

HOUSE BILL REPORT

SSB 5017

As Passed House - Amended:
April 9, 2019

Title: An act relating to the uniform unsworn declarations act.

Brief Description: Concerning the uniform unsworn declarations act.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Salomon, Van De Wege and Pedersen; by request of Uniform Law Commission).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 3/6/19, 3/15/19 [DPA].

Floor Activity:

Passed House - Amended: 4/9/19, 97-0.

**Brief Summary of Substitute Bill
(As Amended by House)**

- Adopts the Uniform Unsworn Declarations Act by expanding the applicability of the Uniform Unsworn Foreign Declarations Act to both domestic declarants and those who are outside the boundaries of the United States.
- Repeals the state statute addressing unsworn declarations effective July 1, 2021.
- Updates cross-references throughout the code.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Jinkins, Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Kilduff, Kirby, Klippert, Orwall, Shea, Valdez, Walen and Ybarra.

Staff: Ingrid Lewis (786-7289).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Participants in legal proceedings before Washington courts and agencies generally can attest that certain statements are true through affidavits, which are voluntary written declarations of facts that are sworn to by the declarant before a public notary or authorized official. An unsworn declaration is a formal, written statement resembling an affidavit but not notarized or sworn to, which has the force and effect of a sworn statement provided that statutory requirements are met. Such a declaration must state that it is certified or declared by the person to be true under penalty of perjury, be subscribed by the person, state the date and place of execution, and state that it is declared under Washington law. To subscribe to an unsworn written statement, declaration, verification, or certificate a person must:

- affix or place the person's signature as required by RCW 9A.04.110. ("Signature" includes any memorandum, mark, or sign made with intent to authenticate.);
- attach or logically associate the person's digital or electronic signature as defined in RCW 19.34.020. ("Electronic signature" includes "digital signature" and means a signature in electronic form attached to or logically associated with an electronic record.);
- affix or logically associate the person's signature in the manner described in General Rule 30 if the person is a licensed attorney. ("Attorney signature" includes name and bar number, as well as contact information.); or
- affix or logically associate the person's full name, department or agency, and badge or personnel number to any document that is electronically submitted to a court, a prosecutor, or a magistrate from an electronic device that is owned, issued, or maintained by a criminal justice agency if the person is a law enforcement officer.

In 2011 Washington adopted the Uniform Unsworn Foreign Declarations Act (UUFDA). The act closely resembles Washington law regarding domestic unsworn declarations, but allows people physically located outside the boundaries of the United States (U.S.), Puerto Rico, the U.S. Virgin Islands, and territories or possessions subject to U.S. jurisdiction to submit unsworn declarations in lieu of other sworn statements. The law does not apply to: written statements requiring an acknowledgement; depositions; oaths of office; or oaths required to be taken before a special official other than a notary public. The UUFDA does not allow unsworn declarations to be used in place of declarations to be recorded pursuant to certain real estate and business partnership laws and certain oaths related to wills.

In 2016 the Uniform Law Commission issued the Uniform Unsworn Declarations Act (UUDA) which permits the use of unsworn declarations made under penalty of perjury in state courts. The UUDA builds upon the UUFDA and applies to persons physically located within or outside the boundaries of the U.S., and whether or not the location is subject to the jurisdiction of the U.S.

Summary of Amended Bill:

The Uniform Unsworn Foreign Declarations Act (UUFDA) is amended to apply to an unsworn declaration by a declarant who at the time of making the declaration is physically located within or outside the boundaries of the United States. The name of the act is changed from the UUFDA to the Uniform Unsworn Declarations Act (UUDA).

The state statute addressing unsworn declarations is repealed effective July 1, 2021. Language from the statute pertaining to the subscription of unsworn declarations is imported into the UUDA.

Cross-references throughout the code are updated, and language in the perjury statute is aligned with the UUDA.

Appropriation: None.

Fiscal Note: Requested March 15, 2019.

Effective Date of Amended Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 6, relating to the repeal of the statute addressing unsworn declarations, which takes effect July 1, 2021.

Staff Summary of Public Testimony:

(In support) A sworn declaration is an affidavit that a person signs in front of a notary. An unsworn declaration is a declaration a person signs under penalty of perjury, without a notary. If a person is outside of the country and wants to submit a statement, the person can sign an unsworn declaration. The same process cannot be done by a person located in another state. This bill says that if a court can trust a signature from outside the United States (U.S.), the court can trust a signature from inside the U.S. There is still a right to confrontation under criminal law.

(Opposed) The bill repeals a statute relied upon by the judicial branch and the law enforcement community to be able to accept infractions, criminal citations, and prosecutorial filings. There is a concern that the repeal will impact the forms and rules of the court and the ongoing implementation of electronic filing that the branch has worked hard to implement. The foundation for electronic filings between law enforcement and courts is jeopardized.

Persons Testifying: (In support) Senator Salomon, prime sponsor.

(Opposed) Dory Nicpon, Board for Judicial Administration.

Persons Signed In To Testify But Not Testifying: None.