

By Senator Hays

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1 A bill to be entitled
2 An act relating to the application of foreign law in
3 certain cases; creating s. 45.022, F.S.; providing
4 legislative intent; defining the term "foreign law,
5 legal code, or system"; providing for applicability;
6 specifying the public policy of this state on the
7 application of a foreign law, legal code, or system in
8 proceedings brought under or relating to chapter 61 or
9 chapter 88, F.S., which relate to dissolution of
10 marriage, support, time-sharing, the Uniform Child
11 Custody Jurisdiction and Enforcement Act, and the
12 Uniform Interstate Family Support Act; providing that
13 certain decisions rendered under such laws, codes, or
14 systems are void; providing that certain contracts and
15 contract provisions are void; providing for the
16 construction of a waiver by a natural person of the
17 person's fundamental liberties, rights, and privileges
18 guaranteed by the State Constitution or the United
19 States Constitution; providing that claims of forum
20 non conveniens or related claims must be denied under
21 certain circumstances; providing that the act may not
22 be construed to require or authorize any court to
23 adjudicate, or prohibit any religious organization
24 from adjudicating, ecclesiastical matters in violation
25 of specified constitutional provisions or to conflict
26 with any federal treaty or other international
27 agreement to which the United States is a party to a
28 specified extent; providing for severability;
29 providing a directive to the Division of Law Revision

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30 and Information; providing an effective date.

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32 Be It Enacted by the Legislature of the State of Florida:

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34 Section 1. Section 45.022, Florida Statutes, is created to
35 read:

36 45.022 Application of foreign law contrary to public policy
37 in certain cases.-

38 (1) While the Legislature fully recognizes the right to
39 contract freely under the laws of this state, it also recognizes
40 that this right may be reasonably and rationally circumscribed
41 pursuant to the interest of the state to protect and promote
42 liberties, rights, and privileges granted under the State
43 Constitution or the United States Constitution.

44 (2) As used in this section, the term "foreign law, legal
45 code, or system" means any law, legal code, or system of a
46 foreign country, or a state, nation, or subdivision thereof,
47 outside the United States or its territories, including, but not
48 limited to, a foreign or international organization claiming the
49 status of a country, state, or nation or asserting legal
50 authority to act on behalf of one or more foreign countries,
51 states, nations, or any other similar international
52 organizations or tribunals, which is applied by that
53 jurisdiction's courts, administrative bodies, or other formal or
54 informal tribunals. The term does not include the common law and
55 statute laws of England as described in s. 2.01 or any laws of
56 the Native American tribes in this state.

57 (3) This section applies:

58 (a) Only to actual or foreseeable denials of a natural

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59 person's fundamental liberties, rights, and privileges
60 guaranteed by the State Constitution or the United States
61 Constitution from the application of a foreign law, legal code,
62 or system in actions or proceedings brought under, pursuant to,
63 or pertaining to the subject matter of chapter 61 or chapter 88
64 and filed after the effective date of this act; and

65 (b) To a corporation, partnership, or other form of
66 business association only as necessary to provide effective
67 relief in actions or proceedings brought under, pursuant to, or
68 pertaining to the subject matter of chapter 61 or chapter 88.

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

78 (5) A contract, or contractual provision, if severable,
79 violates the public policy of this state and is void and
80 unenforceable if:

81 (a) The contract or contractual provision provides for the
82 choice of a foreign law, legal code, or system to govern some or
83 all of the disputes arising from the contract between the
84 parties and the foreign law, legal code, or system chosen
85 includes or incorporates any substantive or procedural law, as
86 applied to the dispute at issue, which would deny the parties
87 the same fundamental liberties, rights, and privileges

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

97 (b) The contract or contractual provision provides for the
98 choice of venue or choice of forum outside a state or territory
99 of the United States and the enforcement of the choice of venue
100 or choice of forum provision would result in a violation of any
101 fundamental liberties, rights, and privileges guaranteed by the
102 State Constitution or the United States Constitution.

103 (6) If a natural person who is subject to personal
104 jurisdiction in this state seeks to maintain litigation,
105 arbitration, agency, or similarly binding proceedings in this
106 state and the courts of this state find that granting a claim of
107 forum non conveniens or a related claim denies or would likely
108 lead to the denial of any fundamental liberties, rights, and
109 privileges of the nonclaimant guaranteed by the State
110 Constitution or the United States Constitution in the foreign
111 forum with respect to the matter in dispute, it is the public
112 policy of this state that the claim be denied.

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

114 (a) Require or authorize any court to adjudicate, or
115 prohibit any religious organization from adjudicating,
116 ecclesiastical matters, including, but not limited to, the

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117 election, appointment, calling, discipline, dismissal, removal,
118 or excommunication of a member, officer, official, priest, nun,
119 monk, pastor, rabbi, imam, or member of the clergy of the
120 religious organization, or determination or interpretation of
121 the doctrine of the religious organization, if such adjudication
122 or prohibition would violate s. 3, Art. I of the State
123 Constitution or the First Amendment to the United States
124 Constitution; or

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

129 Section 2. If any provision of this act or its application
130 to any natural person or circumstance is held invalid, the
131 invalidity does not affect other provisions or applications of
132 this act which can be given effect without the invalid provision
133 or application, and to that end the provisions of this act are
134 severable.

135 Section 3. The Division of Law Revision and Information is
136 directed to replace the phrase "the effective date of this act"
137 wherever it occurs in this act with the date this act becomes a
138 law.

139 Section 4. This act shall take effect upon becoming a law.