



2009 SENATE BILL 365

October 23, 2009 – Introduced by Senators RISSER, MILLER and TAYLOR, cosponsored by Representatives CULLEN and MOLEPSKE JR.. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT to amend** 946.32 (1) (a), 946.32 (1) (b) and 946.32 (2); and **to create**
2 887.015 of the statutes; **relating to:** the Uniform Unsworn Foreign
3 Declarations Act and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may be required to swear to or affirm the truth of a statement he or she has given or will give. A sworn or affirmed statement may be required in court proceedings, administrative proceedings, real estate or probate matters, and other legal matters.

Under current law, a person who gives a sworn or affirmed statement that the person does not believe to be true is guilty of false swearing and is subject to a fine not to exceed \$10,000 and, depending on the circumstances, imprisonment not to exceed nine months or imprisonment not to exceed six years, or both the fine and a period of imprisonment. A person who gives a sworn or affirmed statement that is inconsistent with another statement he or she gave under oath or affirmation is also guilty of false swearing and is subject to a fine not to exceed \$10,000, imprisonment not to exceed six years, or both.

Under this bill, a statement that is unsworn and not affirmed may be given the same effect as a sworn or affirmed statement if the person making the statement is outside the geographic boundaries of the United States and if he or she signs a statement declaring, under penalty of false swearing, that his or her statement is true and correct. Under the bill, a statement that is unsworn and not affirmed may not be used in place of a sworn or affirmed statement in a deposition, an oath of office,

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an oath that is required to be given before a specific official (except a notary public), a document required to record a real estate transfer, or an oath or affirmation required for certain wills.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 887.015 of the statutes is created to read:

2 **887.015 Uniform unsworn foreign declarations act. (1) SHORT TITLE.** This
3 section may be cited as the Uniform Unsworn Foreign Declarations Act.

4 **(2) DEFINITIONS.** In this section:

5 (a) “Boundaries of the United States” means the geographic boundaries of the
6 United States, Puerto Rico, the United States Virgin Islands, and any territory or
7 insular possession subject to the jurisdiction of the United States.

8 (b) “Law” includes the federal or a state constitution, a federal or state statute,
9 a judicial decision or order, a rule of court, an executive order, or an administrative
10 rule, regulation, or order.

11 (c) “Record” means information that is inscribed on a tangible medium or that
12 is stored in an electronic or other medium and is retrievable in perceivable form.

13 (d) “Sign” means, with present intent to authenticate or adopt a record, either
14 of the following:

15 1. To execute or adopt a tangible symbol.

16 2. To attach to or logically associate with the record an electronic symbol, sound,
17 or process.

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1 (e) "State" means a state of the United States, the District of Columbia, Puerto
2 Rico, the United States Virgin Islands, or any territory or insular possession subject
3 to the jurisdiction of the United States.

4 (f) "Sworn declaration" means a declaration in a signed record given under oath
5 or affirmation. Sworn declaration includes a sworn or affirmed statement,
6 verification, certificate, or affidavit.

7 (g) "Unsworn declaration" means a declaration in a signed record that is not
8 given under oath, but is given under penalty of false swearing.

9 **(3) APPLICABILITY.** This section applies to an unsworn declaration by a
10 declarant who at the time of making the declaration is physically located outside the
11 boundaries of the United States, whether or not the location is subject to the
12 jurisdiction of the United States. This section does not apply to a declaration by a
13 declarant who is physically located on property that is within the boundaries of the
14 United States and subject to the jurisdiction of another country or a federally
15 recognized American Indian tribe.

16 **(4) VALIDITY OF UNSWORN DECLARATIONS.** (a) Except as provided in par. (b), and
17 notwithstanding s. 906.03, if a law of this state requires or permits use of a sworn
18 declaration, an unsworn declaration meeting the requirements of this section has the
19 same effect as a sworn declaration.

20 (b) This section does not apply to any of the following:

- 21 1. A deposition.
- 22 2. An oath of office.
- 23 3. An oath required to be given before a specified official other than a notary
24 public.
- 25 4. A declaration to be recorded pursuant to s. 706.06, 706.07, or 706.25.

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1 5. An oath required under s. 853.04.

2 **(5) REQUIRED MEDIUM.** If a law of this state requires that a sworn declaration
3 be presented in a particular medium, an unsworn declaration must be presented in
4 that medium.

5 **(6) FORM OF UNSWORN DECLARATION.** An unsworn declaration under this section
6 must be in substantially the following form:

7 I declare under penalty of false swearing under the law of Wisconsin that the
8 foregoing is true and correct, and that I am physically located outside the geographic
9 boundaries of the United States, Puerto Rico, the United States Virgin Islands, and
10 any territory or insular possession subject to the jurisdiction of the United States.

11 Executed on the day of,(year), at(city or other location, and state),
12 (country).

13 (printed name)

14 (signature)

15 **(7) UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing
16 this uniform act, consideration must be given to the need to promote uniformity of
17 the law with respect to its subject matter among the states that enact it.

18 **(8) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

19 (a) Except as provided in par. (b), this section modifies, limits, and supersedes the
20 federal Electronic Signatures in Global and National Commerce Act, 15 USC 7001,
21 et seq.

22 (b) This section does not modify, limit, or supersede 15 USC 7001 (c) or
23 authorize electronic delivery of any of the notices described in 15 USC 7003 (b).

24 **SECTION 2.** 946.32 (1) (a) of the statutes is amended to read:

