

AN ACT

RELATING TO COURT PROCEEDINGS; ENACTING THE UNIFORM UNSWORN FOREIGN DECLARATIONS ACT; AMENDING THE DEFINITION OF PERJURY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Uniform Unsworn Foreign Declarations Act".

Section 2. DEFINITIONS.--As used in the Uniform Unsworn Foreign Declarations Act:

A. "boundaries of the United States" means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States;

B. "law" includes the federal or a state constitution, a federal or state statute, a judicial decision or order, a rule of court, an executive order and an administrative rule, regulation or order;

C. "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

D. "sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol;

or

(2) to attach to or logically associate with the record an electronic symbol, sound or process.

E. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States;

F. "sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate and affidavit; and

G. "unsworn declaration" means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.

Section 3. APPLICABILITY.--The Uniform Unsworn Foreign Declarations Act applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located outside the boundaries of the United States whether or not the location is subject to the jurisdiction of the United States. The Uniform Unsworn Foreign Declarations Act does not apply to a declaration by a declarant who is physically located on property that is within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.

Section 4. VALIDITY OF UNSWORN DECLARATION.--

A. Except as otherwise provided in Subsection B of this section, if a law of New Mexico requires or permits use

of a sworn declaration, an unsworn declaration meeting the requirements of the Uniform Unsworn Foreign Declarations Act has the same effect as a sworn declaration.

B. The Uniform Unsworn Foreign Declarations Act does not apply to:

- (1) a deposition;
- (2) an oath of office;
- (3) an oath required to be given before a specified official other than a notary public;
- (4) a declaration to be recorded in records affecting real property pursuant to Section 14-9-1 or 14-9-7 NMSA 1978; or
- (5) an oath required for self-proved wills by Section 45-2-504 NMSA 1978.

Section 5. REQUIRED MEDIUM.--If a law of New Mexico requires that a sworn declaration be presented in a particular medium, an unsworn declaration shall be presented in that medium.

Section 6. FORM OF UNSWORN DECLARATION.--An unsworn declaration pursuant to the Uniform Unsworn Foreign Declarations Act shall be in substantially the following form:

"I declare under penalty of perjury under the law of New Mexico that the foregoing is true and correct and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands

and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the _____ day of _____, _____, at
(date) (month) (year)

_____,
(city or other location, and state)

_____.
(country)

(printed name)

(signature)".

Section 7. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Unsworn Foreign Declarations Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 8. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Unsworn Foreign Declarations Act modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C.

Section 7003(b).

Section 9. Section 30-25-1 NMSA 1978 (being Laws 1963, Chapter 303, Section 25-1) is amended to read:

"30-25-1. PERJURY.--

A. Perjury consists of making a false statement under oath, affirmation or penalty of perjury, material to the issue or matter involved in the course of any judicial, administrative, legislative or other official proceeding or matter, knowing such statement to be untrue.

B. Whoever commits perjury is guilty of a fourth degree felony."

Section 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009. _____