

By: Senator(s) McDaniel

To: Judiciary, Division A

SENATE BILL NO. 2729

1 AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER THE
2 UNITED STATES CONSTITUTION AND THE MISSISSIPPI CONSTITUTION OF
3 1890; TO ADDRESS THE APPLICATION OF FOREIGN LAWS IN JUDICIAL
4 PROCEEDINGS IN THIS STATE; TO PROVIDE LEGISLATIVE FINDINGS; TO
5 DEFINE CERTAIN TERMS; TO PROHIBIT THE USE AND ENFORCEMENT OF
6 FOREIGN LAWS UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR
7 APPLICABILITY IN CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** (1) The Legislature finds that it is the public
10 policy of this state to protect its citizens from the application
11 of foreign laws when the application of a foreign law will result
12 in the violation of a right guaranteed by the Constitution of this
13 state or of the United States, including, but not limited to, due
14 process, freedom of religion, speech, or press, and any right of
15 privacy or marriage as specifically defined by the Constitution of
16 this state. The Legislature fully recognizes the right to
17 contract freely under the laws of this state, and also recognizes
18 that this right may be reasonably and rationally circumscribed
19 pursuant to the state's interest to protect and promote rights and
20 privileges granted under the United States Constitution or the



21 Mississippi Constitution of 1890, including, but not limited to,
22 due process, freedom of religion, speech, or press, and any right
23 of privacy or marriage as specifically defined by the Constitution
24 and laws of this state.

25 (2) For the purposes of this section, "foreign law, legal
26 code, or system" means any law, legal code, or system of a
27 jurisdiction outside of any state or territory of the United
28 States, including, but not limited to, international organizations
29 and tribunals, and applied by that jurisdiction's courts,
30 administrative bodies, or other formal or informal tribunals. For
31 the purposes of this act, foreign law shall not mean, nor shall it
32 include, any laws of the Native American tribes in this state.

33 (3) Any court, arbitration, tribunal, or administrative
34 agency ruling or decision which violates the public policy of this
35 state shall be void and unenforceable if the court, arbitration,
36 tribunal, or administrative agency bases its rulings or decisions
37 in the matter at issue, in whole or in part, on any law, legal
38 code or system that would not grant the parties affected by the
39 ruling or decision the same fundamental liberties, rights, and
40 privileges granted under the United States Constitution and the
41 Mississippi Constitution of 1890, including, but not limited to,
42 due process, freedom of religion, speech, or press, and any right
43 of privacy or marriage as specifically defined by the Constitution
44 of this state.



45 (4) A contract or contractual provision (if capable of
46 segregation) which provides for the choice of a law, legal code or
47 system to govern some or all of the disputes between the parties
48 adjudicated by a court of law or by an arbitration panel arising
49 from the contract mutually agreed upon violates the public policy
50 of this state and shall be void and unenforceable if the law,
51 legal code or system chosen includes or incorporates any
52 substantive or procedural law, as applied to the dispute at issue,
53 that would not grant the parties the same fundamental liberties,
54 rights, and privileges granted under the United States
55 Constitution and the Mississippi Constitution of 1890, including,
56 but not limited to, due process, freedom of religion, speech, or
57 press, and any right of privacy or marriage as specifically
58 defined by the Constitution of this state.

59 (5) (a) A contract or contractual provision, if capable of
60 segregation, which provides for a jurisdiction for purposes of
61 granting the courts or arbitration panels in personam jurisdiction
62 over the parties to adjudicate any disputes between parties
63 arising from the contract mutually agreed upon violates the public
64 policy of this state and shall be void and unenforceable if the
65 jurisdiction chosen includes any law, legal code or system, as
66 applied to the dispute at issue, that would not grant the parties
67 the same fundamental liberties, rights, and privileges granted
68 under the United States Constitution and the Mississippi
69 Constitution of 1890, including, but not limited to, due process,



70 freedom of religion, speech, or press, and any right of privacy or
71 marriage as specifically defined by the Mississippi Constitution
72 of 1890.

73 (b) If a resident of this state, subject to personal
74 jurisdiction in this state, seeks to maintain litigation,
75 arbitration, agency or similarly binding proceedings in this state
76 and if the courts of this state find that granting a claim of
77 forum non conveniens or a related claim violates or would likely
78 violate the fundamental liberties, rights, and privileges granted
79 under the United States Constitution and the Mississippi
80 Constitution of 1890 of the nonclaimant in the foreign forum with
81 respect to the matter in dispute, then it is the public policy of
82 this state that the claim shall be denied.

83 (6) Without prejudice to any legal right, this act shall not
84 apply to a corporation, partnership, limited liability company,
85 business association, or other legal entity that contracts to
86 subject itself to foreign law in a jurisdiction other than this
87 state or the United States.

88 (7) This act shall not apply to a church, religious
89 corporation, association or society with respect to the
90 individuals of a particular religion regarding matters that are
91 purely ecclesiastical, including, but not limited to, matters of
92 calling a pastor, excluding members from a church, electing church
93 officers, matters concerning church bylaws, constitution and
94 doctrinal regulations and the conduct of other routine church



95 business where (a) the jurisdiction of the church would be final,
96 and (b) the jurisdiction of the courts would be contrary to the
97 First Amendment of the United States Constitution and Article 3,
98 Sections 13 and 18 of the Mississippi Constitution of 1890. This
99 exemption in no way grants permission for any otherwise unlawful
100 act under the guise of the First Amendment protection.

101 **SECTION 2.** This act shall not be interpreted by any court to
102 conflict with any federal treaty or other international agreement
103 to which the United States is a party to the extent that such
104 treaty or international agreement preempts or is superior to state
105 law on the matter at issue.

106 **SECTION 3.** This act shall take effect and be in force from
107 and after July 1, 2013.

