

House File 223 - Introduced

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A BILL FOR

1 An Act relating to the application of foreign laws and
2 constitutional rights and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 537A.20 Public policy of this
2 state.

3 1. It shall be the public policy of this state to protect
4 its citizens from the application of foreign laws when the
5 application of foreign law will result in the violation of
6 a right guaranteed by the Constitution of the United States
7 or the Constitution of the State of Iowa, including but
8 not limited to due process; freedom of religion, speech, or
9 press; and any right of privacy or marriage embodied in the
10 Constitution of the State of Iowa.

11 2. It shall be the public policy of this state to fully
12 recognize the right to contract freely under the laws of this
13 state, and also to recognize that this right may be reasonably
14 and rationally circumscribed pursuant to the state's interest
15 to protect and promote rights and privileges granted under
16 the Constitution of the United States and the Constitution of
17 the State of Iowa, including but not limited to due process;
18 freedom of religion, speech, or press; and any right of privacy
19 or marriage embodied in the Constitution of the State of Iowa.

20 Sec. 2. NEW SECTION. 537A.21 Definition.

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

27 Sec. 3. NEW SECTION. 537A.22 Use of foreign laws —
28 enforceability.

29 Any court, arbitration, tribunal, or administrative agency
30 ruling or decision violates the public policy of this state
31 and shall be void and unenforceable if the court, arbitration,
32 tribunal, or administrative agency bases its ruling or decision
33 in the matter at issue in whole or in part on any law, legal
34 code, or system, that would not grant the parties affected by
35 the ruling or decision the same fundamental liberties, rights,

1 and privileges granted under the Constitution of the United
2 States and the Constitution of the State of Iowa, including
3 but not limited to due process; freedom of religion, speech,
4 or press; and any right of privacy or marriage embodied in the
5 Constitution of the State of Iowa.

6 Sec. 4. NEW SECTION. 537A.23 **Choice of law.**

7 A contract or contractual provision, if capable of
8 segregation, which provides for the choice of a law, legal
9 code, or system, to govern some or all of the disputes
10 between the parties adjudicated by a court of law or by an
11 arbitration panel arising from the contract mutually agreed
12 upon violates the public policy of this state and shall be void
13 and unenforceable if the law, legal code, or system chosen
14 includes or incorporates any substantive or procedural law,
15 as applied to the dispute at issue, that would not grant the
16 parties the same fundamental liberties, rights, and privileges
17 granted under the Constitution of the United States and the
18 Constitution of the State of Iowa, including but not limited
19 to due process; freedom of religion, speech, or press; and any
20 right of privacy or marriage embodied in the Constitution of
21 the State of Iowa.

22 Sec. 5. NEW SECTION. 537A.24 **Jurisdiction.**

23 A contract or contractual provision, if capable of
24 segregation, which provides for jurisdiction for the purpose
25 of granting the courts or arbitration panels in personam
26 jurisdiction over the parties to adjudicate any disputes
27 between the parties arising from the contract mutually agreed
28 upon violates the public policy of this state and shall be void
29 and unenforceable if the law, legal code, or system chosen
30 includes or incorporates any substantive or procedural law,
31 as applied to the dispute at issue, that would not grant the
32 parties the same fundamental liberties, rights, and privileges
33 granted under the Constitution of the United States and the
34 Constitution of the State of Iowa, including but not limited
35 to due process; freedom of religion, speech, or press; and any

1 right of privacy or marriage embodied in the Constitution of
2 the State of Iowa.

3 Sec. 6. NEW SECTION. 537A.25 **Forum non conveniens.**

4 If a person of this state, subject to personal jurisdiction
5 in this state, seeks to maintain litigation, arbitration,
6 agency, or similarly binding proceedings in this state and if
7 the courts of this state find that granting a claim of forum
8 non conveniens or a related claim violates or would likely
9 violate the constitutional rights of the nonclaimant in the
10 foreign forum with respect to the matter in dispute, the claim
11 shall be denied.

12 Sec. 7. NEW SECTION. 537A.26 **Applicability.**

13 1. Without prejudice to any legal right, this subchapter
14 shall not apply to a corporation, partnership, limited
15 liability corporation, business association, or other legal
16 entity that contracts to subject itself to foreign law in a
17 jurisdiction other than this state or the United States.

