

Committee on Judiciary

SB 386 — Application of Foreign Law in Courts

by Senator Hays

This bill is intended to ensure that Floridians will be protected from the application of unfair and unjust laws of foreign nations during the litigation of family law and child custody matters. This bill codifies existing case law from appellate and Florida Supreme Court opinions.

The bill prohibits courts from enforcing a foreign law that violates the strong public policy of this state or that is unjust or unreasonable. Similarly, the bill prohibits a court from enforcing:

- A choice of law clause selecting a foreign law to govern the contract if the foreign law contravenes the strong public policy of this state or is unjust or unreasonable; or
- A forum selection clause that selects a foreign court to resolve disputes arising under the contract if the clause is unreasonable or unjust or if strong public policy would prohibit the enforceability of the clause.

Additionally, the bill limits the authority of courts to enforce foreign judgments or dismiss a case for filing in another country. Under the bill, a court may not enforce judgment or order of a foreign court or tribunal if the parties were not afforded due process rights or if the foreign court or tribunal did not have jurisdiction over the matter. Additionally, a court must find that an adequate alternate forum exists before the court dismisses an action on the basis that a satisfactory remedy may be more conveniently sought in another country.

If approved by the Governor, these provisions take effect October 1, 2014.

Vote: Senate 24-14; House 78-40