



Ohio Legislative Service Commission

Bill Analysis

David M. Gold

H.B. 339

131st General Assembly
(As Introduced)

Reps. Becker, Boose, Brinkman, Hood, Retherford, Roegner, Thompson, Vitale

BILL SUMMARY

- Prohibits a court, administrative agency, or arbitrator from basing any ruling or decision on any law of a system of foreign law that does not grant the parties affected one or more of certain constitutional liberties, rights, or privileges.
 - Requires a court to deny a motion based on *forum non conveniens* if granting the motion would likely result in the violation in the foreign forum of constitutional liberties, rights, or privileges with respect to the matter in dispute.
 - Provides that the bill does not authorize any court to adjudicate, or prohibit any religious organization from adjudicating, ecclesiastical matters where adjudication by a court would violate the Ohio or United States Constitution.
 - Prohibits a court from interpreting the bill to conflict with any federal treaty or other international agreement to which the United States is a party to the extent that the treaty or international agreement preempts or is superior to state law on the matter at issue.
 - With an exception for non-natural persons, nullifies contractual provisions that subject the parties to a system of foreign law that does not grant certain constitutional liberties, rights, and privileges.
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CONTENT AND OPERATION

Protection of rights

The bill seeks to protect certain "liberties, rights, and privileges" from infringement by the application of a system of foreign law. "System of foreign law" means the legal code or system of a jurisdiction outside of the United States or its

territories, including international law but not including the legal system of any native American tribe in Ohio.¹ The liberties, rights, and privileges protected by the bill are:²

- (a) Equal protection of the laws;
- (b) Due process of law;
- (c) Freedom of religion;
- (d) Freedom of speech;
- (e) Freedom of the press;
- (f) Any right of privacy or marriage.

Use of foreign law by courts, agencies, and arbitrators

The bill prohibits any court, administrative agency, or arbitrator from basing any ruling or decision in whole or in part on any statutory or other law of a system of foreign law that does not grant the parties affected by the ruling or decision one or more of the liberties, rights, and privileges listed above and granted to United States citizens or legal resident aliens under the Ohio or United States Constitution. A ruling or decision made by a court, administrative agency, or arbitrator in violation of the prohibition is void and unenforceable.³

The bill requires a court, in an action or proceeding commenced by an Ohio resident, to deny a motion based on *forum non conveniens* or a similar doctrine if granting the motion would likely result in the violation in the foreign forum of the enumerated liberties, rights, and privileges granted under the Ohio or United States Constitution with respect to the matter in dispute.⁴ A motion based on *forum non conveniens* asserts that the court in which the plaintiff brought the action is inconvenient for the parties and witnesses and should have been brought in a more suitable venue.

The bill states that it does not authorize any court to adjudicate, or prohibit any religious organization from adjudicating, the election, appointment, calling, discipline, dismissal, removal, or excommunication of a member, officer, or employee of a religious organization or other ecclesiastical matters, including the interpretation of

¹ R.C. 2701.01(A)(2).

² R.C. 2701.01(B)(1) and (C)(1).

³ R.C. 2701.01(B).

⁴ R.C. 2701.01(D).



religious doctrine, where adjudication by a court would violate the Ohio or United States Constitution. The bill defines "religious organization" as any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.⁵

The bill prohibits a court from interpreting the bill to conflict with any federal treaty or other international agreement to which the United States is a party to the extent that the treaty or international agreement preempts or is superior to state law on the matter at issue.⁶

Use of foreign law in contracts

The bill declares void and unenforceable a contract, or a contractual provision that is severable from the contract, if both of the following apply:⁷

(1) The contract or provision designates a system of foreign law or authorizes the choice of a system of foreign law to govern some or all of the disputes between the parties or that grants personal jurisdiction over the parties to any court, administrative agency, or arbitrator that operates under a system of foreign law;

(2) The system of foreign law does not grant the parties one or more of the liberties, rights, and privileges listed above and granted under the United States or Ohio Constitution.

The statutory nullification of contracts and contractual provisions under the bill does not apply to contracts entered into before the bill's effective date or to any non-natural person (for example, a corporation) that contracts to subject itself to a system of foreign law in a jurisdiction outside the United States.⁸

HISTORY

ACTION	DATE
Introduced	09-28-15

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⁵ R.C. 2701.01(A)(1) and (F).

⁶ R.C. 2701.01(G).

⁷ R.C. 2701.01(C)(1).

⁸ R.C. 2701.01(C)(2) and (E).

