
HOUSE BILL No. 1166

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-7-8.

Synopsis: Application of foreign law. Provides that a court may not apply, enforce, or grant comity, res judicata, claim preclusion, or issue preclusion to a foreign law, ruling, or judgment if doing so would violate the fundamental liberties, rights, and privileges guaranteed by the United States Constitution or the Constitution of the State of Indiana. Provides that a provision in a contract or agreement: (1) that provides for the choice of foreign laws in its interpretation; or (2) that provides for the choice of venue or forum; and that would result in a violation of a fundamental liberty, right, or privilege guaranteed by the United States Constitution or the Constitution of the State of Indiana is void and unenforceable. Prohibits a court from granting certain motions if the transfer is likely to affect the constitutional rights of the nonmoving party. Provides that a court may not require or authorize any court to: (1) adjudicate or prohibit a religious organization from adjudicating ecclesiastical matters; or (2) determine or interpret the doctrine of a religious organization.

Effective: July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Judiciary.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1166



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-7-8 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2012]:
- 4 **Chapter 8. Application of Foreign Law**
- 5 **Sec. 1. This chapter does not apply to a corporation,**
- 6 **partnership, limited liability company, or business association that**
- 7 **contracts to subject itself to a foreign law in a jurisdiction other**
- 8 **than Indiana or the United States.**
- 9 **Sec. 2. As used in this chapter, "court" includes any court,**
- 10 **board, administrative agency, or other adjudicative authority in**
- 11 **Indiana.**
- 12 **Sec. 3. As used in this chapter, "ecclesiastical matters" include:**
- 13 **(1) the:**
- 14 **(A) election;**
- 15 **(B) appointment;**
- 16 **(C) calling;**
- 17 **(D) discipline;**



1 (E) dismissal;
 2 (F) removal; or
 3 (G) excommunication;
 4 of a member, officer, official, priest, nun, imam, monk, pastor,
 5 rabbi, or member of the clergy; and
 6 (2) the determination or interpretation of a doctrine;
 7 of a religious organization.

8 Sec. 4. (a) As used in this chapter, "foreign law" means any law,
 9 rule, legal code, or system:

10 (1) established; and
 11 (2) used or applied;
 12 in a jurisdiction outside the states of the United States, the District
 13 of Columbia, or the territories of the United States.

14 (b) The term does not mean or include any laws of a Native
 15 American tribe in this state.

16 Sec. 5. (a) As used in this chapter, "religious organization"
 17 means any church, seminary, synagogue, temple, mosque, religious
 18 order, religious corporation, religious association, or religious
 19 society whose identity is distinctive in terms of a common religious
 20 creed, beliefs, doctrines, practices or rituals based on any faith or
 21 denomination.

22 (b) The term includes a church or religious ministry that is a
 23 religious organization exempt from federal income taxation under
 24 Section 501(c)(3) or Section 501(d) of the Internal Revenue Code.

25 Sec. 6. A court may not apply, enforce, or grant comity, res
 26 judicata, claim preclusion, or issue preclusion to a foreign law,
 27 ruling, or judgment if doing so would violate the fundamental
 28 liberties, rights, and privileges guaranteed by the Constitution of
 29 the United States or the Constitution of the State of Indiana of the
 30 person against whom the foreign law, ruling, or judgment is being
 31 applied or enforced. The fundamental liberties, rights, and
 32 privileges to which this section applies include due process,
 33 freedom of religion, freedom of speech, and freedom of the press.

34 Sec. 7. If any contractual provision or agreement provides for
 35 the choice of a foreign law to govern its interpretation or the
 36 resolution of any dispute between parties, and if the foreign law
 37 incorporates any substantive or procedural law that, as applied to
 38 the dispute at issue, would not guarantee the parties the same
 39 fundamental liberties, rights, and privileges guaranteed by the
 40 Constitution of the United States and the Constitution of the State
 41 of Indiana, the agreement or contractual provision shall be
 42 interpreted or construed to preserve the fundamental

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1 constitutional liberties, rights, and privileges of the parties. If the
2 contractual provision or agreement is incapable of being modified
3 or amended in order to preserve the fundamental liberties, rights,
4 and privileges of the parties, the agreement or contractual
5 provision is void and unenforceable.

6 **Sec. 8. (a)** If a contractual provision or agreement provides for
7 the choice of venue or forum outside the United States, and if the
8 jurisdiction chosen would likely apply any substantive or
9 procedural foreign law to the dispute at issue that would not grant
10 the parties the same fundamental liberties, rights, and privileges
11 guaranteed by the Constitution of the United States and the
12 Constitution of the State of Indiana, that agreement or contractual
13 provision is void and unenforceable.

14 **(b)** A court may not grant a motion of forum non conveniens or
15 a motion to dismiss granting comity to a proceeding pending in a
16 court outside the United States if the court finds that granting the
17 motion violates, or would likely lead to the violation of, the
18 fundamental liberties, rights, and privileges guaranteed under the
19 Constitution of the United States or the Constitution of the State of
20 Indiana of the nonmovant in a court outside the United States with
21 respect to the matter in dispute.

22 **Sec. 9. (a)** A court may not interpret this chapter as requiring or
23 authorizing any court to:

- 24 (1) adjudicate or prohibit any religious organization from
25 adjudicating ecclesiastical matters if adjudication by a court
26 would violate the prohibition of the establishment clause of
27 the First Amendment to the Constitution of the United States
28 or violate the Constitution of the State of Indiana; or
29 (2) determine or interpret doctrine of the religious
30 organization.

31 **(b)** A court or arbitrator may not interpret this chapter as
32 limiting the right of any person to the free exercise of religion as
33 guaranteed by the First Amendment to the Constitution of the
34 United States or the Constitution of the State of Indiana.

35 **(c)** This chapter shall not be interpreted to conflict with any
36 federal treaty or other international agreement entered into by the
37 United States as a party to the extent that the treaty or
38 international agreement preempts or is superior to state law on the
39 matter at issue.

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