

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE ADOPTION)	
OF A NEW RULE RELATING TO)	RULE 12-03
TAKING DISCOVERY AND DECLARATIONS)	
IN FOREIGN COUNTRIES)	

A hearing was held on February 15, 2012, at Pierre, South Dakota, relating to the adoption of a new rule relating to taking discovery and declarations in foreign countries and the Court having considered the proposed adoption and being fully advised in the premises, now, therefore, it is

ORDERED that the adoption of a new rule relating to taking discovery and declarations in foreign countries be and it is hereby adopted to read in its entirety as follows:

Taking Discovery and Declarations in Foreign Countries.

UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

Section 1. Short Title. This rule may be cited as the Uniform Unsworn Foreign Declarations Act.

Section 2. Definitions.

In this rule:

(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.

Section 3. 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 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.

Section 4. 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:

(1) a deposition under 15-6-26;

(2) an oath of office;

(3) an oath required to be given before a specified official other than a notary public;

(4) a declaration to be recorded pursuant to Title 43 or

(5) an oath required by 29A-2-504.

Section 5. 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.

Section 6. Form of Unsworn Declaration. An unsworn declaration under this rule must be in substantially the following form:

FORM OF UNSWORN DECLARATION

I declare under penalty of perjury under the law of South 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)

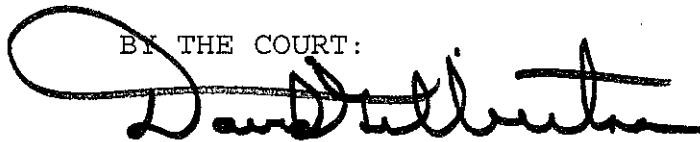
(printed name)

(signature)

IT IS FURTHER ORDERED that the rule shall become effective July 1, 2012.

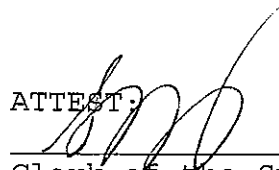
DATED at Pierre, South Dakota, this 6th day of March, 2012.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:


Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR - 6 2012


Clerk