AMERICAN CENTER
for LAW & JUSTICE

November 17, 2026

VIA EMAIL & FEDEX

Susan Manchester, Chair
Andrew O. Brenner, Vice Chair
Casey Weinstein, Ranking Member
The Senate Government Oversight and Reform Committee
Ohio Senate
1 Capitol Square
Columbus, Ohio 43215

Re: Support for Ohio Senate Bill 380

Dear Chair Manchester, Vice Chair Brenner, Ranking Member Weinstein, and Members of the Senate Government Oversight and Reform Committee:

The American Center for Law and Justice ("ACLJ")[1] submits this written testimony in strong support of the policies in Ohio Senate Bill 380, now pending before the Senate Government Oversight and Reform Committee. S.B. 380 rests on an elementary proposition of constitutional government: no foreign nations, private agreements, or cultural traditions can ever displace the rights of persons under Ohio's protection. It is imperative that Ohio courts never enforce foreign judgments that violate the constitutional rights Ohioans hold dear, and S.B. 380 is an important step forward to protect that principle.

This is no mere theoretical concern, and it derives not from judgment about any particular religious faith. Courts in Ohio and across the country have repeatedly confronted foreign divorces

[1] By way of introduction, the ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the freedoms of speech and religion. *See Pleasant Grove City v. Summum*, 129 S. Ct. 1523 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept counter-monuments when it has a war memorial or Ten Commandments monument on its property); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment); *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause); *Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569 (1987) (unanimously striking down a public airport's ban on First Amendment activities).

obtained without notice; unilateral procedures available only to husbands; decrees that would defeat equitable distribution or support; foreign judgments produced by systems lacking impartial tribunals; foreign speech rules incompatible with the First Amendment; and requests to enforce religious processes through civil power.

Ultimately, S.B. 380 is a civil rights measure. The operative question is whether the requested recognition or enforcement would deny or materially impair rights secured by the United States Constitution, the Ohio Constitution, controlling federal law, or Ohio's fundamental public policy. Framed and applied that way, the legislation protects women and children, religious converts and dissenters, speakers and publishers, parties denied notice, and every Ohioan who may otherwise be asked to surrender a domestic legal protection because a foreign decree or private process is presented as conclusive.

The Constitution and laws of the United States are supreme. Ohio's Constitution and laws govern Ohio governmental action. Foreign law may be relevant in American litigation, and foreign judgments sometimes, and in certain contexts, deserve recognition, but neither arrives with authority superior to the rights Ohio government is bound to protect. S.B. 380 translates that hierarchy into a usable rule for courts and public officials.

The foundational doctrine comes from *Hilton v. Guyot*, 159 U.S. 113, 163-64, 202-03 (1895). *Hilton* described comity as recognition given with "due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws." *Id.* at 164. When a foreign judgment lacks a full and fair proceeding or would strip Ohioans of the rights Ohio is sworn to protect, Ohio will not enforce it.

Ohio benefits from international commerce and orderly recognition of legitimate foreign acts. S.B. 380 identifies the point at which deference becomes abdication: when the State is asked to lend its coercive power to an incompatible result. A narrowly applied, rights-based statute makes legitimate comity more predictable by distinguishing fair foreign proceedings from those Ohio cannot enforce.

The concern is not abstract; the problem is already here. Courts in Ohio and elsewhere have faced the problem of foreign judgments inconsistent with Ohio law and constitutional rights. In *Mustafa v. Elfadli*, 2013-Ohio-1644 (5th Dist.)**,** an Ohio appellate court affirmed refusal to recognize a purported Sudanese divorce. The wife was never served, did not participate, and the certificate was unauthenticated. The purported decree offended Ohio public policy governing division of marital property and child and spousal support. Accordingly, it could not be enforced in Ohio courts. But that authority is applied case by case, only after a vulnerable party has already been forced to litigate, and without a clear statutory standard to guide it. S.B. 380 does not create a new principle; it codifies a settled one so that it is applied predictably and uniformly, rather than depending on the resources of the person who must invoke it.

Other courts have had to conduct similar analysis. For example, in *Mohamed Ali v. Saeed Osman*, 38 N.W.3d 676, 680 (N.D. 2026), the North Dakota Supreme Court affirmed refusal to recognize a Sudanese divorce certificate obtained by a unilateral divorce process. Neither spouse lived in Sudan. The wife received no advance notice, was not present, could not object, and learned

of the certificate only afterward. The trial court found that the basic rudiments of due process were absent. Likewise, in *Aleem v. Aleem*, 947 A.2d 489, 501-02 (Md. 2008), during a Maryland divorce case, the husband went to the Pakistani Embassy and executed a divorce without advance notice to his wife. Maryland's highest court denied comity because recognition would conflict with due process. The problem is not confined to any one religion or country. In *Thamilselvan v. Thamilselvan*, No. 349037, 2020 WL 5582730, 2020 Mich. App. LEXIS 6174, at *10-13 (Mich. Ct. App. Sept. 17, 2020), a husband, after his wife filed for divorce in Michigan, obtained an anti-suit injunction from the High Court in Madras, India, to stop her Michigan action. The Michigan trial court declined to enforce the injunction, and the Michigan Court of Appeals affirmed, reasoning that comity is "not allowed to operate when it will contravene the rights of a citizen of the State where the action is brought," and that dismissing the case would have deprived the wife of her right to a no-fault divorce under Michigan law. *Id.* at *11 (citations omitted).

