

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
 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.

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

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

43 45.022 Application of foreign law contrary to public
 44 policy 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
 49 liberties, rights, and privileges granted under the State
 50 Constitution or the 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
 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
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) A contract or contractual provision, if severable,
100 that provides for the choice of venue or choice of forum outside
101 a state or territory of the United States violates the public
102 policy of this state and is void and unenforceable if the
103 enforcement of the choice of venue or forum provision would
104 result in a violation of any fundamental liberties, rights, and
105 privileges guaranteed by the State Constitution or the United
106 States Constitution.

107 (b) If a natural person who is subject to personal
108 jurisdiction in this state seeks to maintain litigation,
109 arbitration, agency, or similarly binding proceedings in this
110 state and the courts of this state find that granting a claim of
111 forum non conveniens or a related claim denies or would likely
112 lead to the denial of any fundamental liberties, rights, and

113 privileges guaranteed by the State Constitution or the United
 114 States Constitution of the nonclaimant in the foreign forum with
 115 respect to the matter in dispute, it is the public policy of
 116 this state that the claim be denied.

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

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

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

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

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