



RON TUSLER

STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

Testimony
on
Assembly Bill 720
Assembly Committee on Federalism & Interstate Relations
January 23, 2020

Mr. Chairman and members of the committee, thank you for hearing Assembly Bill 720, the Uniform Unsworn Declarations Act (UUDA).

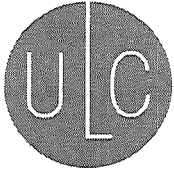
In 2010, Wisconsin adopted the Uniform Unsworn *Foreign* Declarations Act (2009 Act 166), which applied to declarations made outside the boundaries and jurisdiction of the United States. This bill amends current law by adopting the UUDA, which permits the use of unsworn declarations in court proceedings whether they are made within or outside the United States. Federal courts currently allow sworn and unsworn declarations made inside or outside the United States. *See* 28 U.S.C. § 1746.

The UUDA **does not** apply to:

- A deposition;
- An oath of office;
- An oath required to be given before a specified official other than a notary public;
- A declaration to be recorded under a state's real estate law; or
- An oath required by a state's law relating to self-proved wills.

Adoption of the UUDA brings Wisconsin into alignment with current federal practice, provides consistency for handling declarations made in other states or foreign jurisdictions, and simplifies recognizing unsworn declarations in Wisconsin.

On behalf of the Uniform Law Commission, Wisconsin Judicial Council, and growing number of states enacting the UUDA, I urge your support of this bill. Thank you for your time and consideration.



Uniform Law Commission
 NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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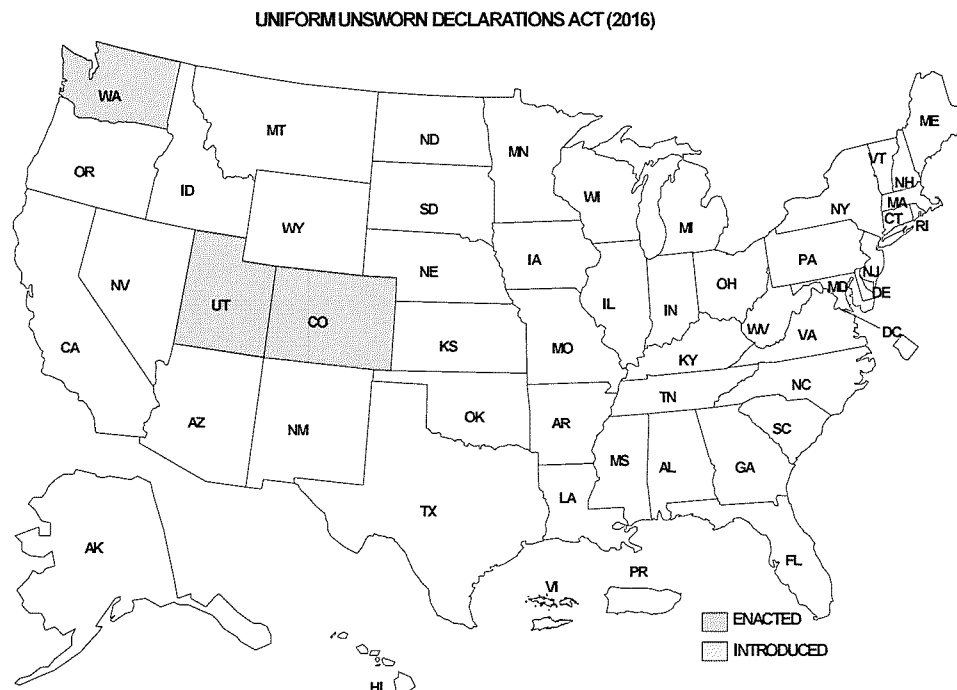
A Few Facts about
THE UNIFORM UNSWORN DECLARATIONS ACT (2016)

PURPOSE: The purpose of the Uniform Unsworn Declarations Act is to permit the use of unsworn declarations made under penalty of perjury in state courts. Under the Act, unsworn declarations may be used in lieu of affidavits, verifications, or other sworn court filings if they were made under penalty of perjury and use substantially similar language to the model form provided. The Act builds upon the Uniform Unsworn Foreign Declarations Act (UUFDA), which covers unsworn declarations made *outside* the United States. States that have the UUFDA should enact the Uniform Unsworn Domestic Declarations Act; states that have not enacted UUFDA should enact the Uniform Unsworn Declarations Act.

ORIGIN: Completed by the Uniform Law Commission in 2016.

APPROVED BY: American Bar Association

ENACTMENTS: Colorado, Utah, Washington



September 25, 2019

For further information about the Uniform Unsworn Declarations Act, please contact ULC Legislative Counsel Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.



THE UNIFORM UNSWORN DECLARATIONS ACT

- A Summary -

The Uniform Unsworn Declarations Act (UUDA) allows the use of unsworn declarations made under penalty of perjury in state court proceedings. Under the Act, the declarant may be physically located within or outside the boundaries of the United States while making the declaration.

If the state’s law either requires or allows use of a sworn declaration, an unsworn declaration made under the Act’s rules has the same effect as a sworn declaration.

