

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 type="checkbox"/> | N/A <input checked="" 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:

FDLE will receive a greater number of notifications from Clerks of the Court across the state. These notifications will have to be entered into their records. Other states and the federal government will also have to be notified of a greater number of name changes than they currently are.

B. EFFECT OF PROPOSED CHANGES:

Currently, s. 68.07, F.S., outlines the information that must be on a name change 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.

Section 68.07(2)(h), F.S., currently requires verification by the court of whether or not the petitioner is a convicted felon. The bill would amend this section to require verification of whether or not the petitioner has ever been charged with, pled guilty or nolo contendere to, or been found to have committed any criminal offense. The bill expands what gets reported to FDLE from only admitted convicted felons to anyone who petitions to have their name changed within the state.

Section 68.07(5), F.S., currently mandates that the Clerk of the Court notify FDLE of every convicted felon that has his or her name changed. This bill adds a requirement that the petitioner's fingerprints be sent to FDLE along with the required report of every one who petitions to have their name changed. This notification will allow law enforcement to have much greater oversight into exactly who is getting their name changed. The statute currently requires sufficient information to identify the original criminal record of the petitioner, the new name of the petitioner, and the file number of the petitioner. If the petitioner was convicted in another state, FDLE must notify that state or the Federal Bureau of Investigation. This procedure is not affected in any way. The bill provides that FDLE will forward the report to the Department of Highway Safety and Motor Vehicles. The bill states the cost of the fingerprinting shall be paid by the petitioner.

A sampling of Clerks' of Court across the state revealed that all of those contacted accepted the signed and notarized affidavit from a petitioner as fact.¹ No further investigation is done to verify any of the information on the affidavit, 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.

This bill will change the wording on the form in the name change packet, but not the actual procedure. While this bill will greatly expand the scope of information submitted to FDLE with respect to people charged with crimes who are seeking a name change, it does not address the circumstances where the petitioner fails to disclose or misrepresents his or her criminal history. Section 837.02, F.S., currently makes it a third degree felony for anyone to make a false statement, which he or she does not believe to be true, under oath in an official proceeding in regard to any material matter. It could be argued that

¹ Staff contacted the Clerks of the Court for Escambia, Leon, Duval, Volusia, Hillsborough, and Miami-Dade counties.

withholding a criminal history would be a material matter. If a petitioner were to be found to be untruthful, they would be prosecuted under this section of existing law.

C. SECTION DIRECTORY:

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

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See Fiscal Comments.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: N/A.
2. Expenditures: N/A.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: The cost of fingerprinting the petitioner at a law enforcement agency will be paid by the petitioner. The various Clerks of the Court throughout the state will be required to fill out the one page FDLE report with sufficient information to identify the original criminal record of the petitioner, the felons. This report and fingerprint card will then be mailed to FDLE for processing. The cost of mailing the forms could be offset by taking the report and associated fingerprint card to a FDLE office and have that office send it to Tallahassee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A.
2. Other: N/A.

B. RULE-MAKING AUTHORITY: N/A.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Amendment 1

The Public Safety and Crime Prevention Committee adopted a strike-all amendment to the original draft which requires every name change petition in the state be accompanied by a set of fingerprints of the petitioner that were taken by law enforcement. The cost of getting fingerprinted will be born by the petitioner. The name change affidavit will also now ask if a petitioner has ever been charged with, pled guilty or nolo contendere to, or been found to have committed any criminal offense.