

By the Committees on Governmental Oversight and Accountability;
and Judiciary; and Senators Hays and Evers

585-02865-13

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1 A bill to be entitled
2 An act relating to application of foreign law in
3 certain cases; creating s. 45.022, F.S.; providing
4 intent; defining the term "foreign law, legal code, or
5 system"; clarifying that the public policies expressed
6 in the act apply to violations of a natural person's
7 fundamental liberties, rights, and privileges
8 guaranteed by the State Constitution or the United
9 States Constitution in certain proceedings or actions
10 brought after the act becomes a law; providing that
11 the act does not apply to a corporation, partnership,
12 or other form of business association, except when
13 necessary to provide effective relief in actions or
14 proceedings under or relating to chapters 61 and 88,
15 F.S.; specifying the public policy of this state in
16 applying the choice of a foreign law, legal code, or
17 system under certain circumstances in proceedings
18 brought under or relating to chapters 61 and 88, F.S.,
19 which relate to dissolution of marriage, support,
20 time-sharing, the Uniform Child Custody Jurisdiction
21 and Enforcement Act, and the Uniform Interstate Family
22 Support Act; declaring that certain decisions rendered
23 under such laws, codes, or systems are void; declaring
24 that certain choice of venue or forum provisions in a
25 contract are void; providing for the construction of a
26 waiver by a natural person of the person's fundamental
27 liberties, rights, and privileges guaranteed by the
28 State Constitution or the United States Constitution;
29 declaring that claims of forum non conveniens or

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30 related claims must be denied under certain
31 circumstances; providing that the act may not be
32 construed to require or authorize any court to
33 adjudicate, or prohibit any religious organization
34 from adjudicating, ecclesiastical matters in violation
35 of specified constitutional provisions or to conflict
36 with any federal treaty or other international
37 agreement to which the United States is a party to a
38 specified extent; providing for severability;
39 providing a directive to the Division of Law Revision
40 and Information; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

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44 Section 1. Section 45.022, Florida Statutes, is created to
45 read:

46 45.022 Application of foreign law contrary to public policy
47 in certain cases.-

48 (1) While the Legislature fully recognizes the right to
49 contract freely under the laws of this state, it also recognizes
50 that this right may be reasonably and rationally circumscribed
51 pursuant to the state's interest to protect and promote
52 liberties, rights, and privileges granted under the State
53 Constitution or the United States Constitution.

54 (2) As used in this section, the term "foreign law, legal
55 code, or system" means any law, legal code, or system of a
56 foreign country, or a state, nation, or subdivision thereof,
57 outside of the United States or its territories, including, but
58 not limited to, a foreign or international organization claiming

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59 the status of a country, state, or nation or asserting legal
60 authority to act on behalf of one or more foreign countries,
61 states, nations, or any other similar international organization
62 or tribunal, which is applied by that jurisdiction's courts,
63 administrative bodies, or other formal or informal tribunals.
64 The term does not include the common law and statute laws of
65 England as described in s. 2.01 or any laws of the Native
66 American tribes in this state.

67 (3) (a) This section applies only to actual or foreseeable
68 denials of a natural person's fundamental liberties, rights, and
69 privileges guaranteed by the State Constitution or the United
70 States Constitution from the application of a foreign law, legal
71 code, or system in actions or proceedings brought under,
72 pursuant to, or pertaining to the subject matter of chapter 61
73 or chapter 88 and filed after the effective date of this act.

74 (b) Except as necessary to provide effective relief in
75 actions or proceedings brought under, pursuant to, or pertaining
76 to the subject matter of chapter 61 or chapter 88, this section
77 does not apply to a corporation, partnership, or other form of
78 business association.

79 (4) Any court, arbitration, tribunal, or administrative
80 agency ruling or decision violates the public policy of this
81 state and is void and unenforceable if the court, arbitration,
82 tribunal, or administrative agency bases its ruling or decision
83 in the matter at issue in whole or in part on any foreign law,
84 legal code, or system that does not grant the parties affected
85 by the ruling or decision the same fundamental liberties,
86 rights, and privileges guaranteed by the State Constitution or
87 the United States Constitution.

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88 (5) (a) A contract or contractual provision, if severable,
89 that provides for the choice of a foreign law, legal code, or
90 system to govern some or all of the disputes between the parties
91 to be adjudicated by a court of law or by an arbitration panel
92 arising from the contract violates the public policy of this
93 state and is void and unenforceable if the foreign law, legal
94 code, or system chosen includes or incorporates any substantive
95 or procedural law, as applied to the dispute at issue, which
96 would not grant the parties the same fundamental liberties,
97 rights, and privileges guaranteed by the State Constitution or
98 the United States Constitution.

99 (b) This subsection does not limit the right of a natural
100 person in this state to voluntarily restrict or limit his or her
101 fundamental liberties, rights, and privileges guaranteed by the
102 State Constitution or the United States Constitution by contract
103 or specific waiver consistent with constitutional principles,
104 but the language of any such contract or other waiver must be
105 strictly construed in favor of preserving such liberties,
106 rights, and privileges.

107 (6) (a) A contract or contractual provision, if severable,
108 that provides for the choice of venue or choice of forum outside
109 a state or territory of the United States violates the public
110 policy of this state and is void and unenforceable if the
111 enforcement of the choice of venue or forum provision would
112 result in a violation of any fundamental liberties, rights, and
113 privileges guaranteed by the State Constitution or the United
114 States Constitution.

115 (b) If a natural person who is subject to personal
116 jurisdiction in this state seeks to maintain litigation,

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117 arbitration, agency, or similarly binding proceedings in this
118 state and the courts of this state find that granting a claim of
119 forum non conveniens or a related claim denies or would likely
120 lead to the denial of any fundamental liberties, rights, and
121 privileges guaranteed by the State Constitution or the United
122 States Constitution of the nonclaimant in the foreign forum with
123 respect to the matter in dispute, it is the public policy of
124 this state that the claim be denied.

125 (7) This section may not be construed to:

126 (a) Require or authorize any court to adjudicate, or
127 prohibit any religious organization from adjudicating,
128 ecclesiastical matters, including, but not limited to, the
129 election, appointment, calling, discipline, dismissal, removal,
130 or excommunication of a member, officer, official, priest, nun,
131 monk, pastor, rabbi, imam, or member of the clergy of the
132 religious organization, or determination or interpretation of
133 the doctrine of the religious organization, if such adjudication
134 or prohibition would violate s. 3, Art. I of the State
135 Constitution or the First Amendment to the United States
136 Constitution; or

137 (b) Conflict with any federal treaty or other international
138 agreement to which the United States is a party to the extent
139 that such federal treaty or international agreement preempts or
140 is superior to state law on the matter at issue.

141 (8) If any provision of this section or its application to
142 any natural person or circumstance is held invalid, the
143 invalidity does not affect other provisions or applications of
144 this section which can be given effect, and to that end the
145 provisions of this section are severable.

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146 Section 2. The Division of Law Revision and Information is
147 directed to replace the phrase "the effective date of this act"
148 wherever it occurs in this act with the date this act becomes a
149 law.

150 Section 3. This act shall take effect upon becoming a law.