

SENATE BILL No. 22

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-14-19-1; IC 31-18; IC 31-19-28; IC 31-21-1-3; IC 34-7-8; IC 34-54.

Synopsis: Application of foreign law. Prohibits the enforcement of foreign law (defined as a law established and used outside the jurisdiction of the United States) against a natural person, if the enforcement would violate a right granted by the constitution of Indiana or the United States. Provides that a provision in a contract or agreement between natural persons calling for the application of foreign law is not enforceable and is void if the provision cannot be modified. Prohibits a court from granting certain motions to transfer a case to another jurisdiction if the transfer is likely to affect the constitutional rights of a natural person who is a nonmoving party.

Effective: July 1, 2013.

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January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 22

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 31-14-19-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. **Subject to**
 3 **IC 34-7-8**, a court or Title IV-D agency shall give full faith and credit
 4 to a paternity determination made by another state or foreign
 5 jurisdiction regardless of whether the determination is made through:
 6 (1) a voluntary acknowledgment; or
 7 (2) a judicial or an administrative process.

8 SECTION 2. IC 31-18-1-21 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. "State" means:
 10 (1) a state of the United States;
 11 (2) the District of Columbia;
 12 (3) the Commonwealth of Puerto Rico; or
 13 (4) any territory or insular possession subject to the jurisdiction
 14 of the United States.

15 The term includes an Indian tribe and a foreign jurisdiction that have
 16 enacted a law or established procedures for issuing and enforcing
 17 support orders that are substantially similar to the procedures under this



1 article or the procedures under the Uniform Reciprocal Enforcement of
 2 Support Act or the Revised Uniform Reciprocal Enforcement of
 3 Support Act. **The term does not include a foreign jurisdiction that**
 4 **has enacted a law or established procedures related to the subject**
 5 **of this article that result in a violation of any right guaranteed by**
 6 **the Constitution of the State of Indiana or the Constitution of the**
 7 **United States.**

8 SECTION 3. IC 31-18-6-6 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) The petition for
 10 registration must:

11 (1) be verified and set forth:

12 (A) the amount remaining unpaid; and

13 (B) a list of any other states in which the support order is
 14 registered; and

15 (2) have attached to it a certified copy of the support order with
 16 all modifications of the support order.

17 (b) **Subject to IC 34-7-8**, the registered foreign support order shall
 18 be given full force and effect subject to confirmation or rescission of
 19 the order by the court.

20 SECTION 4. IC 31-19-28-1, AS AMENDED BY P.L.130-2005,
 21 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2013]: Sec. 1. **Subject to subsection (b)**, whenever a person
 23 is adopted outside Indiana, under the laws of the state, territory, or
 24 country where the adoption took place:

25 (1) the adoption decree:

26 (A) when filed with the clerk of the court of any county in
 27 Indiana; and

28 (B) when entered upon the order book of the court in open
 29 session;

30 has the same force and effect as if the adoption decree were made
 31 in accordance with this article;

32 (2) the adopted person:

33 (A) has the same rights; and

34 (B) is capable of taking by inheritance, upon the death of the
 35 adoptive parent, property located in Indiana;

36 as though the person had been adopted according to the laws of
 37 Indiana; and

38 (3) if a name other than a name in the adoption decree is
 39 requested, the adopted person shall take the name requested in a
 40 petition filed under this section.

41 (b) **Every adoption decree issued by a court of any other**
 42 **jurisdiction outside a state or the United States is subject to**

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1 **IC 34-7-8.**

2 SECTION 5. IC 31-19-28-2 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. Every decree of a
 4 court terminating parental rights issued by a court of any other
 5 jurisdiction within or outside the United States shall be recognized in
 6 Indiana so that the rights and obligations of the parties concerning
 7 matters within the jurisdiction of Indiana shall be determined as though
 8 the decree were issued by an Indiana court. **Every decree terminating
 9 parental rights issued by a court of any other jurisdiction outside
 10 a state or the United States is subject to IC 34-7-8.**

11 SECTION 6. IC 31-19-28-3 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. Every consent to
 13 adoption taken in a jurisdiction outside Indiana that:

- 14 (1) is valid under the law in force in the state, territory, or country
 15 where the consent to adoption was taken; or
 16 (2) would be valid if the consent to adoption had been taken in
 17 Indiana;

18 is a valid consent to an adoption. **Every consent to adoption taken in
 19 a jurisdiction outside a state or the United States is subject to
 20 IC 34-7-8.**

21 SECTION 7. IC 31-21-1-3, AS ADDED BY P.L.138-2007,
 22 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2013]: Sec. 3. (a) An Indiana court shall treat a foreign
 24 country as if the foreign country were a state of the United States for
 25 purposes of applying IC 31-21-3 through IC 31-21-5.

26 (b) Except as otherwise provided in subsection (c), a child custody
 27 determination made in a foreign country under factual circumstances
 28 in substantial conformity with the jurisdictional standard of this article
 29 must be recognized and enforced under IC 31-21-6.

30 (c) An Indiana court need not apply this article if the child custody
 31 law of a foreign country violates the fundamental principles of human
 32 rights or (as prohibited under IC 34-7-8) any right guaranteed to
 33 a natural person by the Constitution of the State of Indiana or the
 34 Constitution of the United States.

35 SECTION 8. IC 34-7-8 IS ADDED TO THE INDIANA CODE AS
 36 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2013]:

38 **Chapter 8. Application of Foreign Law**

39 **Sec. 1. This chapter does not apply to:**

- 40 (1) a contract or agreement in which one (1) or more of the
 41 parties is not a natural person; or
 42 (2) a final, unappealable order of an Indiana court issued

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1 before July 1, 2013.

