



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT


5 E. PINE STREET
GEORGETOWN, DELAWARE 19947
TELEPHONE: (302) 856-8871
FAX: (302) 856-5919

2 PENNS WAY
SUITE 100 B
NEW CASTLE, DELAWARE 19720
TELEPHONE: (302) 323-4530

ALAN G. DAVIS
CHIEF MAGISTRATE

**POLICY DIRECTIVE 07-229
2ND SUPPLEMENT**

TO: ALL JUSTICE OF THE PEACE COURT EMPLOYEES

**FROM: ALAN G. DAVIS
CHIEF MAGISTRATE** 

DATE: MAY 12, 2020

**RE: PROCESS FOR ENTERING A GUILTY PLEA WITHOUT THE
APPEARANCE OF THE DEFENDANT**

Scope

This supplement removes the requirement that the defendant entering a plea *in absentia* obtain the services of a notary public. Defendants shall execute an unsworn declaration, pursuant to 10 *Del. C.* § 3927.

Effective Date

This policy shall take effect immediately upon issuance and shall continue until further notice.

Discussion:

The original policy directive, presenting a process through which a defendant could enter a plea *in absentia*, included the requirement that the defendant obtain the services of a notary public. The Delaware State legislature enacted 10 *Del. C.* § 3927 in 2016, in order to provide greater flexibility to the courts, as the courts were moving toward electronic filing and as citizens may have difficulties locating notary publics. That statute states:

“To the extent authorized by court rule, any matter, except as otherwise provided in subsection (b) of this section, that is required or permitted by the laws of this State to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same, such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, verification, certificate, or statement, in writing of such person which is subscribed by him or her, as true under penalty of perjury, and dated, in substantially the following form:

I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the ____ day of ____ (month) ____ (year).
____ (Printed Name) _____ (Signature)”

This unsworn declaration allows *pro se* litigants (as well as those represented by attorneys) increased access to justice while ensuring that defendants confirm the truthfulness of their pleadings. Therefore, the original requirement for a notary public is no longer an essential element of the plea *in absentia* process.

The “Plea *in absentia*” form has been modified to align with this supplement. In addition, the form now includes pleas of responsible for civil charges.

Cc: Honorable Collins J. Seitz, Jr
Honorable Andre Bouchard
Honorable Jan Jurden
Honorable Alex J. Smalls
Honorable Michael K. Newell
Gale Lafferty, State Court Administrator
All Justice of the Peace Court Employees
Marianne Kennedy
Jody Huber, Esquire
Mark Hitch
Stephanie Parker
Alderman’s Courts
Law Libraries: New Castle County, Kent County, Sussex Count, Widener University
Delaware Law School