

AN ACT

relating to requiring the Texas Supreme Court to adopt rules and provide judicial instruction regarding the application of foreign laws in certain family law cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

(1) litigants in actions under the Family Code involving a marriage relationship or a parent-child relationship are protected against violations of constitutional rights and public policy in the application of foreign law and the recognition and enforcement of foreign judgments and arbitration awards by courts of this state by a well-established body of law, described by Tex. Att'y Gen. Op. No. KP-0094 (2016), which includes protections provided under:

- (A) the United States Constitution and the Texas Constitution;
- (B) federal law, treaties, and conventions to which the United States is a signatory;
- (C) federal and state judicial precedent; and
- (D) the Family Code and other laws of this state;

(2) the legislature has enacted statutes, including the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), that address comity regarding foreign judgments and arbitration awards;

(3) as recognized by courts and commentators, the UCCJEA does not define the aspects of a foreign law that violate fundamental principles of human rights or certain terminology used by that Act;

(4) the Family Code allows parties to a suit involving the marriage relationship or affecting the parent-child relationship to engage in arbitration and authorizes the court to render an order reflecting the arbitrator's award;

(5) the Family Code should not be applied to enforce a judgment or arbitrator's award affecting a marriage relationship or a parent-child relationship based on foreign law if the foreign law applied to render the judgment or award does not:

- (A) grant constitutional rights guaranteed by the United States Constitution and the Texas Constitution;
- (B) consider the best interest of the child;
- (C) consider whether domestic violence or child abuse has occurred and is likely to continue in the future; or
- (D) consider whether the foreign judgment or arbitrator's award affecting the parent-child relationship may place the child in substantial risk of harm; and

(6) the rules of procedure and evidence adopted by the Texas Supreme Court and judicial education required by the Texas Supreme Court can ensure the full implementation and uniform application by the courts of this state of the well-established body of law described by Subdivision (1) of this section in order to protect litigants in actions under the Family Code involving a marriage relationship or a parent-child relationship against violations of constitutional rights and public policy.

SECTION 2. Subchapter A, Chapter 22, Government Code, is amended by adding Sections 22.0041 and 22.022 to read as follows:

Sec. 22.0041. RULES REGARDING FOREIGN LAW AND FOREIGN JUDGMENTS IN CERTAIN FAMILY LAW ACTIONS. (a) In this section:

(1) "Comity" means the recognition by a court of one jurisdiction of the laws and judicial decisions of a court of another jurisdiction.

(2) "Foreign judgment" means a judgment of a court, tribunal, or administrative adjudicator of a jurisdiction outside of the states and territories of the United States.

(3) "Foreign law" means a law, rule, or code of a jurisdiction outside of the states and territories of the United States.

(b) The supreme court shall adopt rules of evidence and procedure to implement the limitations on the granting of comity to a foreign judgment or an arbitration award involving a marriage relationship or a parent-child relationship under the Family Code to protect against violations of constitutional rights and public policy.

(c) The rules adopted under Subsection (b) must:  
(1) require that any party who intends to seek enforcement of a judgment or an arbitration award based on foreign

law that involves a marriage relationship or a parent-child relationship shall provide timely notice to the court and to each other party, including by providing information required by Rule 203, Texas Rules of Evidence, and by describing the court's authority to enforce or decide to enforce the judgment or award;

(2) require that any party who intends to oppose the enforcement of a judgment or an arbitration award based on foreign law that involves a marriage relationship or a parent-child relationship shall provide timely notice to the court and to each other party and include with the notice an explanation of the party's basis for opposition, including by stating whether the party asserts that the judgment or award violates constitutional rights or public policy;

(3) require a hearing on the record, after notice to the parties, to determine whether the proposed enforcement of a judgment or an arbitration award based on foreign law that involves a marriage relationship or a parent-child relationship violates constitutional rights or public policy;

(4) to facilitate appellate review, require that a court state its findings of fact and conclusions of law in a written order determining whether to enforce a foreign judgment or an arbitration award based on foreign law that involves a marriage relationship or a parent-child relationship;

(5) require that a court's determination under Subdivision (3) or (4) be made promptly so that the action may proceed expeditiously; and

(6) provide that a court may issue any orders the court considers necessary to preserve principles of comity or the freedom to contract for arbitration while protecting against violations of constitutional rights and public policy in the application of foreign law and the recognition and enforcement of foreign judgments and arbitration awards.

(d) In addition to the rules required under Subsection (b), the supreme court shall adopt any other rules the supreme court considers necessary or advisable to accomplish the purposes of this section.

(e) A rule adopted under this section does not apply to an action brought under the International Child Abduction Remedies Act (22 U.S.C. Section 9001 et seq.).

(f) In the event of a conflict between a rule adopted under this section and a federal or state law, the federal or state law prevails.

Sec. 22.022. JUDICIAL INSTRUCTION RELATED TO FOREIGN LAW AND FOREIGN JUDGMENTS. (a) The supreme court shall provide for a course of instruction that relates to issues regarding foreign law, foreign judgments, and arbitration awards in relation to foreign law that arise in actions under the Family Code involving the marriage relationship and the parent-child relationship for judges involved in those actions.

(b) The course of instruction must include information about:

(1) the limits on comity and the freedom to contract for arbitration that protect against violations of constitutional rights and public policy in the application of foreign law and the recognition and enforcement of foreign judgments and arbitration awards in actions brought under the Family Code; and

(2) the rules of evidence and procedure adopted under Section 22.0041.

(c) The supreme court shall adopt rules necessary to accomplish the purposes of this section.

SECTION 3. The Texas Supreme Court shall adopt rules as required by this Act as soon as practicable following the effective date of this Act, but not later than January 1, 2018.

SECTION 4. This Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 45 was passed by the House on May 6, 2017, by the following vote: Yeas 135, Nays 8, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 45 was passed by the Senate on May 22, 2017, by the following vote: Yeas 26, Nays 5.

APPROVED: \_\_\_\_\_  
Date  
\_\_\_\_\_  
Governor

\_\_\_\_\_  
Secretary of the Senate