2 Sec. 2. As used in this chapter, "foreign law" means any law,
3 rule, or legal code or system:

4 (1) established; and

5 (2) used or applied;

6 in a jurisdiction that is located outside a state or the United States.

7 Sec. 3. A court, arbitrator, administrative agency, or other
8 adjudicative, mediation, or enforcement authority may not enforce
9 a foreign law if doing so would violate a right guaranteed by the
10 Constitution of the State of Indiana or the Constitution of the
11 United States.

12 Sec. 4. (a) If any contractual provision or agreement provides
13 for the choice of a foreign law to govern its interpretation or the
14 resolution of any dispute between the parties, and if the
15 enforcement or interpretation of the contractual provision or
16 agreement would result in a violation of a right guaranteed by the
17 Constitution of the State of Indiana or the Constitution of the
18 United States, the agreement or contractual provision shall be
19 modified or amended to the extent necessary to preserve the
20 constitutional rights of the parties.

21 (b) Any contractual provision or agreement described in
22 subsection (a) that is incapable of being modified or amended in
23 order to preserve the constitutional rights of the parties in
24 accordance with this chapter is void.

25 Sec. 5. (a) If a contractual provision or agreement provides for
26 the choice of venue or forum outside a state or the United States,
27 and if the enforcement or interpretation of the contract or
28 agreement applying that choice of venue or forum provision would
29 result in a violation of any right guaranteed by the Constitution of
30 the State of Indiana or the Constitution of the United States, that
31 contractual provision or agreement shall be interpreted or
32 construed to preserve the constitutional rights of the person
33 against whom enforcement is sought.

34 (b) In a case in which a natural person subject to personal
35 jurisdiction in Indiana seeks to maintain an action in Indiana, the
36 court may not grant a motion of forum non conveniens or a related
37 motion through which the movant seeks to have the case heard in
38 a foreign forum if the court finds that granting the motion would
39 violate or would likely lead to the violation of the constitutional
40 rights of the nonmovant in the foreign forum with respect to the
41 matter in dispute.

42 Sec. 6. If there is a conflict between the provisions of this

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1 **chapter and the provisions of any other state statute, including:**

2 **(1) IC 31-14-19 (paternity determination by foreign**
3 **jurisdiction);**

4 **(2) IC 31-18-6 (Uniform Interstate Family Support Act);**

5 **(3) IC 31-19-28 (adoption decrees in foreign jurisdictions);**

6 **(4) IC 31-21 (Uniform Child Custody Jurisdiction Act);**

7 **(5) IC 34-54-11 (Uniform Enforcement of Foreign Judgments**
8 **Act); and**

9 **(6) IC 34-54-12 (Uniform Act for the Recognition of Foreign**
10 **Country Money Judgments);**

11 **the provisions of this chapter control with respect to the**
12 **application of foreign law.**

13 SECTION 9. IC 34-54-11-1, AS AMENDED BY P.L.63-2010,
14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2013]: Sec. 1. (a) A copy of any foreign judgment
16 authenticated in accordance with 28 U.S.C. 1963 or the statutes of this
17 state may be filed in the office of the clerk of any court of record in a
18 county in Indiana.

19 (b) The clerk of the court in which the copy is filed shall treat the
20 foreign judgment in the same manner as a judgment of an Indiana
21 court.

22 (c) A foreign judgment filed under subsection (a) has the same
23 effect and is subject to the same procedures, defenses, and proceedings
24 for reopening, vacating, or staying as a judgment entered by an Indiana
25 court.

26 **(d) A foreign judgment filed under subsection (a) is subject to**
27 **IC 34-7-8.**

28 SECTION 10. IC 34-54-12-3, AS ADDED BY P.L.213-2011,
29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2013]: Sec. 3. (a) Except as provided in subsections (b) and
31 (c), a court shall recognize a foreign country judgment to which this
32 chapter applies.

33 (b) A court may not recognize a foreign country judgment if:

34 (1) the judgment was rendered under a judicial system that does
35 not provide impartial tribunals or procedures compatible with the
36 requirements of due process of law;

37 (2) the foreign court did not have personal jurisdiction over the
38 defendant; **or**

39 (3) the foreign court did not have jurisdiction over the subject
40 matter; **or**

41 **(4) the judgment would otherwise result in a violation of a**
42 **natural person's rights guaranteed by the Constitution of the**

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1 **State of Indiana or the Constitution of the United States.**

2 (c) A court is not required to recognize a foreign country judgment
3 if:

4 (1) the defendant in the proceeding in the foreign court did not
5 receive notice of the proceeding in sufficient time to enable the
6 defendant to defend;

7 (2) the judgment was obtained by fraud that deprived the losing
8 party of an adequate opportunity to present its case;

9 (3) the judgment or the cause of action on which the judgment is
10 based is repugnant to the public policy of Indiana or of the United
11 States;

12 (4) the judgment conflicts with another final and conclusive
13 judgment;

14 (5) the proceeding in the foreign court was contrary to an
15 agreement between the parties under which the dispute in
16 question was to be determined otherwise than by proceedings in
17 that foreign court;

18 (6) in the case of jurisdiction based only on personal service, the
19 foreign court was a seriously inconvenient forum for the trial of
20 the action;

21 (7) the judgment was rendered in circumstances that raise
22 substantial doubt about the integrity of the rendering court with
23 respect to the judgment; or

24 (8) the specific proceeding in the foreign court leading to the
25 judgment was not compatible with the requirements of due
26 process of law.

27 (d) A party resisting recognition of a foreign country judgment has
28 the burden of establishing that a ground for nonrecognition stated in
29 subsection (b) or (c) exists.

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