

SENATE BILL REPORT

SB 5017

As Reported by Senate Committee On:
Law & Justice, January 24, 2019

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

Brief Description: Concerning the uniform unsworn declarations act.

Sponsors: Senators Salomon, Van De Wege and Pedersen; by request of Uniform Law Commission.

Brief History:

Committee Activity: Law & Justice: 1/17/19, 1/24/19 [DPS].

Brief Summary of First Substitute Bill

- Expands the applicability of the Uniform Unsworn Foreign Declarations Act to both domestic declarants and those that are outside the boundaries of the United States, thereby adopting the Uniform Unsworn Declarations Act.
- Repeals the state statute addressing unsworn declarations and updates cross-references throughout the code.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5017 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

Staff: Shani Bauer (786-7468)

Background: Declarations of persons are routinely received in state and federal courts and agencies. Many, but not all, of the declarations are affidavits and other documents sworn to by declarants before public notaries or authorized officials. Washington law permits unsworn written declarations to be used in lieu of affidavits and other sworn statements, so long as the declarations follow a prescribed form. A declaration must state that it is certified or declared by the person to be true under penalty of perjury, be signed by the person, state the date and

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place of execution, and state that it is declared under Washington law. The law does not apply to writings requiring an acknowledgement, depositions, oaths of office, or oaths required to be taken before a special official other than a notary public.

In 2011, the Legislature 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, Puerto Rico, the U.S. Virgin Islands, and territories or possession subject to United States jurisdiction to submit unsworn declarations in lieu of other sworn statements. To date, UUFDA has been adopted in over 20 states.

In 2016, the Uniform Law Commission completed work on the Uniform Unsworn Declarations Act (UUDA). UUDA extends to state proceedings the same flexibility that federal courts and agencies employ via UUFDA. Although Washington State generally has this ability under current statute, adoption of UUDA will harmonize state and federal treatment of unsworn declarations and eliminate inconsistency in practice between states. To date, Colorado is the only state that has adopted UUDA.

Summary of Bill (First Substitute): UUDA is adopted by removing provisions in the previously adopted UUFDA that limit applicability of the act to declarants who are outside the boundaries of the United States. The state statute addressing domestic unsworn declarations is repealed and cross-references throughout the code are updated.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Amends statutes that refer to RCW 9A.72.085, the statute being repealed in the bill, to refer instead to chapter 5.50 RCW, which is the chapter being amended under the bill.
- Removes language in section 10 which was declared unconstitutional in *State v. Abrams*, 163 Wn.2d 277 (2008).

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: None.

Persons Testifying: No one.

Persons Signed In To Testify But Not Testifying: No one.