

# HOUSE BILL No. 5874

September 14, 2016, Introduced by Reps. Hooker, Runestad, Franz, Somerville and Barrett and referred to the Committee on Judiciary.

A bill to limit the application and enforcement by a court, arbitrator, or administrative body of foreign laws that would impair constitutional rights; to provide for modification or voiding of certain contractual provisions or agreements that would result in a violation of constitutional rights; and to require a court, arbitrator, or administrative body to take certain actions to prevent violation of constitutional rights.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. (1) This act shall be known and may be cited as the  
2 "restriction of application of foreign laws act".

3       (2) As used in this act, "foreign law" means any law, legal  
4 code, or system of a jurisdiction outside of any state or territory  
5 of the United States, including, but not limited to, international  
6 organizations and tribunals, and applied by that jurisdiction's

1 courts, administrative bodies, or other formal or informal  
2 tribunals.

3 Sec. 2. A court, arbitrator, administrative agency, or other  
4 adjudicative, mediation, or enforcement authority shall not enforce  
5 a foreign law if doing so would violate a right guaranteed by the  
6 constitution of this state or of the United States.

7 Sec. 3. (1) If any contract or other agreement provides for  
8 the choice of a foreign law to govern its interpretation or the  
9 resolution of any dispute between the parties and if the  
10 enforcement or interpretation of the choice of law provision would  
11 result in a violation of a right guaranteed by the constitution of  
12 this state or of the United States, the choice of law provision  
13 shall be applied as modified or amended to the extent necessary to  
14 preserve the constitutional rights of the parties.

15 (2) If any contract or other agreement provides for the choice  
16 of venue or forum outside of the states or territories of the  
17 United States, and if the enforcement, interpretation, or  
18 application of that choice of venue or forum provision would result  
19 in a violation of any right guaranteed by the constitution of this  
20 state or of the United States, that provision shall be interpreted  
21 or construed and modified or amended to the extent necessary to  
22 preserve the constitutional rights of the person against whom  
23 enforcement is sought. Similarly, if a natural person subject to  
24 personal jurisdiction in this state seeks to maintain litigation,  
25 arbitration, agency, or similarly binding proceedings in this  
26 state, and if a court of this state finds that granting a claim of  
27 forum non conveniens or a related claim violates or would likely

1 lead to a violation of the constitutional rights of the nonclaimant  
2 in the foreign forum with respect to the matter in dispute, the  
3 claim shall be denied.

4 (3) Any contractual provision or agreement incapable of being  
5 modified or amended as provided in subsection (1) or (2) to  
6 preserve the constitutional rights of the parties pursuant to the  
7 provisions of this section is null and void.

8 (4) If a corporation, partnership, limited liability company,  
9 business association, or other legal entity contracts to subject  
10 itself to foreign law in a jurisdiction outside of any state or  
11 territory of the United States, this act does not apply to that  
12 contract.

13 Sec. 4. This act applies only to actual or foreseeable  
14 violations of the constitutional rights of a person caused by the  
15 application of the foreign law.

16 Sec. 5. Nothing in this act shall be construed to allow a  
17 court, arbitrator, or administrative body to do any of the  
18 following:

19 (a) Adjudicate, or prohibit any religious organization from  
20 deciding, ecclesiastical matters of a religious organization,  
21 including, but not limited to, the selection, appointment, calling,  
22 discipline, dismissal, removal, or excommunication of a member,  
23 member of the clergy, or other person who performs ministerial  
24 functions.

25 (b) Determine or interpret the doctrine of a religious  
26 organization, including, but not limited to, a situation in which  
27 adjudication by a court would violate Amendment I or XIV of the

1 Constitution of the United States or section 4 of article I of the  
2 state constitution of 1963.

3 Enacting section 1. This act takes effect 90 days after the  
4 date it is enacted into law.