

**Representative Carl Wimmer** proposes the following substitute bill:

**CHOICE OF LAW IN UTAH COURTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carl Wimmer**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill requires that, in circumstances where applying non-U.S. law would otherwise fail to protect the fundamental constitutional rights of the parties before the courts, Utah courts should apply U.S. law as necessary in cases and controversies before them.

**Highlighted Provisions:**

This bill:

- requires a Utah court to apply United States and Utah law in cases and controversies before them if the court determines that applying a foreign law would deprive a person of fundamental rights guaranteed by the United States and Utah constitutions.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**78B-5-104**, Utah Code Annotated 1953

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26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **78B-5-104** is enacted to read:

28 **78B-5-104. Choice of law -- Definition -- Use of foreign laws.**

29 (1) "Foreign law, legal code or system" means any foreign law, legal code or system  
30 used or applied in a jurisdiction outside of any United States territory. It does not include any  
31 law, legal code or system applied in any state or United States territory.

32 (2) It is the public policy of this state that a court, arbitrator, administrative agency, or  
33 other adjudicative, mediation, or enforcement authority may not enforce a law enacted or a  
34 decision rendered by any legislative, judicial, or other governmental authority of a foreign  
35 nation or power if the law enacted or the decision rendered violated or would violate a right of  
36 the party against whom enforcement is sought guaranteed by the constitution of this state or the  
37 United States including due process, freedom of religion, speech, or press, and any right of  
38 privacy or marriage as specifically defined by the constitution of this state.

39 (3) If any contractual provision or agreement provides for the choice of a foreign law or  
40 legal code or system to govern its interpretation or the resolution of any dispute between the  
41 parties, and if the enforcement or interpretation of the contract or agreement would result in a  
42 violation of a right guaranteed by the constitution of this state or of the United States including  
43 due process, freedom of religion, speech, or press, and any right of privacy or marriage as  
44 specifically defined by the constitution of this state, it is the public policy of this state that the  
45 agreement or contractual provision is considered modified or amended to the extent necessary  
46 to preserve the constitutional rights of the parties under the laws of this state or the United  
47 States. Any agreement or contractual provision incapable of being modified or amended in  
48 order the preserve these constitutional rights of the parties is null and void.

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**H.B. 296 1st Sub. (Buff) - Choice of Law in Utah Courts**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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