

Senate Judiciary Committee

Jennifer Horgan 271-3092

HB 288, relative to the statutory construction of the phrase "under oath."

Hearing Date: April 18, 2017

Time Opened: 9:00 a.m.

Time Closed: 9:12 a.m.

Members of the Committee Present: Senators Carson, French, Gannon and Hennessey

Members of the Committee Absent : Senator Lasky

Bill Analysis : This bill expands the general statutory definition of the phrase "under oath" to apply to documents filed with a state agency under certain circumstances.

Sponsors :

Rep. Rouillard
Sen. Carson

Rep. Berch

Rep. Rosenwald

Who supports the bill: Representative Rouillard; Senator Carson; Representative Horrigan; Representative Janvrin; Representative Berch; Representative Keans; Terry Knowles (Attorney General's Office); Howard Zibel (Judicial Branch)

Who opposes the bill: No one

Summary of testimony presented in support:

Representative Rouillard

- Asked to bring this forward by the Trust Division in the Attorney General's Office.
- RSA 21:52 deals with electronic filing and under oath issues.
- Other state agencies would like to file documents electronically that are signed under oath.
- The House Committee added language to include a provision on perjury and to prohibit a form from having a notary acknowledgment.

Terry Knowles (Attorney General's Office)

- The Office is hoping to go to a full electronic filing format in the near future.
- Currently participating in a project with 12 other states to give all 10,000 of NH's registered charities the ability to file electronically.
- Hoping to have as little paper as possible.
- Eliminating the need to have a signed notary document would aid in that process.

Howard Zibel (NH Judicial Branch)

- Has no problem with the bill, but doesn't necessarily like the notary aspect because it will be an issue in the future.
- The effective date needs to stay at January 1st
- This form's format is contracted through a provider and it has to be amended to accommodate this change.
- This amendment to the form will cost between \$2,000-\$10,000 depending on the complexity of the amendment and when it is done.
- Already has scheduled maintenance for November of this year and it will be much

- cheaper to do the amendment at the same time as the scheduled maintenance.
- Senator French asked what the possible problems in the future are.
 - Notarization is more than just under oath. A notary checks licenses and verifies identities, which cannot be done electronically. The counter argument is that the federal government has a statute on notarization that states that wherever a federal statute requires notarization it requires someone to sign under the pains and penalties of perjury. That has not caught on in the state level and eventually it is going to cause some issues. Did a work around for two forms on guardianship in a Senate bill. Changed the statute so they don't have to be notarized. This notarization problem in the electronic world will probably rear its head again.
 - Senator French asked if it would be more difficult to prove fraudulent signing with this electronic process.
 - There would have to be a challenge and it is so rare.
 - Senator French asked it will become more common if there is no notary involved.
 - Personally, doesn't think so because they are signing under the pains and penalties of perjury.

Summary of testimony presented in opposition :
None

Future Action: Ought to Pass

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Date Hearing Report completed: April 20, 2017