



Ohio Legislative Service Commission

Bill Analysis

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S.B. 76

129th General Assembly
(As Introduced)

Sens. Skindell, Turner, Hughes, Smith, Brown

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 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 has pleaded guilty to, been convicted of, or been adjudicated a delinquent child for committing identity fraud.

CONTENT AND OPERATION

Introduction

Existing law provides a statutory mechanism that a person may use to change the person's name (see "**Common law change of name**" under "**Background**," below). Under the procedure, the person requesting the change of name, or an adult with a specified relationship if the change is being requested for a minor, must file an application for the change in the probate court of the county in which the person resides. The application must contain specified information, notice of the application

must be published in a specified manner, and, if specified criteria are satisfied, the probate court may order the change.¹

Operation of the bill

Content of application

The bill expands the information that must be included on an application for a change of name under the statutory name-change mechanism. Under the bill, in addition to the information that currently must be included on the application, the application must 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 "**Identity fraud**" under "**Background**," below) 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 (see "**SORN Law**" under "**Background**," below).²

Prohibitions against granting of application

The bill enacts two exceptions to the portion of the existing statutory name-change mechanism that currently provides that, if specified criteria are satisfied, the probate court may order the change. Under the bill, regardless of whether those criteria are satisfied, a probate court is prohibited from ordering a change of name under the mechanism 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 (see "**SORN Law**," under "**Background**," below). Also under the bill, regardless of whether those criteria are satisfied, a probate court is prohibited 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 "**Identity fraud**" under "**Background**," below) unless the guilty plea, conviction, or adjudication has been reversed on appeal.³

¹ R.C. 2717.01.

² R.C. 2717.01(A).

³ 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 (see "**SORN Law**," under "**Background**," below).⁴

Existing law

Under existing statutory law, a person desiring a change of name may file an application in the probate court of the county in which the person resides. 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.⁵

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.⁶ Existing law does not include a specific statutory requirement that probate courts have standard change-of-name application forms.

Background

Common law change of name

The Ohio Supreme Court has held that, in Ohio, a person may change his or her name by petitioning the probate court or by the common law method of simply

⁴ R.C. 2717.01(C).

⁵ R.C. 2717.01(A).

⁶ R.C. 2717.01(B).

adopting a new name, as long as the change is not made with intent to deceive or defraud.⁷

Identity fraud

The identity fraud statute⁸ 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 doing any of the following:

- (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;
- (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.

⁷ *State ex rel. Miller v. Cuyahoga County Bd. of Elections* (2004), 103 Ohio St.3d 477; *Bobo v. Jewell* (1988), 38 Ohio St.3d 330; *State ex rel. Morrison v. Franklin County Bd. of Elections* (1980), 63 Ohio St.2d 336; *Pierce v. Brushart* (1950), 153 Ohio St. 372.

⁸ R.C. 2913.49, not in the bill.

SORN Law

The SORN Law requires a person who is convicted of or pleads guilty to a "sexually oriented offense" or a "child-victim oriented offense" to register with the sheriff of the county in which the person was convicted of or pleaded guilty to the offense, to register a residence address and a school, institution of higher education, or work address, to provide notice of a change of address and register the new address, and to periodically verify the registered address. Children who are adjudicated delinquent children for committing a sexually oriented offense or a child-victim oriented offense and who are classified by the juvenile court as "juvenile offender registrants" also generally are subject to these duties. Juvenile offender registrants are subject to the school, institution of higher education, and work address provisions only if they also are classified as "public registry-qualified juvenile offender registrants," and they are not subject to the residency restriction.

An offender who is convicted of or pleads guilty to a sexually oriented offense or a child-victim oriented offense and who is classified a "Tier III sex offender/child-victim offender" (the most serious of the three tiers) or a child who is adjudicated a delinquent child for committing any such offense and is classified a juvenile offender registrant and a Tier III sex offender/child-victim offender also has a duty to provide notice of an intent to reside in a county.⁹

Existing R.C. 2950.01 specifies that, as used in the SORN Law:¹⁰

"Child-victim oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age, when the victim is under 18 and is not a child of the person who commits the violation: (1) kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the violation is not included in paragraph (7) of the definition of "sexually oriented offense" set forth above, (2) except when committed with a sexual motivation, abduction, unlawful restraint, or criminal child enticement, (3) a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed

⁹ R.C. 2950.04 and 2950.041, not in the bill; also, R.C. 2152.82 to 2152.86, 2950.01, 2950.05, and 2950.06, not in the bill.

¹⁰ R.C. 2950.01, not in the bill.

in clause (1) or (2) of this paragraph, or (4) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (1), (2), or (3) of this paragraph.

"Sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of whether the person is 18 years of age or older or is under 18 years of age:

(1) Rape, sexual battery, gross sexual imposition, sexual imposition, importuning, voyeurism, compelling prostitution, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, or illegal use of a minor in nudity-oriented material or performance;

(2) Unlawful sexual conduct with a minor when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(3) Unlawful sexual conduct with a minor when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(4) Aggravated murder, murder, or felonious assault when the violation was committed with a sexual motivation;

(5) Involuntary manslaughter, when the base offense is a felony and when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(6) Menacing by stalking committed with a sexual motivation;

(7) Kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the offense is committed with a sexual motivation;

(8) Kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will;

(9) Kidnapping when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the victim of the offense is under 18 and the offender is not a parent of the victim of the offense;

(10) Abduction, unlawful restraint, and criminal child enticement committed with a sexual motivation, or endangering children committed by enticing, permitting, using, or allowing, etc., a child to participate in or be photographed for material or performance that is obscene, is sexually oriented matter, or is nudity-oriented matter;

(11) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in paragraphs (1) to (10) under this definition;

(12) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraphs (1) to (11) under this definition.

HISTORY

ACTION	DATE
Introduced	02-16-11

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