

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill increases the procedural requirements for, and the cost of, certain petitions for a 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.¹ Section 68.07(2), F.S., also provides that the petition must be verified and provide certain identifying and personal background information about the petitioner seeking the change of name.

A petition for change of name that meets the statutory requirements should be granted by the court in the absence of evidence of a wrongful or fraudulent purpose.² The court cannot deny a petition based solely on the fact that the petitioner is a felon. Convicted felons are free to seek a change of name as freely as any other citizen, and the court must grant the name change unless the petition does not meet the set statutory requirements, or the name change is shown to be for fraudulent or other illegal purposes.

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 FBI. The FDLE may also forward the report to any other law enforcement agency it believes may retain information related to the petitioner.³

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

Effect of Bill

This bill amends s. 68.07(2), F.S., to require that a petition for a change of name, 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 cost of the fee, paid by the petitioner, is the amount set by s. 943.053, F.S.⁴ for the state criminal history records check, plus the amount set by the FBI⁵ 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

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

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

³ Section 68.07(5), F.S.

⁴ The fee per record for criminal history information is \$23 per name submitted. s. 943.053(3)(b), F.S.

⁵ FDLE requires a fee of \$47 to process a state and Federal (FBI) criminal history records check according to the FDLE website; www.fdle.state.fl.us/CriminalHistory. (accessed on Feb. 09, 2007)

the criminal history check are then returned to the clerk to be used by the court in determining whether to grant the petition for name change. When a petition for a change of name is granted the clerk must send the second set of fingerprints to the FDLE as required by s. 68.07(5), F.S. While this bill requires that a court receive a criminal history background check before granting certain petitions, it does not alter the court's discretion on whether or not to grant the petition.

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. This provision conforms to the changes made in this bill requiring a criminal background check be performed before there may be a hearing on the petition.

C. SECTION DIRECTORY:

Section 1 amends s. 68.07, F.S., relating to change of name.

Section 2 provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill appears to have an estimated positive recurring fiscal impact of \$74,060 deposited into the FDLE Operating Trust Fund.⁶

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will increase the cost to a person seeking a change of name by \$47.

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.

⁶ Estimated values provided by the FDLE, Feb. 9, 2007.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.