

1-1 By: Flynn, et al. (Senate Sponsor - Huffman) H.B. No. 45
 1-2 (In the Senate - Received from the House May 8, 2017;
 1-3 May 12, 2017, read first time and referred to Committee on State
 1-4 Affairs; May 18, 2017, reported favorably by the following vote:
 1-5 Yeas 7, Nays 2; May 18, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Huffman	X			
1-8 Hughes	X			
1-9 Birdwell	X			
1-10 Creighton	X			
1-11 Estes	X			
1-12 Lucio		X		
1-13 Nelson	X			
1-14 Schwertner	X			
1-15 Zaffirini		X		

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to requiring the Texas Supreme Court to adopt rules and
 1-20 provide judicial instruction regarding the application of foreign
 1-21 laws in certain family law cases.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. The legislature finds that:

1-24 (1) litigants in actions under the Family Code
 1-25 involving a marriage relationship or a parent-child relationship
 1-26 are protected against violations of constitutional rights and
 1-27 public policy in the application of foreign law and the recognition
 1-28 and enforcement of foreign judgments and arbitration awards by
 1-29 courts of this state by a well-established body of law, described by
 1-30 Tex. Att'y Gen. Op. No. KP-0094 (2016), which includes protections
 1-31 provided under:

1-32 (A) the United States Constitution and the Texas
 1-33 Constitution;

1-34 (B) federal law, treaties, and conventions to
 1-35 which the United States is a signatory;

1-36 (C) federal and state judicial precedent; and

1-37 (D) the Family Code and other laws of this state;

1-38 (2) the legislature has enacted statutes, including
 1-39 the Uniform Child Custody Jurisdiction and Enforcement Act
 1-40 (UCCJEA), that address comity regarding foreign judgments and
 1-41 arbitration awards;

1-42 (3) as recognized by courts and commentators, the
 1-43 UCCJEA does not define the aspects of a foreign law that violate
 1-44 fundamental principles of human rights or certain terminology used
 1-45 by that Act;

1-46 (4) the Family Code allows parties to a suit involving
 1-47 the marriage relationship or affecting the parent-child
 1-48 relationship to engage in arbitration and authorizes the court to
 1-49 render an order reflecting the arbitrator's award;

1-50 (5) the Family Code should not be applied to enforce a
 1-51 judgment or arbitrator's award affecting a marriage relationship or
 1-52 a parent-child relationship based on foreign law if the foreign law
 1-53 applied to render the judgment or award does not:

1-54 (A) grant constitutional rights guaranteed by
 1-55 the United States Constitution and the Texas Constitution;

1-56 (B) consider the best interest of the child;

1-57 (C) consider whether domestic violence or child
 1-58 abuse has occurred and is likely to continue in the future; or

1-59 (D) consider whether the foreign judgment or
 1-60 arbitrator's award affecting the parent-child relationship may
 1-61 place the child in substantial risk of harm; and

2-1 (6) the rules of procedure and evidence adopted by the
2-2 Texas Supreme Court and judicial education required by the Texas
2-3 Supreme Court can ensure the full implementation and uniform
2-4 application by the courts of this state of the well-established
2-5 body of law described by Subdivision (1) of this section in order to
2-6 protect litigants in actions under the Family Code involving a
2-7 marriage relationship or a parent-child relationship against
2-8 violations of constitutional rights and public policy.

2-9 SECTION 2. Subchapter A, Chapter 22, Government Code, is
2-10 amended by adding Sections 22.0041 and 22.022 to read as follows:

2-11 Sec. 22.0041. RULES REGARDING FOREIGN LAW AND FOREIGN
2-12 JUDGMENTS IN CERTAIN FAMILY LAW ACTIONS. (a) In this section:

2-13 (1) "Comity" means the recognition by a court of one
2-14 jurisdiction of the laws and judicial decisions of a court of
2-15 another jurisdiction.

2-16 (2) "Foreign judgment" means a judgment of a court,
2-17 tribunal, or administrative adjudicator of a jurisdiction outside
2-18 of the states and territories of the United States.