S.B. 380 includes any "incompatible law," a concern far bigger than religious judgments. In *Bridgeway Corp. v. Citibank*, 201 F.3d 134, 141-43 (2d Cir. 2000), the Second Circuit affirmed nonrecognition of a Liberian judgment because the evidence established that Liberia's wartime judicial system did not provide impartial tribunals or procedures compatible with due process. In *Telnikoff v. Matusevitch*, 347 Md. 561, 597-607, 702 A.2d 230 (1997), Maryland's highest court likewise declined to enforce an English libel judgment where English law placed the burden of proving truth on the defendant and afforded materially less protection to speech and press than Maryland and federal law. *Telnikoff* demonstrates why an incompatibility statute protects not only family-law litigants but also speakers, publishers, businesses, and civic debate. Congress has since codified that very principle for defamation judgments. The SPEECH Act, 28 U.S.C. § 4102, bars any domestic court from recognizing or enforcing a foreign defamation judgment unless the foreign law gave at least as much protection for speech and press as the First Amendment and state law.

The foregoing cases show that American courts can often reach the right result. But that is not an argument against legislation; it is the argument for it. Each successful refusal required a vulnerable party to retain counsel, challenge authenticity or foreign-law proof, establish the absence of notice, build a public-policy record, and sometimes survive appellate review. Those burdens fall hardest on the people the law should protect most: a spouse with limited resources, a parent unfamiliar with the American legal system, or a litigant who learns of a foreign decree only after it has been used against her. Rights should not depend on whether a litigant can assemble that body of law before a foreign decree or private process is treated as conclusive.

The relevant doctrine is also scattered across comity cases, state recognition acts, family-law statutes, constitutional decisions, and evidentiary rules, leaving Ohio courts and agencies without a single, clear standard. A clear statute changes incentives before litigation. It warns a party that an ex parte foreign certificate will not automatically erase support, property, custody, or procedural rights. It tells public officials what minimum questions to ask: whether the foreign act is authentic, whether the parties had notice and a meaningful opportunity to be heard, and whether enforcement would deny a protected right. It promotes uniformity among Ohio courts and agencies, so that outcomes do not turn on which judge or office happens to receive the request. And it gives trial judges a direct statement of legislative policy when exercising the discretion

comity already provides, strengthening their decisions on appeal and discouraging parties from relying on foreign paperwork to gain leverage.

The human stakes are substantial. In many of the family cases, the foreign act was invoked not simply to change marital status but to prevent equitable distribution, defeat spousal or child support, alter custody, or deprive a spouse of any meaningful hearing. Delay itself can become leverage. A person facing coercion, domestic violence, limited resources, immigration concerns, or unfamiliarity with the legal system may be least able to litigate a transnational recognition dispute. S.B. 380 places the burden where it belongs: Ohio government should verify that enforcement is compatible with the rights it is sworn to protect.

S.B. 380 advances compelling and legitimate state interests. Notice and a meaningful opportunity to be heard are the minimum conditions for governmental enforcement. The cases show repeated efforts to rely on decrees obtained ex parte or through service methods not reasonably calculated to reach the affected party. Ohio has a compelling interest in ensuring that such judgments cannot be enforced. Likewise, Ohio should not enforce a procedure or outcome that assigns different civil rights because of sex, religion, ancestry, caste, or status. S.B. 380 does not prohibit a court from considering foreign or religious law as evidence, or enforcing a voluntary agreement through neutral principles. Its legitimate target is governmental enforcement of a particular result that would deny protected rights.

The principle S.B. 380 embodies is not directed at any religion. It applies equally to a Liberian judgment from a collapsed judicial system, an English libel judgment, and a divorce pronounced without notice. It also leaves room for voluntary religious arrangements. The test is the same in every case: consent, fair process, and compatibility with controlling law, not the faith of the parties.

S.B. 380 does not target any religion. That neutrality is what separates the bill from measures courts have rejected. S.B. 380 does not single out a faith, a legal tradition, or a country; it addresses only governmental enforcement of results that would deny protected rights, whatever their source. By contrast, in *Awad v. Ziriax*, 670 F.3d 1111, 1127-31 (10th Cir. 2012), the Tenth Circuit invalidated an Oklahoma amendment that expressly named "Sharia Law" and barred courts from considering it, finding facial discrimination among religions and noting that the State had identified no actual case of the harm it claimed to address. S.B. 380 names no religion, does not prohibit courts from considering foreign or religious law, and responds to real cases. So long as it remains focused on incompatibility with protected rights, the bill stands on firm constitutional ground.

Ohio should not wait for another spouse to discover that a secret foreign divorce is being used to defeat support and property rights; another speaker to defend against a foreign judgment incompatible with the First Amendment; another believer to face civil compulsion of a religious act; or another litigant to prove, from scratch, that a foreign tribunal lacked the impartiality and process American law demands.

Foreign judgments and private religious arrangements deserve respect when they arise from fair procedures and can be enforced consistently with governing law. But respect for

pluralism does not require surrender of constitutional government. No nation, custom, contract, or religious process may commandeer Ohio's courts or public offices to impose a result Ohio itself could not lawfully impose.

S.B. 380 gives that principle clear statutory voice. Properly framed and applied as a neutral safeguard against incompatible outcomes, it will protect vulnerable litigants, guide public officials, preserve legitimate comity and commerce, respect voluntary religious exercise across faith traditions, and reinforce the constitutional rights shared by every Ohioan.

For these reasons, the ACLJ respectfully concludes that S.B. 380 accomplishes the intended policy goals of the State of Ohio and that it does so in a constitutional manner. Thank you for your consideration of this testimony.

Sincerely,

Nathan Moelker**
Senior Associate Counsel
American Center for Law & Justice
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** *Admitted in Virginia*