

TO: Uniform Unsworn Domestic Declarations Act Drafting Committee

FROM: Joe Colquitt, Reporter

RE: Uniform Unsworn Declarations Act, and Unsworn Domestic Declarations Act

DATE: March 19, 2015

The Uniform Unsworn Foreign Declarations Act [UUFDA] was adopted by the Uniform Law Commission in 2008. It has been enacted in 20 states. UUFDA authorizes the use of unsworn declarations made under penalty of perjury outside the United States in the place of sworn declarations. Federal law (28 U.S.C. Section 1746, Appendix) is broader than UUFDA in that the federal provision also authorizes the use in federal court or federal agencies of unsworn declarations made under penalty of perjury within the United States. Some state statutes (*e.g.*, Cal. Civ. Proc. Code Section 2015.5, Appendix) also authorize unsworn domestic declarations in their state courts and agencies.

The Reporter has been asked to prepare drafts of two separate Acts for the Drafting Committee to consider: First, an Act that amends the Uniform Unsworn Foreign Declarations Act (UUFDA) to authorize the use of unsworn declarations made under the penalty of perjury regardless of whether the declaration was made within or outside of the United States. That Act is provisionally entitled the Uniform Unsworn Declarations Act – UUDA. Second, a free-standing Act that authorizes the use of unsworn declarations made under penalty of perjury within the United States, in both interstate and intrastate situations. That Act initially is entitled the Uniform Unsworn Domestic Declarations Act – UUDDA.

The Uniform Unsworn Declarations Act [UUDA] would be for use by those states without a law permitting the use of unsworn declarations as well as by those states that have such a law but which seek to move to a comprehensive, uniform law. By enacting UUDA, the state would authorize the use of unsworn declarations regardless of where those declarations were made (*i.e.*, whether the declaration was made within the United States or in a foreign country). Some states already have laws that authorize the use of unsworn declarations regardless of where the declarations were made (*e.g.*, California: Cal. Civ. Proc. Code Section 2015.5, Appendix). Those states should be encouraged to adopt UUDA for the sake of clarity and uniformity.

The Uniform Unsworn Domestic Declarations Act [UUDDA] would be for use by those states that have a law addressing foreign unsworn declarations, but not domestic declarations. Twenty states have adopted UUFDA. Others have non-uniform versions of UUFDA. Those states may choose to authorize the receipt of unsworn domestic declarations by adopting UUDDA rather than tampering with the state's version of UUFDA.

This packet of materials contains the initial drafts of both Acts. A brief description of each draft is offered in a prefatory note. The drafts have been prepared by the Reporter for

submission to the Drafting Committee which will consider the drafts for the first time at its initial committee meeting in Chicago on April 17-18, 2015.

Within the drafts specific provisions may be offered in alternative forms in order to identify pertinent issues, focus attention on choices and language available, and garner direction from the Drafting Committee about policies and approaches with respect to those (and other) issues. As alternatives are offered within the drafts, the materials will be identified as alternatives. Some alternatives will be discarded as the Drafting Committee works through the Acts; others may be retained for use by the enacting body as it chooses.