

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: H3/8/13*

# A Bill

HOUSE BILL 1348

5 By: Representatives Alexander, D. Altes, Ballinger, Biviano, J. Burris, Deffenbaugh, Dotson, C. Douglas,  
6 Eubanks, Harris, Hobbs, Womack

7 By: Senators Bledsoe, J. Hendren, Hester, Holland, J. Hutchinson, Rapert, G. Stubblefield, J. Woods  
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## For An Act To Be Entitled

10 AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER  
11 THE UNITED STATES CONSTITUTION AND THE ARKANSAS  
12 CONSTITUTION; AND FOR OTHER PURPOSES.  
13  
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### Subtitle

15 TO PROTECT RIGHTS AND PRIVILEGES GRANTED  
16 UNDER THE UNITED STATES CONSTITUTION AND  
17 THE ARKANSAS CONSTITUTION.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. DO NOT CODIFY. Legislative findings.

24 The General Assembly finds that:

25 (1)(A) While fully recognizing that judgments and rulings issued by  
26 foreign courts and foreign judicial bodies may be recognized and enforced if  
27 those judgments and rulings do not conflict with the public policy of  
28 Arkansas, the General Assembly also recognizes that this recognition is given  
29 as a discretionary accommodation to that foreign nation and not afforded as a  
30 right.

31 (B) As a matter of public policy, the recognition and  
32 enforcement of a foreign judgment or ruling is limited to the extent that its  
33 enforcement would not directly conflict with the public policy of Arkansas;

34 (2)(A) The fundamental rights and liberties granted to Arkansas  
35 citizens and residents found in the Bill of Rights of the United States  
36 Constitution and other amendments and the Declaration of Rights, Arkansas



1 Constitution, Article 2, are fundamental human rights that transcend  
2 jurisdiction.

3 (B) When determining whether to recognize or enforce a foreign  
4 judgment or ruling, it is in the best interest of Arkansas and the public  
5 policy of Arkansas to first determine whether the parties affected by such an  
6 enforcement or recognition have been afforded comparable protections,  
7 including without limitation due process and equal protection, by the foreign  
8 law or legal system upon which the judgment or ruling was based; and

9 (3) It is in the best interest and public policy of the state of  
10 Arkansas and its citizens to ensure that before the state of Arkansas  
11 recognizes and uses its police power to enforce a foreign decree, judgment,  
12 or ruling that it is determined whether the law or legal system upon which  
13 the decree, judgment, or ruling is based provides the same or similar  
14 fundamental liberties, rights, and privileges afforded parties in this state  
15 seeking or defending the same or similar decree, judgment, or ruling.

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17 SECTION 2. Arkansas Code Title 16, Chapter 55, Subchapter 1, is  
18 amended to add an additional section to read as follows:

19 16-55-123. Application of foreign law, legal code, or system.

20 (a) As used in this section, "foreign law, legal code, or system"  
21 means any law, legal code, or system of a jurisdiction outside of any state,  
22 territory, or commonwealth of the United States, including without limitation  
23 international organizations and tribunals, and applied by that jurisdiction's  
24 courts, administrative bodies, or other formal or informal tribunals.

25 (b) Any court, arbitration, tribunal, or administrative agency ruling  
26 or decision is void and unenforceable if the court, arbitration, tribunal, or  
27 administrative agency bases its ruling or decision in the matter at issue in  
28 whole or in part on any foreign law, legal code, or system that would not  
29 grant the parties *the fundamental human rights that transcend jurisdiction,*  
30 *including without limitation:*

31 (1) *The due process right to be treated fairly by any and all*  
32 *legal systems;*

33 (2) *The right to be treated equally relative to other parties in*  
34 *the same case and to similarly situated parties in other cases;*

35 (3) *The right to make one's own choices about one's own life*  
36 *within the recognized norms of a civilized society; and*

1           (4) The right not to be discriminated against on the basis of  
2 race, gender, religion, or other similar characteristics.

3           (c) A contract or contractual provision capable of severability that  
4 provides for the choice of a foreign law, legal code, or system to govern  
5 some or all of the disputes between the parties adjudicated by a court of law  
6 or by an arbitration panel arising from the contract mutually agreed upon  
7 and is void and unenforceable if the foreign law, legal code, or system  
8 chosen includes or incorporates any substantive or procedural law, as applied  
9 to the dispute at issue, that would not grant the parties the fundamental  
10 human rights that transcend jurisdiction, including without limitation:

11           (1) The due process right to be treated fairly by any and all  
12 legal systems;

13           (2) The right to be treated equally relative to other parties in  
14 the same case and to similarly situated parties in other cases;

15           (3) The right to make one's own choices about one's own life  
16 within the recognized norms of a civilized society; and

17           (4) The right not to be discriminated against on the basis of  
18 race, gender, religion, or other similar characteristics.

19           (d)(1) A contract or contractual provision capable of severability  
20 that provides for a jurisdiction to grant the courts or arbitration panels in  
21 personam jurisdiction over the parties to adjudicate any disputes between  
22 parties arising from the contract mutually agreed upon shall be void and  
23 unenforceable if the jurisdiction chosen includes any foreign law, legal  
24 code, or system, as applied to the dispute at issue, that would not grant the  
25 parties the same fundamental human rights that transcend jurisdiction,  
26 including without limitation:

27           (A) The due process right to be treated fairly by any and all  
28 legal systems;

29           (B) The right to be treated equally relative to other parties in  
30 the same case and to similarly situated parties in other cases;

31           (C) The right to make one's own choices about one's own life  
32 within the recognized norms of a civilized society; and

33           (D) The right not to be discriminated against on the basis of  
34 race, gender, religion, or other similar characteristics.

35           (2) It is public policy of this state that the claim shall be  
36 denied if a resident of this state seeks to maintain litigation, arbitration,

1 agency, or similarly binding proceedings in this state and have the courts of  
2 this state find that, concerning a nonclaimant in the foreign forum with  
3 respect to the matter in dispute, granting a claim of forum non conveniens or  
4 a related claim violates or would likely violate the fundamental human rights  
5 that transcend jurisdiction, including without limitation:

6 (A) The due process right to be treated fairly by any and all  
7 legal systems;

8 (B) The right to be treated equally relative to other parties in  
9 the same case and to similarly situated parties in other cases;

10 (C) The right to make one's own choices about one's own life  
11 within the recognized norms of a civilized society; and

12 (D) The right not to be discriminated against on the basis of  
13 race, gender, religion, or other similar characteristics.

14 (e) This section does not apply to a corporation, partnership, or  
15 other form of business association.

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17 /s/Alexander  
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