18 2. This subchapter shall not apply to a church or to a
19 religious corporation, association, or society, with respect
20 to individuals of a particular religion regarding matters
21 that are purely ecclesiastical, including but not limited to
22 calling a pastor, excluding members from a church, electing
23 church officers, matters concerning church bylaws, constitution
24 and doctrinal regulations, and the conduct of other routine
25 church business where the jurisdiction of the church would be
26 final, and the jurisdiction of the courts of this state would
27 be contrary to the First Amendment to the Constitution of the
28 United States and to Article I of the Constitution of the State
29 of Iowa. This exemption in no way grants permission for any
30 otherwise unlawful act under the guise of the protection of the
31 First Amendment to the Constitution of the United States.

32 Sec. 8. NEW SECTION. 537A.27 **Conflict.**

33 This subchapter shall not be interpreted by any court
34 to conflict with any federal treaty or other international
35 agreement to which the United States is a party to the extent

1 that such treaty or international agreement preempts or is
2 superior to state law on the matter at issue.

3 Sec. 9. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
4 immediate importance, takes effect upon enactment.

5 Sec. 10. CODE EDITOR DIRECTIVE. The Code editor shall
6 organize the provisions of this Act as a new subchapter in
7 chapter 537A.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill relates to the application of foreign laws.

12 The bill specifies that it shall be the public policy of
13 this state to protect its citizens from the application of
14 foreign laws when the application of foreign law will result
15 in the violation of a right guaranteed by the Constitution of
16 the United States or the Constitution of the State of Iowa,
17 including but not limited to due process; freedom of religion,
18 speech, or press; and any right of privacy or marriage embodied
19 in the Constitution of the State of Iowa.

20 The bill further specifies that it is the public policy of
21 this state to fully recognize the right to contract freely
22 under the laws of this state, and also to recognize that this
23 right may be reasonably and rationally circumscribed pursuant
24 to the state's interest to protect and promote rights and
25 privileges granted under the Constitution of the United States
26 and the Constitution of the State of Iowa.

27 As used in the bill, "foreign law" means any law, legal
28 code, or system of a jurisdiction outside of any state or
29 territory of the United States, including but not limited to
30 international organizations and tribunals, and applied by that
31 jurisdiction's courts, administrative bodies, or other formal
32 or informal tribunals. "Foreign law" as defined would not
33 include the laws of the Native American tribes of this state as
34 that jurisdiction is within this state.

35 The bill establishes that it is a violation of the public

1 policy of this state if any court, arbitration, tribunal,
2 or administrative agency ruling or decision bases a ruling
3 or decision in the matter at issue in whole or in part
4 on any law, legal code, or system, that would not grant
5 the parties affected by the ruling or decision the same
6 fundamental liberties, rights, and privileges granted under the
7 Constitution of the United States and the Constitution of the
8 State of Iowa. The bill specifies such a ruling is void and
9 unenforceable.

10 Under the bill, a contract or contractual provision, if
11 capable of segregation, which provides for the choice of a law,
12 legal code, or system, to govern some or all of the disputes
13 between the parties arising from a contract mutually agreed
14 upon violates the public policy of this state and shall be void
15 and unenforceable if the law, legal code, or system chosen
16 includes or incorporates any substantive or procedural law,
17 as applied to the dispute at issue, that would not grant the
18 parties the same fundamental liberties, rights, and privileges
19 granted under the Constitution of the United States and the
20 Constitution of the State of Iowa.

21 A contract or contractual provision under the bill, if
22 capable of segregation, which specifies jurisdiction for
23 the purpose of granting the courts or arbitration panels in
24 personam jurisdiction over the parties to adjudicate any
25 disputes between the parties arising from a contract mutually
26 agreed upon, shall be void and unenforceable if the law, legal
27 code, or system chosen includes or incorporates any substantive
28 or procedural law, as applied to the dispute at issue, that
29 would not grant the parties the same fundamental liberties,
30 rights, and privileges granted under the Constitution of the
31 United States and the Constitution of the State of Iowa.

32 If a person of this state, subject to personal jurisdiction
33 in this state, seeks to maintain litigation, arbitration,
34 agency, or similarly binding proceedings in this state and if
35 the courts of this state find that granting a claim of forum

1 non conveniens or a related claim violates the constitutional
2 rights of the nonclaimant in the foreign forum with respect
3 to the matter in dispute, the bill requires that the claim be
4 denied.

5 The bill does not apply to a corporation, partnership,
6 limited liability corporation, business association, or other
7 legal entity that contracts to subject itself to foreign law in
8 a jurisdiction other than this state or the United States. The
9 bill also does not apply to many activities involving a church
10 or religious organization.

11 Additionally, the provisions of the bill shall not be
12 interpreted by any court to conflict with any federal treaty or
13 other international agreement to which the United States is a
14 party to the extent that such treaty or international agreement
15 preempts or is superior to state law on the matter at issue.

16 The bill takes effect upon enactment.