

By: Carona

S.B. No. 1639

A BILL TO BE ENTITLED

AN ACT

relating to the application of foreign law and foreign forum selection in certain family law proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 1, Family Code, is amended by adding Chapter 1A to read as follows:

CHAPTER 1A. APPLICATION OF FOREIGN LAW

Sec. 1A.001. DEFINITIONS. In this chapter:

(1) "Foreign law" means a law, rule, or legal code, substantive or procedural, of a jurisdiction outside the states and territories of the United States; it does not mean or include any laws of the Native American tribes of the states and territories of the United States.

(2) "Court" means any court or administrative adjudicator.

(3) "Foreign court" means any court outside the states and territories of the United States; it does not mean or include any court of the Native American tribes of the states and territories of the United States.

(4) "Arbitrator" means any arbitrator or arbitration panel.

(5) "Suit affecting the parent-child relationship" means a suit filed as provided by Title 5 in which appointment of a managing conservator or possessory conservator, access to or

1 support of a child, or establishment or termination of the
2 parent-child relationship is requested, or any analogous
3 proceeding in a foreign court. The following are not suits
4 affecting the parent-child relationship:

5 (A) a habeas corpus proceeding under Chapter 157;

6 (B) a proceeding filed under Chapter 159 to
7 determine parentage or to establish, enforce, or modify child
8 support, whether this state is acting as the initiating or
9 responding state; or

10 (C) a proceeding under Title 2.

11 Sec. 1A.002. DECISION BASED ON FOREIGN LAW. A court of this
12 state may not apply foreign law to adjudicate a suit affecting the
13 marriage relationship, or a suit affecting the parent-child
14 relationship, if the application of the foreign law would not
15 guarantee the same fundamental rights guaranteed by the United
16 States Constitution.

17 Sec. 1A.003. CHOICE OF LAW IN A CONTRACT. Any contract
18 provision requiring the application of foreign law to adjudicate a
19 suit affecting the marriage relationship, or a suit affecting the
20 parent-child relationship, is void to the extent the application of
21 the foreign law would not guarantee the same fundamental rights
22 guaranteed by the United States Constitution.

23 Sec. 1A.004. ENFORCEMENT OF JUDGMENT BASED ON FOREIGN LAW.
24 A court of this state may not enforce, or grant comity to, a
25 finding, ruling, order, or judgment on a suit affecting the
26 marriage relationship, or on a suit affecting the parent-child
27 relationship, issued by an arbitrator or foreign court based on

1 foreign law, if the foreign law, as applied, did not guarantee the
2 same fundamental rights guaranteed by the United States
3 Constitution.

4 Sec. 1A.005. CHOICE OF FORUM IN CONTRACT. Any contract
5 provision requiring that a foreign court or arbitrator adjudicate a
6 suit affecting the marriage relationship, or a suit affecting the
7 parent-child relationship, is void to the extent the arbitrator or
8 foreign court would apply foreign law and the foreign law, as
9 applied, would not guarantee the same fundamental rights guaranteed
10 by the United States Constitution.

11 Sec. 1A.006. FORUM NON CONVENIENS. A court of this state
12 that has jurisdiction to adjudicate a suit affecting the marriage
13 relationship, or a suit affecting the parent-child relationship,
14 may not decline its jurisdiction because a foreign court is a more
15 convenient forum, if the foreign court would apply foreign law that
16 would not guarantee the same fundamental rights guaranteed by the
17 United States Constitution.

18 Sec. 1A.007. APPLICATION OF CHAPTER. (a) This chapter
19 does not apply to:

20 (1) a corporation or other legal entity that contracts
21 to subject the entity to foreign law before an arbitrator or a
22 foreign court;

23 (2) any transaction that is primarily for business,
24 commercial, investment, agricultural, or similar purposes; or

25 (3) any transaction, issue, agreement, or provision of
26 an agreement that is governed by Chapter 271, Business & Commerce
27 Code.

1 (b) This chapter is inapplicable to the extent that a
2 statute or treaty of the United States requires the application of
3 foreign law or the enforcement of a judgment rendered by a foreign
4 court.

5 SECTION 2. Chapter 271, Business & Commerce Code, is
6 amended by adding Section 271.012 to read as follows:

7 Sec. 271.012. APPLICATION OF CHAPTER 1A, FAMILY CODE.
8 Chapter 1A, Family Code, does not apply to the provisions of this
9 chapter.

10 SECTION 3. The changes in law made by this Act relating to
11 the applicability of foreign law to a suit affecting the marriage
12 relationship, a suit affecting the parent-child relationship, or a
13 suit for modification of the parent-child relationship apply to a
14 suit pending in a trial court on the effective date of this Act or
15 filed on or after the effective date of this Act.

16 SECTION 4. This Act takes effect September 1, 2013.