

HB 4204

“FOREIGN LAW” BILL

HB 4204 HAS THE POTENTIAL TO CREATE SIGNIFICANT UNINTENDED CONSEQUENCES IN THE EVERYDAY LIVES OF WEST VIRGINIANS. IT IS A SOLUTION IN SEARCH OF A PROBLEM.

Policy Rundown

This bill claims to regulate West Virginia courts’ use and recognition of foreign law. It is motivated by an unfounded concern that so-called “Sharia law” is overtaking West Virginia courts, but there is no evidence of that. The First Amendment already prohibits U.S. courts from imposing religious law as civil law, so this measure is completely unnecessary.

Bad for West Virginians

HB 4204 creates confusion and a legal nightmare for families.

Courts look to foreign law to determine the validity of marriages and adoption agreements conducted abroad. But under this bill, a court would be prohibited from recognizing a foreign marriage, an international adoption agreement, or a will executed abroad unless the court first determines that the pertinent country’s legal system provides the exact same rights and liberties as our Constitution with respect to the issue at hand.

HB 4204 weakens the right of religious arbitration.

Many people of faith, including followers of Christianity and Judaism, agree to settle family or business disputes and other matters through religious arbitration panels, and courts have long been permitted to enforce these agreements. Under this law, such religious arbitration agreements could be deemed unenforceable by West Virginia courts, impairing the right of people of faith to settle disputes in accordance with the principles of their religion.



BAD FOR WEST VIRGINIA BUSINESS

HB 4204 could cast uncertainty on international business transactions conducted by West Virginia companies. And it could drive away multinational corporations, jeopardizing China’s planned investment into West Virginia’s extractive industries, by making it clear that West Virginia’s policy for recognizing foreign law is based on unfounded xenophobia. These companies are more likely to take their business to another state, where they don’t have to contend with these risks.