

Id. The rule also provides that the Arizona Supreme Court may modify the rule's sworn statement requirements by administrative order. *Id.* All other documents that need to be verified may be done so by means of an unsworn declaration under penalty of perjury.

In light of the limitations of notary services at the beginning of the COVID-19 pandemic, the Chief Justice issued Administrative Order No. 2020-59 which, in part, relaxed the requirements of Rule 14(a) and provided for an alternative means for verifying a signer's identity as follows:

IT IS ORDERED that Courts may accept for filing any of the documents identified under Rule 14(a) Rules of Family Law Procedure without notarization if they are accompanied by a photocopy of the filer's driver license or other government-issued identification card. The applicant may redact a protected address from driver's license or other government-issued identification card.

At this time, the Administrative Order remains in effect.

The temporary changes made by Administrative Order No. 2020-59 have been beneficial. For many who continue to work remotely, it has greatly facilitated the timely filing of documents. There are other benefits as well. Applicants do not need to secure a notary public, and pay a fee of up to \$10.00 per notarial act. Alternatively, they do not need to travel to a courthouse to have a document verified by the Clerk. While Paragraph 11 Administrative Order No. [2021-183](#), *In re the Matter of Policies for E-Filing of Family Law Cases in the Superior Court in Arizona*, provides mechanisms for (a) electronic notarizations or (b) scanning and e-filing of a document that contains the notary's original signature and seal, they still require filers to obtain the necessary notarization.²

² In the last Regular Legislative Session, the Legislature passed changes to A.R.S. § 12-109 which have been codified in new subsection (B) as follows:

Rule 14 properly recognizes that there are some family law filings that are important, and which need the extra safeguard of increased verification of a signer's identity. However, Administrative Order No. 2020-59 properly addressed that concern by requiring a copy of a driver's license or other government-issued identification card, and allowed courts the flexibility to accept the alternative form of verification. To undersigned's knowledge, there have not been any reported incidents of fraudulent filings under the alternative verification allowed by Administrative Order No. 2020-59.

In short, access to justice has been increased by the certain notarial requirements implemented by Administrative Order No. 2020-59, and its changes, with some minor modifications, should be made permanent.

The alternative verification allowed by Administrative Order No. 2020-59 should be set forth in Rule 14. Setting forth the alternative verification in Rule 14 will make the mechanism transparent and available to those filers representing themselves, and not just for those who are represented by counsel. Also, it "applies uniformly to all litigants and their attorneys to govern practice in pending cases[,] "affects the manner in which litigants assert or defend claims," and is not merely "an internal statement of policy not directly applicable to litigants or their counsel." *State, ex. rel. Romley v. Ballinger*, 209 Ariz. 1, 2-3, ¶¶ 7-8 (2004). As such, moving forward, the positive changes should be embodied in Rule 14.

The only additional changes recommended include additional precautions to ensure sensitive and/or confidential information is not included in the public court file. First, there should be a cross-reference to Rule 43.1(f) that allows a filer to redact all but the last four of a driver's license number. Second, the rule should either require or permit the Clerk of the Court to

The court may allow documents that require a sworn written declaration, verification, certificate, statement, oath or affidavit to be signed with an electronic signature.

treat the alternative verification as a confidential record, and limit its availability to the parties, the parties' attorneys, court personnel, and any other person or agency authorized by court order.

For the foregoing reasons, Rule 14, ARFLP, should be amended with the recommended changes noted below:

(a) Written Verification. A written verification is a sworn statement before a notary public or other officer who is authorized to administer an oath. A verification is required for:

- (1) an acceptance of service under Rule 40(f)(1);
- (2) an affidavit submitted in support of an application for a default decree;
- (3) a consent decree under Rule 45; or
- (4) a stipulation or agreement that substantially changes the terms of a legal decision-making or parenting time order, unless the stipulation is entered in open court or through conciliation services.

However, nothing in this rule precludes the Arizona Supreme Court from modifying the requirements of this rule by administrative order.

(b) Alternative Verification. For those documents that require a verification under section (a) of this rule, courts may accept for filing any of the documents without notarization if they are accompanied by a photocopy of the filer's driver license or other government-issued identification card. The applicant may redact a protected address from driver's license or other government-issued identification card, and other sensitive data as defined by Rule 43.1(f). The clerk may maintain the photocopy of the license or other government-issued identification card as a confidential record and limit its availability as provided in Rule 43.1(f)(2)(B)(ii).

(b)(c) Unsworn Declarations Under Penalty of Perjury. Except as provided in sections (a)-(b) of this rule, when these rules require a verification, the requirement is satisfied if the declaration is signed by the person and is substantially in the following form:

“I declare under penalty of perjury that the foregoing is true and correct. Dated: _____ Signature: _____”.

RESPECTFULLY SUBMITTED this 6th day of January, 2022.

Greg Sakall
GREG SAKALL
Family Bench Presiding Judge
Superior Court of Arizona Pima County
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