



325148

LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/24/2013 11:53 AM

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Senator Hays moved the following:

Senate Amendment (with title amendment)

Between lines 191 and 192

insert:

Section. 6 Section 45.022, Florida Statutes, is created to read:

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

(1) While the Legislature fully recognizes the right to contract freely under the laws of this state, it also recognizes that this right may be reasonably and rationally circumscribed pursuant to the state's interest to protect and promote liberties, rights, and privileges granted under the State



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14 Constitution or the United States Constitution.

15 (2) As used in this section, the term "foreign law, legal
16 code, or system" means any law, legal code, or system of a
17 foreign country, or a state, nation, or subdivision thereof,
18 outside of the United States or its territories, including, but
19 not limited to, a foreign or international organization claiming
20 the status of a country, state, or nation or asserting legal
21 authority to act on behalf of one or more foreign countries,
22 states, nations, or any other similar international organization
23 or tribunal, which is applied by that jurisdiction's courts,
24 administrative bodies, or other formal or informal tribunals.
25 The term does not include the common law and statute laws of
26 England as described in s. 2.01 or any laws of the Native
27 American tribes in this state.

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

35 (b) Except as necessary to provide effective relief in
36 actions or proceedings brought under, pursuant to, or pertaining
37 to the subject matter of chapter 61 or chapter 88, this section
38 does not apply to a corporation, partnership, or other form of
39 business association.

40 (4) Any court, arbitration, tribunal, or administrative
41 agency ruling or decision violates the public policy of this
42 state and is void and unenforceable if the court, arbitration,



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43 tribunal, or administrative agency bases its ruling or decision
44 in the matter at issue in whole or in part on any foreign law,
45 legal code, or system that does not grant the parties affected
46 by the ruling or decision the same fundamental liberties,
47 rights, and privileges guaranteed by the State Constitution or
48 the United States Constitution.

49 (5) (a) A contract or contractual provision, if severable,
50 that provides for the choice of a foreign law, legal code, or
51 system to govern some or all of the disputes between the parties
52 to be adjudicated by a court of law or by an arbitration panel
53 arising from the contract violates the public policy of this
54 state and is void and unenforceable if the foreign law, legal
55 code, or system chosen includes or incorporates any substantive
56 or procedural law, as applied to the dispute at issue, which
57 would not grant the parties the same fundamental liberties,
58 rights, and privileges guaranteed by the State Constitution or
59 the United States Constitution.

60 (b) This subsection does not limit the right of a natural
61 person in this state to voluntarily restrict or limit his or her
62 fundamental liberties, rights, and privileges guaranteed by the
63 State Constitution or the United States Constitution by contract
64 or specific waiver consistent with constitutional principles,
65 but the language of any such contract or other waiver must be
66 strictly construed in favor of preserving such liberties,
67 rights, and privileges.

68 (6) (a) A contract or contractual provision, if severable,
69 that provides for the choice of venue or choice of forum outside
70 a state or territory of the United States violates the public
71 policy of this state and is void and unenforceable if the



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72 enforcement of the choice of venue or forum provision would
73 result in a violation of any fundamental liberties, rights, and
74 privileges guaranteed by the State Constitution or the United
75 States Constitution.

76 (b) If a natural person who is subject to personal
77 jurisdiction in this state seeks to maintain litigation,
78 arbitration, agency, or similarly binding proceedings in this
79 state and the courts of this state find that granting a claim of
80 forum non conveniens or a related claim denies or would likely
81 lead to the denial of any fundamental liberties, rights, and
82 privileges guaranteed by the State Constitution or the United
83 States Constitution of the nonclaimant in the foreign forum with
84 respect to the matter in dispute, it is the public policy of
85 this state that the claim be denied.

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

87 (a) Require or authorize any court to adjudicate, or
88 prohibit any religious organization from adjudicating,
89 ecclesiastical matters, including, but not limited to, the
90 election, appointment, calling, discipline, dismissal, removal,
91 or excommunication of a member, officer, official, priest, nun,
92 monk, pastor, rabbi, imam, or member of the clergy of the
93 religious organization, or determination or interpretation of
94 the doctrine of the religious organization, if such adjudication
95 or prohibition would violate s. 3, Art. I of the State
96 Constitution or the First Amendment to the United States
97 Constitution; or

98 (b) Conflict with any federal treaty or other international
99 agreement to which the United States is a party to the extent
100 that such federal treaty or international agreement preempts or



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101 is superior to state law on the matter at issue.

102 (8) If any provision of this section or its application to
103 any natural person or circumstance is held invalid, the
104 invalidity does not affect other provisions or applications of
105 this section which can be given effect, and to that end the
106 provisions of this section are severable.

107 Section 7. The Division of Law Revision and Information is
108 directed to replace the phrase "the effective date of this act"
109 wherever it occurs in this act with the date this act becomes a
110 law.

111
112 ===== T I T L E A M E N D M E N T =====

113 And the title is amended as follows:

114 Delete line 21

115 and insert:

116 sexual violence, dating violence, or stalking;
117 creating s. 45.022, F.S.; providing intent; defining
118 the term "foreign law, legal code, or system";
119 clarifying that the public policies expressed in the
120 act apply to violations of a natural person's
121 fundamental liberties, rights, and privileges
122 guaranteed by the State Constitution or the United
123 States Constitution in certain proceedings or actions
124 brought after the act becomes a law; providing that
125 the act does not apply to a corporation, partnership,
126 or other form of business association, except when
127 necessary to provide effective relief in actions or
128 proceedings under or relating to chapters 61 and 88,
129 F.S.; specifying the public policy of this state in



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130 applying the choice of a foreign law, legal code, or
131 system under certain circumstances in proceedings
132 brought under or relating to chapters 61 and 88, F.S.,
133 which relate to dissolution of marriage, support,
134 time-sharing, the Uniform Child Custody Jurisdiction
135 and Enforcement Act, and the Uniform Interstate Family
136 Support Act; declaring that certain decisions rendered
137 under such laws, codes, or systems are void; declaring
138 that certain choice of venue or forum provisions in a
139 contract are void; providing for the construction of a
140 waiver by a natural person of the person's fundamental
141 liberties, rights, and privileges guaranteed by the
142 State Constitution or the United States Constitution;
143 declaring that claims of forum non conveniens or
144 related claims must be denied under certain
145 circumstances; providing that the act may not be
146 construed to require or authorize any court to
147 adjudicate, or prohibit any religious organization
148 from adjudicating, ecclesiastical matters in violation
149 of specified constitutional provisions or to conflict
150 with any federal treaty or other international
151 agreement to which the United States is a party to a
152 specified extent; providing for severability;
153 providing a directive to the Division of Law Revision
154 and Information;