

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

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1474

By: Representatives B. Smith, Ballinger, Bentley, Hammer, Ladyman, Tosh, Wallace
By: Senators J. Cooper, Bledsoe, J. Hendren, Hester, Irvin, B. Johnson, Rice, Flippo

For An Act To Be Entitled

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

Subtitle

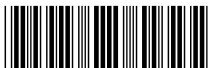
TO PROTECT THE RIGHTS AND PRIVILEGES GRANTED UNDER THE UNITED STATES CONSTITUTION AND THE ARKANSAS CONSTITUTION; TO DECLARE AMERICAN LAWS FOR AMERICAN COURTS.

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 shall be 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 one (1) or more of the following fundamental rights guaranteed by the Arkansas Constitution of this state or the United States Constitution:

- (1) Due process;
- (2) Equal protection;
- (3) Freedom of religion;
- (4) Freedom of speech;
- (5) Freedom of the press;
- (6) Keep and bear arms;



(7) Privacy; or

(8) Marriage, as defined by Arkansas Constitution, Amendment 83.

(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 the following fundamental rights and privileges granted under the United States Constitution or the Arkansas Constitution:

(1) Due process;

(2) Equal protection;

(3) Freedom of religion;

(4) Freedom of speech;

(5) Freedom of the press;

(6) Keep and bear arms;

(7) Privacy; or

(8) Marriage, as defined by Arkansas Constitution, Amendment 83.

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 without limitation international organizations and tribunals, 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) A court, arbitration, tribunal, or administrative agency ruling or

decision violates the public policy of this state and is void and unenforceable if the court, arbitration, 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 system that does not grant the parties affected by the ruling or decision one (1) or more of the following fundamental liberties, rights, and privileges granted under the United States Constitution or the Arkansas Constitution:

- (1) Due process;
- (2) Equal protection;
- (3) Freedom of religion;
- (4) Freedom of speech;
- (5) Freedom of the press;
- (6) Keep and bear arms;
- (7) Privacy; or
- (8) Marriage, as defined by Arkansas Constitution, Amendment 83.

(c) A contract or contractual provision, if severable, which provides for the choice of a foreign law, legal code, or system to govern some or all of the disputes between the parties adjudicated by a court of law or by an arbitration panel arising from the contract mutually agreed upon violates the public policy of Arkansas and is void and unenforceable if the law, legal code, or system chosen includes or incorporates any substantive or procedural law, as applied to the dispute at issue, that does not grant the parties one (1) or more of the following fundamental liberties, rights, and privileges granted under the United States Constitution or the Arkansas Constitution:

- (1) Due process;
- (2) Equal protection;
- (3) Freedom of religion;
- (4) Freedom of speech;
- (5) Freedom of the press;
- (6) Keep and bear arms;
- (7) Privacy; or
- (8) Marriage, as defined by Arkansas Constitution, Amendment 83.

(d)(1) A contract or contractual provision, if severable, which provides for a jurisdiction for purposes of granting the courts or arbitration panels in personam jurisdiction over the parties to adjudicate any disputes between parties arising from the contract mutually agreed upon

violates the public policy of Arkansas and is void and unenforceable if the jurisdiction chosen includes any law, legal code, or system, as applied to the dispute at issue, that does not grant the parties one (1) or more of the following fundamental liberties, rights, and privileges granted under the United States Constitution or the Arkansas Constitution:

- (A) Due process;
- (B) Equal protection;
- (C) Freedom of religion;
- (D) Freedom of speech;
- (E) Freedom of the press;
- (F) Keep and bear arms;
- (G) Privacy; or
- (H) Marriage, as defined by Arkansas Constitution,

Amendment 83.

(2) If a resident of Arkansas, subject to personal jurisdiction in Arkansas, 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, and privileges granted under the United States Constitution or the Arkansas Constitution of the nonclaimant in the foreign forum with respect to the matter in dispute, then it is the public policy of Arkansas 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 contracts to subject itself to foreign law in a jurisdiction other than Arkansas 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, §§ 24–26, 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, Article 2, §§ 24-26.

(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 federal treaty or international agreement preempts or is superior to state law on the matter at issue.