

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2123
(Government and Veterans Affairs Committee)
(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact a new chapter to title 31 of the North Dakota Century Code, relating to the Uniform Unsworn Foreign Declarations Act; and to amend and reenact section 12.1-11-01 of the North Dakota Century Code, relating to the crime of perjury.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-11-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-11-01. Perjury.

1. A person is guilty of perjury, a class C felony, if, in an official proceeding, ~~he~~the person makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a false statement previously made, when the statement is material and ~~he~~the person does not believe ~~it~~the statement to be true.
2. Commission of perjury need not be proved by any particular number of witnesses or by documentary or other types of evidence.
3. ~~Where~~if in the course of one or more official proceedings, the defendant made a statement under oath or equivalent affirmation inconsistent with another statement made by ~~him~~the defendant under oath or equivalent affirmation to the degree that one of them is necessarily false, both having been made within the period of the statute of limitations, the prosecution may set forth the statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant to be true. Proof that the defendant made such statements ~~shall constitute~~constitutes a prima facie case that one or the other of the statements was false, but in the absence of sufficient proof of which statement was false, the defendant may be convicted under this section only if each of such statements was material to the official proceeding in which it was made.
4. For purposes of this section, "false statement under oath or equivalent affirmation" includes a writing made in accordance with section 2 of this Act.

SECTION 2. A new chapter to title 31 of the North Dakota Century Code is created and enacted as follows:

Definitions.

In this chapter:

1. "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.
2. "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.
3. "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.

4. "Sign" means with present intent to authenticate or adopt a record:
 - a. To execute or adopt a tangible symbol; or
 - b. To attach to or logically associate with the record an electronic symbol, sound, or process.
5. "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.
6. "Sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.
7. "Unsworn declaration" means a declaration in a signed record that is not given under oath but is given under penalty of perjury.

Applicability.

This chapter 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. This chapter 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.

Validity of unsworn declaration.

1. Except as otherwise provided in subsection 2, if a law of this state requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration.
2. This chapter does not apply to:
 - a. A deposition;
 - b. An oath of office;
 - c. An oath required to be given before a specified official other than a notary public;
 - d. A document intended for recording in the real estate records in the office of county recorder; or
 - e. An oath required by section 30.1-08-04.

Required medium.

If a law of this state requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium.

Form of unsworn declaration.

An unsworn declaration under this chapter must be in substantially the following form:

I declare under penalty of perjury under the law of North Dakota 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)

Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act [15 U.S.C. 7001 et seq.] but does not modify, limit, or supersede section 101(c) of that Act [15 U.S.C. 7001(c)], or authorize electronic delivery of any of the notices described in section 103(b) of that Act [15 U.S.C. 7003(b)].

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2123.

Senate Vote: Yeas 43 Nays 0 Absent 4

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State