IRFLP 116 Oaths and Affirmations; Written Certification; Unsworn Foreign Declarations

Idaho Rules of Family Law Procedure Rule 116. Oaths and Affirmations; Written Certification; Unsworn Foreign Declarations

A. Affirmations in Lieu of Oath. Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

B. Written Certification of Declaration. Whenever these rules require or permit a written declaration to be made under oath or affirmation, such statement may be made as provided in Idaho Code Section 9-1406. An affidavit includes a written certification or declaration made as provided in Idaho Code Section 9-1406.

C. Unsworn Foreign Declarations. This subdivision constitutes Idaho's implementation of the Uniform Unsworn Foreign Declarations Act as modified herein.

1. Definitions. In this rule:

"Boundaries ofthe 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.

"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.

"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.

"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.

"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.

"Sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

"Unsworn declaration" means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.

2. Applicability. This rule 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 rule does notapply to a declaration by a declarant who is physically located on property that is within the boundaries ofthe United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.

3. Validity of unsworn declaration.

a. Except as otherwise provided in subsection b, if a law of this state requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of this rule has the same effect

as a sworn declaration.

b. This rule does not apply to:

i. a deposition;

ii. an oath of office;

iii. an oath required to be given before a specified official other than a notary public;

iv. a declaration to be recorded pursuant to I.C. § 55-805; or

v. an oath required by I.C. § 15-2-504.

4. 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.

5. Form of unsworn declaration. An unsworn declaration under this rule must be in substantially the following form:

I certify or declare under penalty of perjury under the law of the State ofIdaho 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. By signing this declaration I am submitting myself to the jurisdiction of the State of Idaho for purposes of enforcing the penalty of perjury as it relates to this declaration.

Executed on the ____ day of _____, _____ at _____

_____ (date) _____ (month) _____ (year) _____
(city/location, and state)

_____.(country)

_____

(printed name)

_____

(signature)

6. Uniformity of application and construction. In applying and construing this rule, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among sates that have implemented the Uniform Foreign Declarations Act.

7. Relation to Electronic Signatures in Global and National Commerce Act. This rule modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section lOl(c) of that act, 15 U.S.C. Section 700l(c), or authorize electronic delivery of any of the notices described in Section 103(b) or that act, 15 U.S.C. Section 7003(b).

*Pilot Project for Fourth Judicial District
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