

BILL ANALYSIS

C.S.H.B. 562
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerned parties note that most states, including Texas, have no established policy regarding the manner in which courts and judges should address issues pertaining to foreign law. The parties' research indicates that several states have enacted some form of law, including the American Laws for American Courts, to address foreign legal doctrines and laws, and several other states are considering such a law. These concerned parties believe that Texas courts should not enforce a foreign law that violates Texas public policy and believe that Texas needs a tool to provide clear guidance for judges and courts during family law proceedings that involve the application of foreign law. C.S.H.B. 562 seeks to provide that tool.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 562 amends the Family Code to prohibit a Texas court from applying a foreign law or enforcing a foreign judgment or arbitration decision involving the marriage relationship or the parent-child relationship if the court finds that application of a foreign law, including application by a foreign court or foreign arbitrator, as applicable, is contrary to the public policy of Texas. The bill defines "foreign law" as a law, rule, or legal code of a jurisdiction outside of the states and territories of the United States. The bill establishes that, for its purposes, application of a law is contrary to public policy if the application would violate a fundamental right guaranteed by the United States Constitution or the Texas Constitution, if it would violate good morals or natural justice, or if it would be prejudicial to the general interests of the citizens of Texas.

C.S.H.B. 562 establishes that a contract provision involving the marriage relationship or 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 Texas public policy. The bill establishes that a contract provision involving the marriage relationship or 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 that forum would, as applied, be contrary to Texas public policy.

C.S.H.B. 562 prohibits a Texas court with jurisdiction to adjudicate a suit affecting the marriage relationship or 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, if applied, would be contrary to Texas public policy.

C.S.H.B. 562 exempts a corporation or other legal entity that contracts to subject the entity to foreign law from the application of the bill's provisions relating to the application of foreign laws and the selection of a foreign forum.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 562 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

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

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

Sec. 1A.001. DEFINITION.

In this chapter, "foreign law" means a law, rule, or legal code of a jurisdiction outside of the states and territories of the United States.

Sec. 1A.002. DECISION BASED ON FOREIGN LAW. A ruling or decision of a court, arbitrator, or administrative adjudicator under this title may not be based on a foreign law if the application of that law would violate a fundamental right guaranteed by the United States Constitution or the constitution or a statute of this state.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

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

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

Sec. 1A.001. DEFINITIONS; PUBLIC POLICY. (a) In this chapter:

(3) "Foreign law" means a law, rule, or legal code of a jurisdiction outside of the states and territories of the United States.

(1) "Foreign court" means any court, tribunal, administrative adjudicator, or arbitrator outside of the states and territories of the United States.

(2) "Foreign judgment" means a judgment issued by a foreign court.

(b) 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. A court of this state may not enforce a foreign judgment

No equivalent provision.

No equivalent provision.

Sec. 1A.003. CHOICE OF FOREIGN LAW OR FORUM IN CONTRACT.

(a) 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 violate a fundamental right guaranteed by the United States Constitution or the constitution of this state.

(b) 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 that forum would, as applied, violate a fundamental right guaranteed by the United States Constitution or the constitution of this state.

Sec. 1A.004. APPLICATION OF CHAPTER. This chapter does not apply to a corporation or other legal entity that contracts to subject the entity to foreign law in a jurisdiction other than this state or the United States.

No equivalent provision.

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. A court of this state may not enforce 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. A court of this state may not apply 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) 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) 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 that forum would, as applied, be contrary to the public policy of this state.

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

Sec. 1A.006. FORUM NON CONVENIENS. A court of this state that has jurisdiction to adjudicate a suit affecting

the marriage relationship may not decline 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.

SECTION 2. Subtitle A, Title 5, Family Code, is amended by adding Chapter 112 to read as follows:

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

Sec. 112.001. DEFINITION.

In this chapter, "foreign law" means a law, rule, or legal code of a jurisdiction outside of the states and territories of the United States.

Sec. 112.002. DECISION BASED ON FOREIGN LAW. A ruling or decision of a court, arbitrator, or administrative adjudicator in a suit affecting the parent-child relationship may not be based on a foreign law if the application of that law would violate a fundamental right guaranteed by the United States Constitution or the constitution or a statute of this state.

No equivalent provision.

No equivalent provision.

SECTION 2. Subtitle A, Title 5, Family Code, is amended by adding Chapter 112 to read as follows:

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

Sec. 112.001. DEFINITIONS; PUBLIC POLICY. (a) In this chapter:

(3) "Foreign law" means a law, rule, or legal code of a jurisdiction outside of the states and territories of the United States.

(1) "Foreign court" means any court, tribunal, administrative adjudicator, or arbitrator outside of the states and territories of the United States.

(2) "Foreign judgment" means a judgment issued by a foreign court.

(b) 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. A court of this state may not enforce 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. A court of this state may not enforce an arbitration decision involving the parent-child relationship if the court finds that the

No equivalent provision.

Sec. 112.003. CHOICE OF FOREIGN LAW OR FORUM IN CONTRACT. (a) 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 violate a fundamental right guaranteed by the United States Constitution or the constitution of this state.

(b) 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 that forum would, as applied, violate a fundamental right guaranteed by the United States Constitution or the constitution of this state.

No equivalent provision.

Sec. 112.004. APPLICATION OF CHAPTER. This chapter does not apply to a corporation or other legal entity that contracts to subject the entity to foreign law in a jurisdiction other than this state or the United States.

SECTION 3.

(a) Chapters 1A and 112, Family Code, as added by this Act, apply only to a ruling or

arbitrator's application of foreign law to the dispute was contrary to the public policy of this state.

Sec. 112.004. CONFLICTS OF LAW. A court of this state may not apply 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) 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) 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 that forum would, as applied, be contrary to the public policy of this state.

Sec. 112.006. FORUM NON CONVENIENS. A court of this state that has jurisdiction to adjudicate a suit affecting the parent-child relationship may not decline 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. This chapter does not apply to a corporation or other legal entity that contracts to subject the entity to foreign law.

SECTION 3.

No equivalent provision.

decision that becomes final on or after the effective date of this Act. A ruling or decision that becomes final before the effective date of this Act and any appeal of that ruling or decision are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Chapters 1A and 112, Family Code, as added by this Act, apply only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

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. A contract entered into before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. Same as introduced version.