2-19 (3) "Foreign law" means a law, rule, or code of a
2-20 jurisdiction outside of the states and territories of the United
2-21 States.

2-22 (b) The supreme court shall adopt rules of evidence and
2-23 procedure to implement the limitations on the granting of comity to
2-24 a foreign judgment or an arbitration award involving a marriage
2-25 relationship or a parent-child relationship under the Family Code
2-26 to protect against violations of constitutional rights and public
2-27 policy.

2-28 (c) The rules adopted under Subsection (b) must:

2-29 (1) require that any party who intends to seek
2-30 enforcement of a judgment or an arbitration award based on foreign
2-31 law that involves a marriage relationship or a parent-child
2-32 relationship shall provide timely notice to the court and to each
2-33 other party, including by providing information required by Rule
2-34 203, Texas Rules of Evidence, and by describing the court's
2-35 authority to enforce or decide to enforce the judgment or award;

2-36 (2) require that any party who intends to oppose the
2-37 enforcement of a judgment or an arbitration award based on foreign
2-38 law that involves a marriage relationship or a parent-child
2-39 relationship shall provide timely notice to the court and to each
2-40 other party and include with the notice an explanation of the
2-41 party's basis for opposition, including by stating whether the
2-42 party asserts that the judgment or award violates constitutional
2-43 rights or public policy;

2-44 (3) require a hearing on the record, after notice to
2-45 the parties, to determine whether the proposed enforcement of a
2-46 judgment or an arbitration award based on foreign law that involves
2-47 a marriage relationship or a parent-child relationship violates
2-48 constitutional rights or public policy;

2-49 (4) to facilitate appellate review, require that a
2-50 court state its findings of fact and conclusions of law in a written
2-51 order determining whether to enforce a foreign judgment or an
2-52 arbitration award based on foreign law that involves a marriage
2-53 relationship or a parent-child relationship;

2-54 (5) require that a court's determination under
2-55 Subdivision (3) or (4) be made promptly so that the action may
2-56 proceed expeditiously; and

2-57 (6) provide that a court may issue any orders the court
2-58 considers necessary to preserve principles of comity or the freedom
2-59 to contract for arbitration while protecting against violations of
2-60 constitutional rights and public policy in the application of
2-61 foreign law and the recognition and enforcement of foreign
2-62 judgments and arbitration awards.

2-63 (d) In addition to the rules required under Subsection (b),
2-64 the supreme court shall adopt any other rules the supreme court
2-65 considers necessary or advisable to accomplish the purposes of this
2-66 section.

2-67 (e) A rule adopted under this section does not apply to an
2-68 action brought under the International Child Abduction Remedies Act
2-69 (22 U.S.C. Section 9001 et seq.).

3-1 (f) In the event of a conflict between a rule adopted under
3-2 this section and a federal or state law, the federal or state law
3-3 prevails.

3-4 Sec. 22.022. JUDICIAL INSTRUCTION RELATED TO FOREIGN LAW
3-5 AND FOREIGN JUDGMENTS. (a) The supreme court shall provide for a
3-6 course of instruction that relates to issues regarding foreign law,
3-7 foreign judgments, and arbitration awards in relation to foreign
3-8 law that arise in actions under the Family Code involving the
3-9 marriage relationship and the parent-child relationship for judges
3-10 involved in those actions.

3-11 (b) The course of instruction must include information
3-12 about:

3-13 (1) the limits on comity and the freedom to contract
3-14 for arbitration that protect against violations of constitutional
3-15 rights and public policy in the application of foreign law and the
3-16 recognition and enforcement of foreign judgments and arbitration
3-17 awards in actions brought under the Family Code; and

3-18 (2) the rules of evidence and procedure adopted under
3-19 Section 22.0041.

3-20 (c) The supreme court shall adopt rules necessary to
3-21 accomplish the purposes of this section.

3-22 SECTION 3. The Texas Supreme Court shall adopt rules as
3-23 required by this Act as soon as practicable following the effective
3-24 date of this Act, but not later than January 1, 2018.

3-25 SECTION 4. This Act takes effect September 1, 2017.

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