

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 905

Short Title: Amend Rule 803/Allow Unsworn Declarations. (Public)

Sponsors: Representatives John, Everitt, Harrison, and A. Jones (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 1, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 11, 2021

A BILL TO BE ENTITLED

AN ACT ALLOWING UNDER RULE 803 OF THE NORTH CAROLINA RULES OF EVIDENCE THE USE OF UNSWORN DECLARATIONS MADE PURSUANT TO 28 U.S.C. SECTION 1746 AND APPROPRIATING FUNDS FOR PUBLIC NOTICE AND TRAINING ABOUT THE CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 8C-1, Rule 803 of the Rules of Evidence, reads as rewritten:
"Rule 803. Hearsay exceptions; availability of declarant immaterial.

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

...

(6) Records of Regularly Conducted Activity. – A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if (i) kept in the course of a regularly conducted business activity and (ii) it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, or by affidavit or by document under seal under Rule 902 of the Rules of ~~Evidence~~ Evidence, or by unsworn declaration made under penalty of perjury pursuant to 28 U.S.C. § 1746, made by the custodian or witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. Authentication of evidence by affidavit shall be confined to the records of nonparties, and the proponent of that evidence shall give advance notice to all other parties of intent to offer the evidence with authentication by affidavit. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

...."

SECTION 1.(b) This section is effective when it becomes law and validates retroactively the use of unsworn declarations for the purposes of G.S. 8C-1, Rule 803 of the Rules of Evidence, if the use occurred after the issuance of the Governor's Executive Order No. 116, on March 10, 2020, and before the date when this act becomes law.



1 **SECTION 2.(a)** Effective July 1, 2021, there is appropriated from the General Fund
2 to the Office of the Secretary of State the sum of fifteen thousand dollars (\$15,000) in
3 nonrecurring funds for the 2021-2022 fiscal year to publicize and provide notary training about
4 this act.

5 **SECTION 2.(b)** Effective July 1, 2021, there is appropriated from the General Fund
6 to the Administrative Office of the Courts the sum of fifteen thousand dollars (\$15,000) in
7 nonrecurring funds for the 2021-2022 fiscal year to conduct training about this act.

8 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
9 law.