

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/8/13 H3/27/13
A Bill

HOUSE BILL 1348

By: Representatives Alexander, D. Altes, Ballinger, Biviano, J. Burris, Deffenbaugh, Dotson, C. Douglas, Eubanks, Harris, Hobbs, Womack

By: Senators Bledsoe, J. Hendren, Hester, Holland, J. Hutchinson, Rapert, G. Stubblefield, J. Woods

For An Act To Be Entitled

AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER
THE UNITED STATES CONSTITUTION AND THE ARKANSAS
CONSTITUTION; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

*TO REAFFIRM AMERICAN LAWS FOR AMERICAN
COURTS; AND TO DECLARE AN EMERGENCY.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings.

(a) The General Assembly finds that it is the public policy of this state to protect its citizens from the application of foreign laws when the application of a foreign law will result in the violation of a right guaranteed by the constitution of this state or of the United States, including but not limited to due process, freedom of religion, speech, or press, and any right of privacy or marriage as specifically defined by the Arkansas Constitution.

(b) The General Assembly fully recognizes the right to contract freely under the laws of this state and also recognizes that this right may be reasonably and rationally circumscribed pursuant to the state's interest to protect and promote rights and privileges granted under the United States Constitution or Arkansas Constitution, including but not limited to due process, freedom of religion, speech, or press, and any right of privacy or



marriage as specifically defined by the Arkansas Constitution.

SECTION 2. Arkansas Code Title 1, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

1-1-103. Application of foreign law, legal code, or system.

(a) As used in this section:

(1) "Court" means any court, board, administrative agency, or other adjudicative or enforcement authority of this state;

(2)(A) "Foreign law, legal code, or system" means any law, legal code, or system of a jurisdiction outside of any state or territory of the United States, including, but not limited to, international organizations and tribunals, and applied by that jurisdiction's courts, administrative bodies, or other formal or informal tribunals.

(B) "Foreign law, legal code, or system" does not mean any laws of the Native American tribes in this state; and

(3) "Religious organization" means a church, seminary, synagogue, temple, mosque, religious order, religious corporation, association, or society with an identity that is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals of any faith or denomination, including any organization qualifying as a church or religious organization under 26 U.S.C. § 501(c)(3) or 26 U.S.C. § 501(d).

(b) Any court, arbitration, or tribunal ruling or decision violates the public policy of this state and is void and unenforceable if the court, arbitrator, tribunal, or administrative agency bases its rulings or decisions in the matter at issue in whole or in part on any foreign law, legal code, or legal system that would not grant the parties affected by the ruling or decision the same fundamental liberties, rights, and privileges granted under the Arkansas Constitution and United States Constitution, including without limitation due process, freedom of religion, speech, or press, or any right of privacy or marriage as specifically defined by the Arkansas Constitution.

(c) A contract or contractual provision that provides for the choice of a law, legal code, or legal system to govern some or all of the disputes between the parties adjudicated by a court or by an arbitrator arising from the contract mutually agreed upon violates the public policy of this state and is void and unenforceable if the foreign law, legal code, or legal system chosen includes or incorporates any substantive or procedural law as applied

to the dispute at issue that would not grant the parties the same fundamental liberties, rights, or privileges granted under the Arkansas Constitution and United States Constitution, including without limitation due process, freedom of religion, speech, or press, or any right of privacy or marriage as specifically defined by the Arkansas Constitution.

(d)(1) A contract or contractual provision that provides for a jurisdiction for purposes of granting a court or arbitrator in personam jurisdiction over the parties to adjudicate any disputes between parties arising from the contract mutually agreed upon violates the public policy of this state and is void and unenforceable if the jurisdiction chosen includes any foreign law, legal code, or legal system as applied to the dispute at issue that would not grant the parties the same fundamental liberties, rights, or privileges granted under the Arkansas Constitution and United States Constitution, including without limitation due process, freedom of religion, speech, or press, or any right of privacy or marriage as specifically defined by the Arkansas Constitution.

(2) If a resident of this state who is subject to personal jurisdiction in this state seeks to maintain litigation, arbitration, agency, or similarly binding proceedings in this state and if the courts of this state find that granting a claim of forum non conveniens or a related claim violates or would likely violate the fundamental liberties, rights, or privileges granted under the Arkansas Constitution and United States Constitution of the non-resident in the foreign forum with respect to the matter in dispute, it is the public policy of this state that the claim shall be denied.

(e) Without prejudice to any legal right, this section does not apply to a corporation, partnership, limited liability company, business association, or other legal entity that contractually subjects itself to a foreign law, legal code, or legal system in a jurisdiction other than this state or the United States.

(f)(1) A court or arbitrator shall not interpret this section to limit the right of any person to the free exercise of religion as guaranteed by Arkansas Constitution, Article 2, §§ 24 through 26, and the First Amendment of the United States Constitution.

(2) A court shall not interpret this section to require or authorize a court to adjudicate or prohibit any religious organization from

adjudicating ecclesiastical matters, including without limitation the election, appointment, calling, discipline, dismissal, removal, or excommunication of a member, officer, official, priest, nun, monk, pastor, rabbi, imam, or member of the clergy of the religious organization, or determination or interpretation of the doctrine of the religious organization if adjudication by a court would violate the First Amendment of the United States Constitution or the Arkansas Constitution.

(g) This section shall not be interpreted by any court to conflict with any federal treaty or other international agreement to which the United States is a party to the extent that the treaty or international agreement preempts or is superior to state law on the matter at issue.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the laws of this state and this nation are sacrosanct; that the influence of a foreign law should not permeate the laws of this state or this nation; that harm will occur to the citizens of Arkansas if it incorporates aspects of foreign law into its judicial system; and that it is immediately necessary for the General Assembly to act in order to protect the laws of this state and of this nation from being influenced by foreign law. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Alexander