

Justice Donovan-

Attached is a request from Judge Schulman to amend the Rules of Evidence to include Rules 902(13) and 902(14) consistent with the Federal Rules of Evidence with a recent order he wrote explaining the state of the law on this issue. These two provisions were added to the federal rules after NH's 2016 revision to our rules of evidence.

The federal rules read:

(13) Certified Records Generated by an Electronic Process or System. A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent must also meet the notice requirements of Rule 902(11).

(14) Certified Data Copied from an Electronic Device, Storage Medium, or File. Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of Rule (902(11) or (12). The proponent also must meet the notice requirements of Rule 902 (11).

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To: Hon. William Delker <WDelker@courts.state.nh.us>

Subject: RE: Proposed Rule

I propose NH adopt Fed R. Ev. 902(13) and (14) which add to the list of self-authenticating records. I am presently dealing with a certificate from Google regarding Google searches, which, according to some federal caselaw is a poor fit with 902(11). Hence the new federal rules in 2017.