

BILL ANALYSIS

C.S.H.B. 1240
By: Zedler
State Sovereignty, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Reportedly, an associate justice of the Supreme Court of the United States recently advocated for the inclusion of foreign court decisions as a basis for rendering certain legal decisions in the United States. Critics have argued that the actions of a foreign court should have no bearing on the judicial system in the United States.

C.S.H.B. 1240 seeks to preclude the use of a non-American legal tradition as a basis for interpreting Texas laws by prohibiting certain legal entities in Texas from using foreign or international legal doctrines that are not currently recognized by Texas or the United States as a basis for making legal decisions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1240 amends the Civil Practice and Remedies Code to prohibit a court, arbitrator, or administrative adjudicator from basing a ruling or decision on a foreign or international law or doctrine or a prior ruling or decision that was based on a foreign or international law or doctrine. The bill establishes that this prohibition does not prohibit a court, arbitrator, or administrative adjudicator from recognizing a document that was issued or certified by a governmental entity within the territorial jurisdiction of the United States or by a foreign court or governmental entity for the purpose of determining a person's identification, enforcing a business contract or arrangement that lists this state as a venue for disposition, or providing expository evidence for the purpose of recognizing the adoption of a child. The bill requires a court to uphold and to apply the Constitution of the United States, the Texas Constitution, federal laws, and the laws of this state, including the doctrine that is derived from the First Amendment to the United States Constitution and known as the church autonomy doctrine, which in part requires courts to refrain from involvement in religious doctrinal interpretation or application.

C.S.H.B. 1240 defines, for purposes of these provisions, "foreign or international law or doctrine" to mean a law, rule, legal code, or principle of a jurisdiction outside the legal traditions of the states and territories of the United States, including international laws, that do not have a binding effect on this state or the United States.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1240 differs from the original by defining "foreign or international law or doctrine" to

mean a law, rule, legal code, or principle of a jurisdiction outside the legal traditions of the states and territories of the United States, including international laws, that do not have a binding effect on this state or the United States, whereas the original defines the term to mean a law, rule, legal code, or principle of a jurisdiction outside of the states and territories of the United States, including international law, that is not codified or recognized by this state or the United States.

C.S.H.B. 1240 contains a provision not included in the original establishing that the bill's prohibition against basing a ruling or decision on a foreign or international law or doctrine or a prior ruling or decision that was based on a foreign or international law or doctrine does not prohibit a court, arbitrator, or administrative adjudicator from recognizing a document that was issued or certified by a governmental entity within the territorial jurisdiction of the United States or by a foreign court or governmental entity for the purpose of determining a person's identification, enforcing a business contract or arrangement that lists this state as a venue for disposition, or providing expository evidence for the purpose of recognizing the adoption of a child.

C.S.H.B. 1240 contains a provision not included in the original requiring a court to uphold and to apply the Constitution of the United States, the Texas Constitution, federal laws, and the laws of this state, including the doctrine derived from the First Amendment to the United States Constitution and known as the church autonomy doctrine.