

House Substitute for SENATE BILL No. 79

AN ACT concerning the protection of rights and privileges granted under the United States or Kansas constitutions.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. While the legislature fully recognizes the right to contract freely under the laws of this state, it also recognizes that this right may be reasonably and rationally circumscribed pursuant to the state's interest to protect and promote rights and privileges granted under the United States or Kansas constitution, including, but not limited to, equal protection, due process, free exercise of religion, freedom of speech or press, and any right of privacy or marriage.

Sec. 2. As used in this act, "foreign law," "legal code" or "system" means any law, legal code or system of a jurisdiction outside of any state or territory of the United States, including, but not limited to, international organizations and tribunals and applied by that jurisdiction's courts, administrative bodies or other formal or informal tribunals.

Sec. 3. Any court, arbitration, tribunal or administrative agency ruling or decision shall violate the public policy of this state and be void and unenforceable if the court, arbitration, tribunal or administrative agency bases its rulings or decisions in the matter at issue in whole or in part on any foreign law, legal code or system that would not grant the parties affected by the ruling or decision the same fundamental liberties, rights and privileges granted under the United States and Kansas constitutions, including, but not limited to, equal protection, due process, free exercise of religion, freedom of speech or press, and any right of privacy or marriage.

Sec. 4. A contract or contractual provision, if capable of segregation, which provides for the choice of a foreign law, legal code or system to govern some or all of the disputes between the parties adjudicated by a court of law or by an arbitration panel arising from the contract mutually agreed upon shall violate the public policy of this state and be void and unenforceable if the foreign law, legal code or system chosen includes or incorporates any substantive or procedural law, as applied to the dispute at issue, that would not grant the parties the same fundamental liberties, rights and privileges granted under the United States and Kansas constitutions, including, but not limited to, equal protection, due process, free exercise of religion, freedom of speech or press, and any right of privacy or marriage.

Sec. 5. (a) A contract or contractual provision, if capable of segregation, which provides for a jurisdiction for purposes of granting the courts or arbitration panels *in personam* jurisdiction over the parties to adjudicate any disputes between parties arising from the contract mutually agreed upon shall violate the public policy of this state and be void and unenforceable if the jurisdiction chosen includes any foreign law, legal code or system, as applied to the dispute at issue, that would not grant the parties the same fundamental liberties, rights and privileges granted under the United States and Kansas constitutions, including, but not limited to, equal protection, due process, free exercise of religion, freedom of speech or press, and any right of privacy or marriage.

(b) If a resident of this state, subject to personal jurisdiction in this state, seeks to maintain litigation, arbitration, agency or similarly binding proceedings in this state and if the courts of this state find that granting a claim of forum *non conveniens* or a related claim violates or would likely violate the fundamental liberties, rights and privileges granted under the United States and Kansas constitutions of the nonclaimant in the foreign forum with respect to the matter in dispute, including, but not limited to, equal protection, due process, free exercise of religion, freedom of speech or press, and any right of privacy or marriage, then it is the public policy of this state that the claim shall be denied.

Sec. 6. Nothing in this act shall be construed to disapprove of or abrogate any appellate decision previously rendered by the supreme court of Kansas.

Sec. 7. Nothing in this act shall be construed to allow a court to: (a) Adjudicate or prohibit any religious organization from deciding upon ecclesiastical matters of a religious organization, including, but not limited to, the selection, appointment, calling, discipline, dismissal, removal or excommunication of a member, member of the clergy, or other person who performs ministerial functions; or (b) determine or interpret the

doctrine of a religious organization, including, but not limited to, where adjudication by a court would violate the prohibitions of the religion clauses of the first amendment to the constitution of the United States, or violate the constitution of the state of Kansas.

Sec. 8. Without prejudice to any legal right, this act shall not apply to a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity that contracts to subject itself to foreign law or courts in a jurisdiction other than this state or the United States.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE adopted

Conference Committee Report \_\_\_\_\_

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*President of the Senate.*

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*Secretary of the Senate.*

Passed the HOUSE

as amended \_\_\_\_\_

HOUSE adopted

Conference Committee Report \_\_\_\_\_

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*Speaker of the House.*

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*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

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*Governor.*