**Senate Fiscal Agency**
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BILL ANALYSIS

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Senate Bills 318 and 346 (as enrolled)
Sponsor: Senator William Van Regenmorter (Senate Bill 318)
            Senator Glenn D. Steil (Senate Bill 346)
Senate Committee: Judiciary
House Committee: Judiciary and Civil Rights

Date Completed: 1-21-97

<u>**PUBLIC ACTS 105 and 106 of 1996**</u>

## RATIONALE

Apparently, it is relatively easy in Michigan for a person to change his or her name, either through probate court proceedings or through the simple exercise of his or her common law right to do so. Changing names can allow an individual to secure a new birth certificate, which, in turn, can enable that person to obtain a new Social Security number. Reportedly, it was not uncommon for prisoners to take advantage of these simple procedures to change their names while incarcerated. Some people believed that, to ensure accurate accounts of criminal records, a person who petitions for a legal name change should have to be screened for past criminal actions, and, if a name change is granted to a person with a criminal record, the order granting the change should be sent to the State Police. In addition, they contended, if a current or recent prisoner is granted a name change, the Department of Corrections (DOC) or county sheriff, as well as the person's victims, should be notified.

## CONTENT

**Senate Bills 318 and 346 amended the Crime Victim's Rights Act and the law that governs the probate court (Chapter XI of Public Act 288 of 1939), respectively, to require notice to crime victims when a prisoner or juvenile offender legally changes his or her name; and to require a person who petitions to have his or her name changed undergo fingerprinting and a criminal history check by the Department of State Police and the FBI.**

The bills took effect April 1, 1996.

### Senate Bill 318

The Crime Victim's Rights Act requires that, upon the written request of a victim of a crime, a county sheriff or the DOC mail to the victim certain information about a prisoner who was sentenced for commission of that crime, and that the probate court or the Department of Social Services (now the Family Independence Agency (FIA)) make a good faith effort to notify the victim of a juvenile offender before certain events occur.

The bill added to the list of information that must be provided to a victim of a felony, notice that a prisoner has had his or her name legally changed while on parole or within two years of release from parole. A victim of a serious misdemeanor must be notified that a prisoner has had his or her name legally changed while imprisoned in the county jail or within two years of release from the county jail. The court or FIA must make a good faith effort to notify a victim of a juvenile offender before that juvenile has his or her name legally changed while under the jurisdiction of the probate court or within two years of discharge from the court's jurisdiction.

### Senate Bill 346

Public Act 288 of 1939 authorizes the probate court to enter an order to change the name of a person who has been a resident of the county for at least one year and who makes a written petition to the court for that purpose showing a sufficient reason for the proposed change and that the change is not sought with any fraudulent intent. The bill specifies that if the person who makes a petition has a criminal record, he or she is presumed to be seeking a name change with a fraudulent intent. The burden of proof is on the petitioner to rebut the presumption. The bill also specifies that a false statement that is intentionally included within a petition for a name change constitutes perjury under the Michigan Penal Code.

Under the bill, a person who is at least 22 years old and who makes a petition to have his or her

name changed, must have two complete sets of his or her fingerprints taken at a local police agency. The fingerprints, along with a copy of the petition and the required processing fees, must be forwarded to the Department of State Police. The Department must compare those fingerprints with its records and forward one set to the FBI for a comparison with the FBI's records. The Department must report to the court the information contained in the Department's records with respect to any pending charges against the applicant or any record of conviction and similar information obtained from the FBI. If there are no pending changes or record of conviction against the applicant, the Department must destroy its copy of his or her fingerprints. The court may not act on the name change petition until the Department makes its report.

If the court enters an order to change the name of a person who has a criminal record, it must forward the order to the central records division of the Michigan State Police and to one or more of the following:

-- The Department of Corrections, if the person named in the order is in prison or on parole or has been imprisoned or released from parole in the immediately preceding two years.
-- The sheriff of the county in which the person named in the order was last convicted, if the person was incarcerated in a county jail or released from a county jail within the immediately preceding two years.
-- The probate court that has jurisdiction over the person named in the order, if he or she is under the jurisdiction of the probate court or has been discharged from the probate court's jurisdiction within the immediately preceding two years.

MCL 780.769 et al. (S.B. 318)
    711.1 (S.B. 346)

## ARGUMENTS

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### Supporting Argument
The simple procedure for changing one's name in Michigan can undermine legal efforts to protect victims of crime, because prisoners and others with a criminal record can, in effect, circumvent laws that are designed to protect victims from offenders and track criminals' records. Although

the Department of Corrections or a county sheriff, whichever has jurisdiction over an incarcerated person, must notify the prisoner's victim of certain developments related to the prisoner's confinement, the law did not require that a victim be notified of an offender's name change. This skirted the rationale for the Crime Victim's Rights Act: that victims should be kept informed about offenders' status within the criminal justice system. By requiring victim notification when a prisoner changes his or her name, the bills address shortcomings in the law that enabled a released prisoner to distance himself or herself from past activities. Moreover, according to the DOC, a prisoner or parolee will no longer be permitted to change his or her name from the name under which he or she was received by the Department, except by an order of the court.

### Supporting Argument
Senate Bill 346 will ensure that, whenever a person petitions the court for a name change, a thorough review of his or her criminal past will be conducted. The court, then, may take the person's record into consideration when determining whether to grant or deny the petition. That bill also will ensure that, if the petition is granted for a person who has a criminal record, law enforcement agencies will be kept abreast of the person's change of name so that criminal history records are up-to-date.

Legislative Analyst: P. Affholter
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## FISCAL IMPACT

Senate Bill 318 will have no fiscal impact on State or local government.

Senate Bill 346 will have no fiscal impact on State or local government should fees for fingerprints/searches be imposed as provided by law and as required under the bill's provisions. Current costs for fingerprint searches of criminal justice records include $24 for an FBI search and $15 for a State Police search.

The bill will have no fiscal impact on the courts.

Fiscal Analyst: B. Baker
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