By the Committee on Judiciary; and Senators Hays and Evers

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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:

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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 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

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

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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) 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.

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

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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 international

130   agreement to which the United States is a party to the extent

131   that such federal treaty or international agreement preempts or

132   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.