The UUDA does not apply to:

- A deposition;
- An oath of office;
- An oath required to be given before a specified official other than a notary public;
- A declaration to be recorded under the state’s real estate law; or
- An oath required by the state’s law relating to self-proved wills.

Under the UUDA, an unsworn declaration must be in substantially the following form:

I declare under penalty of perjury under the law of [insert name of the enacting state] that the foregoing is true and correct.

Signed on the ___ day of _____, _____, at _____.
(month) (year) (city or other location, and state or country)

(printed name)

(signature)

The UUDA builds upon the Unsworn Foreign Declarations Act (UUFDA), which covers unsworn declarations made outside the boundaries of the United States. States that have enacted the UUFDA should enact the Uniform Unsworn Domestic Declarations Act; states that have not enacted the UUFDA should enact the Uniform Unsworn Declarations Act.

For more information about the Uniform Unsworn Declarations Act, please contact ULC Legislative Counsel Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.



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**WHY YOUR STATE SHOULD ADOPT THE
UNIFORM UNSWORN DECLARATIONS ACT (2016)**

The Uniform Unsworn Declarations Act (UUDA) permits the use of unsworn declarations in state court proceedings, so long as the declaration was made under penalty of perjury and includes the information provided in the Act's model form. Some benefits of the UUDA are highlighted below.

- *The UUDA harmonizes state and federal law.* Federal law already allows unsworn declarations to be used in federal courts in the United States. An unsworn declaration is treated the same as a sworn declaration if the declaration was made under penalty of perjury and contains substantially the same language set out in the federal statute. UUDA employs the same procedure, thus harmonizing state and federal law.
- *The UUDA alleviates burdens on potential declarants and U.S. consulates.* Enacting the UUDA will save time for declarants, especially those residing outside the United States. These foreign declarants will no longer need to make appointments, pass security, and physically meet with a U.S. consular officer to finalize an affidavit or statement. Accordingly, consulates will no longer have to devote so many resources to this time-consuming process.
- *The UUDA provides consistency across all states.* Currently, many states have their own statutes and procedures regarding unsworn declarations. These statutes and rules use varying language and have different exceptions. Enacting the UUDA eliminates inconsistencies and confusion.

For further information about the UUDA, please contact ULC Legislative Counsel Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.



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Statement of Kaitlin Wolff
In Support of Assembly Bill 720
The Uniform Unsworn Declarations Act
Before the Committee on Federalism and Interstate Relations
January 23, 2020

Chair Vorpapel and Members of the Committee:

My name is Kaitlin Wolff and I serve as Legislative Counsel for the Uniform Law Commission. The Uniform Law Commission, or ULC, is a nonprofit organization based in Chicago that is made up of volunteer attorneys appointed by their states. The ULC's mission is to draft model legislation for states in areas in which uniformity is practical and desirable. I am grateful for the opportunity to testify today in support of AB 720, which would enact the Uniform Unsworn Declarations Act.

AB 720 updates existing Wisconsin law, the Uniform Unsworn Foreign Declarations Act, which was enacted in 2009. Under that law, a person who is physically located outside of the jurisdiction of the United States may make a written but unsworn declaration that meets the statute's requirements and may use that unsworn declaration in place of a sworn declaration in some circumstances. AB 720 revises the law so that a person does *not* need to be outside of the jurisdiction of the United States to make such a declaration. Essentially, AB 720 permits a person to make an unsworn declaration no matter where the person is physically located.

Being able to use an unsworn declaration provides a big time and cost savings in litigation. For instance, it means that a litigation witness will not need to search to find a notary public to notarize his or her affidavit. This is very beneficial, especially considering that some witnesses may be out of state, out of the country, live in remote areas, or have difficulty traveling

for one reason or another.

Some examples of unsworn declarations include: testimony given under affirmation rather than oath; an attested (or witnessed) will; statements made while under a belief of impending death; declarations made by an officer of the court; and other unsworn declarations authorized by a state's law or rules.

For litigators who practice in federal court, AB 720 will be familiar because AB 720 harmonizes federal and state law. Federal law has allowed unsworn declarations to be used in federal courts in the United States since the late 1970s. Under federal law, an unsworn declaration is treated the same as a sworn declaration if the declaration was made under penalty of perjury and contains substantially the same language set out in the federal statute. AB 720 uses the same procedure.

AB 720 also provides consistency across the states. Many states have their own statutes and procedures regarding unsworn declarations. These statutes and rules use varying language and have different exceptions. Enacting AB 720 helps eliminate inconsistencies and confusion. Uniformity is important because often unsworn declarations will prove valuable in matters that involve more than one state or jurisdiction. AB 720 will also ease some of declarants' burdens in providing important information for state proceedings.

AB 720 does not apply to: a deposition; an oath of office; an oath required to be given before a specified official other than a notary public; a declaration to be recorded under the state's real estate law; or an oath required by the state's law relating to self-proved wills.

Thank you for the opportunity to discuss AB 720 with you. I urge the Committee to vote in the bill's favor, and I would be happy to answer any questions that the Committee has.