

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2994

2015 Carryover

(BY DELEGATE MOFFATT, NELSON, J., FOLK, AZINGER

AND FAIRCLOTH)

[Introduced January 13, 2016; referred to the

Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §2-1-3, relating to prohibiting courts from using, implementing, referring to or
 3 incorporating a tenet of any body of religious sectarian law into any decision, finding or
 4 opinion as controlling or influential authority.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §2-1-3, to read as follows:

ARTICLE 1. COMMON LAW.

§2-1-3. Basis for judicial determinations; applicability; definitions.

1 (a) A court may not use, implement, refer to or incorporate a tenet of any body of religious
 2 sectarian law into any decision, finding or opinion as controlling or influential authority.

3 (b) A court may not use, implement, refer to or incorporate any case law or statute from
 4 another country or a foreign body or jurisdiction that is outside of the United States and its
 5 territories in any decision, finding or opinion as either:

6 (1) Controlling or influential authority; or

7 (2) Precedent or the foundation for any legal theory.

8 (c) Any decision or ratification of a private agreement that is determined, on the merits, by
 9 a judge in this state who relies on any body of religious sectarian law or foreign law is void, is
 10 appealable error and is grounds for impeachment and removal from office.

11 (d) This section applies to a federal court sitting in diversity jurisdiction.

12 (e) This section does not apply to:

13 (1) A statute or any case law developed in the United States and its territories that is based
 14 on Anglo-American legal tradition and principles on which the United States was founded.

15 (2) A statute or any case law or legal principle that was inherited from Great Britain before

16 the effective date of this article.

17 (3) The recognition of a traditional marriage between a man and a woman as officiated by
18 the clergy or a secular official of the matrimonial couple's choice.

19 (f) For the purposes of this section:

20 (1) "Foreign body" includes the United Nations and any agency thereunder, the European
21 Union and any agency thereunder, an international judiciary, the International Monetary Fund, the
22 Organization of Petroleum Exporting Countries, the World Bank and the Socialist International.

23 (2) "Foreign law" means any statute or body of case law developed in a country,
24 jurisdiction or Foreign Body outside of the United States, whether or not the United States is a
25 member of that body, unless properly ratified as a treaty pursuant to the United States
26 Constitution.

27 (3) "Religious sectarian law" means any statute, tenet or body of law evolving within and
28 binding a specific religious sect or tribe. Religious sectarian law includes Sharia law, Canon law,
29 Halacha and Karma but does not include any law of the United States or the individual states
30 based on Anglo-American legal tradition and principles on which the United States was founded.

NOTE: The purpose of this bill is to prohibit courts from using, implementing, referring to or incorporating a tenet of any body of religious sectarian law into any decision, finding or opinion as controlling or influential authority.

This section is new; therefore, it has been completely underscored.