

By Senator Hays

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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; providing that the act does not  
10          apply to a corporation, partnership, or other form of  
11          business association, except when necessary to provide  
12          effective relief in proceedings under or relating to  
13          chapters 61 and 88, F.S.; specifying the public policy  
14          of this state in applying the choice of a foreign law,  
15          legal code, or system under certain circumstances in  
16          proceedings brought under or relating to chapters 61  
17          and 88, F.S., which relate to dissolution of marriage,  
18          support, time-sharing, the Uniform Child Custody  
19          Jurisdiction and Enforcement Act, and the Uniform  
20          Interstate Family Support Act; declaring that certain  
21          decisions rendered under such laws, codes, or systems  
22          are void; declaring that certain choice of venue or  
23          forum provisions in a contract are void; providing for  
24          the construction of a waiver by a natural person of  
25          the person's fundamental liberties, rights, and  
26          privileges guaranteed by the State Constitution or the  
27          United States Constitution; declaring that claims of  
28          forum non conveniens or related claims must be denied  
29          under certain circumstances; providing that the act

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30 may not be construed to require or authorize any court  
31 to adjudicate, or prohibit any religious organization  
32 from adjudicating, ecclesiastical matters in violation  
33 of specified constitutional provisions or to conflict  
34 with any federal treaty or other international  
35 agreement to which the United States is a party to a  
36 specified extent; providing for severability;  
37 providing an effective date.

38  
39 Be It Enacted by the Legislature of the State of Florida:

40  
41 Section 1. Section 45.022, Florida Statutes, is created to  
42 read:

43 45.022 Application of foreign law contrary to public policy  
44 in certain cases.-

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

51 (2) As used in this section, the term "foreign law, legal  
52 code, or system" means any law, legal code, or system of a  
53 jurisdiction outside any state or territory of the United  
54 States, including, but not limited to, international  
55 organizations or tribunals, and applied by that jurisdiction's  
56 courts, administrative bodies, or other formal or informal  
57 tribunals. The term does not include the common law and statute  
58 laws of England as described in s. 2.01 or any laws of the

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59 Native American tribes in this state.

60 (3) (a) This section applies only to actual or foreseeable  
61 denials of a natural person's fundamental liberties, rights, and  
62 privileges guaranteed by the State Constitution or the United  
63 States Constitution from the application of a foreign law, legal  
64 code, or system in proceedings brought under, pursuant to, or  
65 pertaining to the subject matter of chapter 61 or chapter 88.

66 (b) Except as necessary to provide effective relief in  
67 proceedings brought under, pursuant to, or pertaining to the  
68 subject matter of chapter 61 or chapter 88, this section does  
69 not apply to a corporation, partnership, or other form of  
70 business association.

71 (4) Any court, arbitration, tribunal, or administrative  
72 agency ruling or decision violates the public policy of this  
73 state and is void and unenforceable if the court, arbitration,  
74 tribunal, or administrative agency bases its ruling or decision  
75 in the matter at issue in whole or in part on any foreign law,  
76 legal code, or system that does not grant the parties affected  
77 by the ruling or decision the same fundamental liberties,  
78 rights, and privileges guaranteed by the State Constitution or  
79 the United States Constitution.

80 (5) (a) A contract or contractual provision, if severable,  
81 that provides for the choice of a foreign law, legal code, or  
82 system to govern some or all of the disputes between the parties  
83 to be adjudicated by a court of law or by an arbitration panel  
84 arising from the contract violates the public policy of this  
85 state and is void and unenforceable if the foreign law, legal  
86 code, or system chosen includes or incorporates any substantive  
87 or procedural law, as applied to the dispute at issue, which

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88 would not grant the parties the same fundamental liberties,  
89 rights, and privileges guaranteed by the State Constitution or  
90 the United States Constitution.

91 (b) This subsection does not limit the right of a natural  
92 person in this state to voluntarily restrict or limit his or her  
93 fundamental liberties, rights, and privileges guaranteed by the  
94 State Constitution or the United States Constitution by contract  
95 or specific waiver consistent with constitutional principles,  
96 but the language of any such contract or other waiver must be  
97 strictly construed in favor of preserving such liberties,  
98 rights, and privileges.

99 (6) (a) If any contractual provision or agreement provides  
100 for the choice of venue or forum outside a state or territory of  
101 the United States, and if the enforcement or interpretation of  
102 the contract or agreement applying that choice of venue or forum  
103 provision would result in a violation of any fundamental  
104 liberties, rights, and privileges guaranteed by the State  
105 Constitution or the United States Constitution, that contractual  
106 provision or agreement shall be interpreted or construed to  
107 preserve such liberties, rights, and privileges of the person  
108 against whom enforcement is sought.

109 (b) If a natural person who is subject to personal  
110 jurisdiction in this state seeks to maintain litigation,  
111 arbitration, agency, or similarly binding proceedings in this  
112 state and the courts of this state find that granting a claim of  
113 forum non conveniens or a related claim denies or would likely  
114 lead to the denial of any fundamental liberties, rights, and  
115 privileges guaranteed by the State Constitution or the United  
116 States Constitution of the nonclaimant in the foreign forum with

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117 respect to the matter in dispute, it is the public policy of  
118 this state that the claim be denied.

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

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

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

135 (8) If any provision of this section or its application to  
136 any natural person or circumstance is held invalid, the  
137 invalidity does not affect other provisions or applications of  
138 this section which can be given effect, and to that end the  
139 provisions of this section are severable.

140 Section 2. This act shall take effect upon becoming a law.