

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1474

5 By: Representatives B. Smith, Ballinger, Bentley, Hammer, Ladyman, Tosh, Wallace
6 By: Senators J. Cooper, Bledsoe, J. Hendren, Hester, Irvin, B. Johnson, Rice, Flippo
7

For An Act To Be Entitled

9 AN ACT TO PROTECT THE RIGHTS AND PRIVILEGES GRANTED
10 UNDER THE UNITED STATES CONSTITUTION AND THE ARKANSAS
11 CONSTITUTION; TO DECLARE AMERICAN LAWS FOR AMERICAN
12 COURTS; AND FOR OTHER PURPOSES.
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Subtitle

15 TO PROTECT THE RIGHTS AND PRIVILEGES
16 GRANTED UNDER THE UNITED STATES
17 CONSTITUTION AND THE ARKANSAS
18 CONSTITUTION; TO DECLARE AMERICAN LAWS
19 FOR AMERICAN COURTS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. DO NOT CODIFY. Legislative findings.

26 (a) The General Assembly finds that it shall be the public policy of
27 this state to protect its citizens from the application of foreign laws when
28 the application of a foreign law will result in the violation of one (1) or
29 more of the following fundamental rights guaranteed by the Arkansas
30 Constitution of this state or the United States Constitution:

- 31 (1) Due process;
32 (2) Equal protection;
33 (3) Freedom of religion;
34 (4) Freedom of speech;
35 (5) Freedom of the press;
36 (6) Keep and bear arms;



1 (7) Privacy; or

2 (8) Marriage, as defined by Arkansas Constitution, Amendment 83.

3 (b) The General Assembly fully recognizes the right to contract freely
 4 under the laws of this state, and also recognizes that this right may be
 5 reasonably and rationally circumscribed pursuant to the state’s interest to
 6 protect and promote the following fundamental rights and privileges granted
 7 under the United States Constitution or the Arkansas Constitution:

8 (1) Due process;

9 (2) Equal protection;

10 (3) Freedom of religion;

11 (4) Freedom of speech;

12 (5) Freedom of the press;

13 (6) Keep and bear arms;

14 (7) Privacy; or

15 (8) Marriage, as defined by Arkansas Constitution, Amendment 83.

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

19 1-1-103. Application of foreign law, legal code, or system.

20 (a) As used in this section:

21 (1) "Court" means any court, board, administrative agency, or
 22 other adjudicative or enforcement authority of this state;

23 (2)(A) "Foreign law, legal code, or system" means any law, legal
 24 code, or system of a jurisdiction outside of any state or territory of the
 25 United States, including without limitation international organizations and
 26 tribunals, applied by that jurisdiction’s courts, administrative bodies, or
 27 other formal or informal tribunals.

28 (B) "Foreign law, legal code, or system" does not mean any
 29 laws of the Native American tribes in this state; and

30 (3) "Religious organization" means a church, seminary,
 31 synagogue, temple, mosque, religious order, religious corporation,
 32 association, or society with an identity that is distinctive in terms of
 33 common religious creed, beliefs, doctrines, practices, or rituals of any
 34 faith or denomination, including any organization qualifying as a church or
 35 religious organization under 26 U.S.C. § 501(c)(3) or 26 U.S.C. § 501(d).

36 (b) A court, arbitration, tribunal, or administrative agency ruling or

1 decision violates the public policy of this state and is void and
2 unenforceable if the court, arbitration, tribunal, or administrative agency
3 bases its rulings or decisions in the matter at issue in whole or in part on
4 any foreign law, legal code, or system that does not grant the parties
5 affected by the ruling or decision one (1) or more of the following
6 fundamental liberties, rights, and privileges granted under the United States
7 Constitution or the Arkansas Constitution:

8 (1) Due process;

9 (2) Equal protection;

10 (3) Freedom of religion;

11 (4) Freedom of speech;

12 (5) Freedom of the press;

13 (6) Keep and bear arms;

14 (7) Privacy; or

15 (8) Marriage, as defined by Arkansas Constitution, Amendment 83.

16 (c) A contract or contractual provision, if severable, which provides
17 for the choice of a foreign law, legal code, or system to govern some or all
18 of the disputes between the parties adjudicated by a court of law or by an
19 arbitration panel arising from the contract mutually agreed upon violates the
20 public policy of Arkansas and is void and unenforceable if the law, legal
21 code, or system chosen includes or incorporates any substantive or procedural
22 law, as applied to the dispute at issue, that does not grant the parties one
23 (1) or more of the following fundamental liberties, rights, and privileges
24 granted under the United States Constitution or the Arkansas Constitution:

25 (1) Due process;

26 (2) Equal protection;

27 (3) Freedom of religion;

28 (4) Freedom of speech;

29 (5) Freedom of the press;

30 (6) Keep and bear arms;

31 (7) Privacy; or

32 (8) Marriage, as defined by Arkansas Constitution, Amendment 83.

33 (d)(1) A contract or contractual provision, if severable, which
34 provides for a jurisdiction for purposes of granting the courts or
35 arbitration panels in personam jurisdiction over the parties to adjudicate
36 any disputes between parties arising from the contract mutually agreed upon

1 violates the public policy of Arkansas and is void and unenforceable if the
 2 jurisdiction chosen includes any law, legal code, or system, as applied to
 3 the dispute at issue, that does not grant the parties one (1) or more of the
 4 following fundamental liberties, rights, and privileges granted under the
 5 United States Constitution or the Arkansas Constitution:

- 6 (A) Due process;
- 7 (B) Equal protection;
- 8 (C) Freedom of religion;
- 9 (D) Freedom of speech;
- 10 (E) Freedom of the press;
- 11 (F) Keep and bear arms;
- 12 (G) Privacy; or
- 13 (H) Marriage, as defined by Arkansas Constitution,

14 Amendment 83.

15 (2) If a resident of Arkansas, subject to personal jurisdiction
 16 in Arkansas, seeks to maintain litigation, arbitration, agency, or similarly
 17 binding proceedings in this state and if the courts of this state find that
 18 granting a claim of forum non conveniens or a related claim violates or would
 19 likely violate the fundamental liberties, rights, and privileges granted
 20 under the United States Constitution or the Arkansas Constitution of the
 21 nonclaimant in the foreign forum with respect to the matter in dispute, then
 22 it is the public policy of Arkansas that the claim shall be denied.

23 (e) Without prejudice to any legal right, this section does not apply
 24 to a corporation, partnership, limited liability company, business
 25 association, or other legal entity that contracts to subject itself to
 26 foreign law in a jurisdiction other than Arkansas or the United States.

27 (f)(1) A court or arbitrator shall not interpret this section to limit
 28 the right of any person to the free exercise of religion as guaranteed by
 29 Arkansas Constitution, Article 2, §§ 24–26, and the First Amendment of the
 30 United States Constitution.

31 (2) A court shall not interpret this section to require or
 32 authorize a court to adjudicate or prohibit any religious organization from
 33 adjudicating ecclesiastical matters, including without limitation the
 34 election, appointment, calling, discipline, dismissal, removal, or
 35 excommunication of a member, officer, official, priest, nun, monk, pastor,
 36 rabbi, imam, or member of the clergy of the religious organization, or

1 determination or interpretation of the doctrine of the religious organization
2 if adjudication by a court would violate the First Amendment of the United
3 States Constitution or the Arkansas Constitution, Article 2, §§ 24-26.

4 (g) This section shall not be interpreted by any court to conflict
5 with any federal treaty or other international agreement to which the United
6 States is a party to the extent that the federal treaty or international
7 agreement preempts or is superior to state law on the matter at issue.

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