

Hi Donna, Denise, and Betsy Ann:

Later this afternoon I will be testifying about H.206 (the notary bill). In summary, my testimony will support the bill but recommend that the criminal justice system be excluded from the notary requirement and replace that requirement with a “sworn declaration” statute to track federal law (28 USC 1746). The net effect of this proposal would be that most documents in the criminal justice system would need to be sworn under penalty of perjury, but not notarized. Attached are a list of jurisdictions that follow this approach.

If the notary bill passes without this amendment, it would cause participants in the criminal justice system to bear significant increased costs in exchange for no tangible benefit.

Below is the draft “sworn declaration” statute that we propose be inserted into H.206 as Section 5 and codified as 12 VSA 1706:

Wherever, under any law of the State of Vermont or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the State of Vermont: “I declare (or certify, verify, or state) under penalty of perjury under the laws of the State of Vermont that the foregoing is true and correct. Executed on (date). (Signature)”.

(2) If executed within the State of Vermont: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)”.

Best Wishes,

David J. Cahill
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