

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 531
By: Campbell et al.
State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Foreign laws are used frequently in court proceedings in the United States. This bill would amend the Family Code regarding marriages and parent-child relationships to ensure that when foreign laws are applied in these types of civil suits, the constitutional rights of those involved are not infringed upon.

The intent of S.B. 531 is to protect the constitutional rights of those who are part of proceedings involving marriage, dissolution of marriage, or a suit affecting the parent-child relationship. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 531 amends current law relating to the application of foreign laws and foreign forum selection in a proceeding involving marriage, a suite for dissolution of a marriage, or a suit affect the parent-child relationship in this state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 1, Family Code, by adding Chapter 1A, as follows:

CHAPTER 1A. APPLICATION OF FOREIGN LAWS; SELECTION OF FOREIGN FORUM

Sec. 1A.001. DEFINITIONS; PUBLIC POLICY. (a) Defines "foreign court," "foreign judgment," and "foreign law" in this chapter.

(b) Provides that, for purposes of this chapter, the application of a law is contrary to the public policy of this state if application of the law would:

- (1) violate a fundamental right guaranteed by the United States Constitution;
- (2) violate a fundamental right guaranteed by the constitution of this state;
- (3) violate good morals or natural justice; or
- (4) be prejudicial to the general interests of the citizens of this state.

Sec. 1A.002. PROHIBITION AGAINST ENFORCEMENT OF CERTAIN FOREIGN JUDGMENTS. Prohibits a court of this state from enforcing a foreign judgment involving the marriage relationship if the court finds that the foreign court's application of foreign law to the dispute was contrary to the public policy of this state.

Sec. 1A.003. PROHIBITION AGAINST ENFORCEMENT OF CERTAIN ARBITRATION DECISIONS. Prohibits a court of this state from enforcing an arbitration decision involving the marriage relationship if the court finds that the arbitrator's application of foreign law to the dispute was contrary to the public policy of this state.

Sec. 1A.004. CONFLICTS OF LAW. Prohibits a court of this state from applying foreign law to a dispute involving the marriage relationship if the court finds that application of the foreign law to the dispute would be contrary to the public policy of this state.

Sec. 1A.005. CHOICE OF FOREIGN LAW OR FORUM IN CONTRACT. (a) Provides that a contract provision involving the marriage relationship providing that a foreign law is to govern a dispute arising under the contract is void to the extent that the application of the foreign law to the dispute would be contrary to the public policy of this state.

(b) Provides a contract provision involving the marriage relationship providing that the forum to resolve a dispute arising under the contract is located outside the states and territories of the United States is void if the foreign law that would be applied to the dispute in the forum, would, as applied, be contrary to the public policy of this state.

Sec. 1A.006. FORUM NON CONVENIENS. Prohibits a court of this state that has jurisdiction to adjudicate a suit affecting the marriage relationship from declining jurisdiction because a foreign court is a more convenient forum if the foreign court would apply foreign law to the dispute that, as applied, would be contrary to the public policy of this state.

Sec. 1A.007. APPLICATION OF CHAPTER. Provides that this chapter does not apply to a corporation or other legal entity that contracts to subject the entity to foreign law.

SECTION 2. Amends Subtitle A, Title 5, Family Code, by adding Chapter 112, as follows:

CHAPTER 112. APPLICATION OF FOREIGN LAWS; SELECTION OF FOREIGN FORUM

Sec. 112.001. DEFINITIONS; PUBLIC POLICY. (a) Defines "foreign court," "foreign judgment," and "foreign law" in this chapter.

(b) Provides that, for purposes of this chapter, the application of a law is contrary to the public policy of this state if application of the law would:

- (1) violate a fundamental right guaranteed by the United States Constitution;
- (2) violate a fundamental right guaranteed by the constitution of this state;
- (3) violate good morals or natural justice; or
- (4) be prejudicial to the general interests of the citizens of this state.

Sec. 112.002. PROHIBITION AGAINST ENFORCEMENT OF CERTAIN FOREIGN JUDGMENTS. Prohibits a court of this state from enforcing a foreign judgment involving the parent-child relationship if the court finds that the foreign court's application of foreign law to the dispute was contrary to the public policy of this state.

Sec. 112.003. PROHIBITION AGAINST ENFORCEMENT OF CERTAIN ARBITRATION DECISIONS. Prohibits a court from enforcing an arbitration decision

involving the parent-child relationship if the court finds that the arbitrator's application of foreign law to the dispute was contrary to the public policy of this state.

Sec. 112.004. CONFLICTS OF LAW. Prohibits a court of this state from applying foreign law to a dispute involving the parent-child relationship if the court finds that application of the foreign law to the dispute would be contrary to the public policy of this state.

Sec. 112.005. CHOICE OF FOREIGN LAW OR FORUM IN CONTRACT. (a) Provides that a contract provision involving the parent-child relationship providing that a foreign law is to govern a dispute arising under the contract is void to the extent that the application of the foreign law to the dispute would be contrary to the public policy of this state.

(b) Provides that a contract provision involving the parent-child relationship providing that the forum to resolve a dispute arising under the contract is located outside the states and territories of the United States is void if the foreign law that would be applied to the dispute in the forum would, as applied, be contrary to the public policy of this state.

Sec. 112.006. FORUM NON CONVENIENS. Prohibits a court of this state that has jurisdiction to adjudicate a suit affecting the parent-child relationship from declining jurisdiction because a foreign court is a more convenient forum if the foreign court would apply foreign law to the dispute that, as applied, would be contrary to the public policy of this state.

Sec. 112.007. APPLICATION OF CHAPTER. Provides that this chapter does not apply to a corporation or other legal entity that contractS to subject the entity to foreign law.

SECTION 3. Provides that Sections 1A.005 and 112.005, Family Code, as added by this Act, apply only to a contract entered into on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.