

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

May 27, 2020

Committee on Business Affairs & Labor.

After consideration on the merits, the Committee recommends the following:

SB20-096 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend reengrossed bill, page 2, after line 1 insert:

2 **"SECTION 1. Legislative declaration.** The general assembly
3 recognizes the importance of protecting personal information that is
4 disclosed and recorded, including both audio and video, during the remote
5 notarization process. Data privacy is an essential part of Colorado's
6 authorization of remote notarization and the security of personal data
7 from unauthorized use or theft is of critical importance in the
8 implementation of remote notarization requirements in Colorado."

9 Renumber succeeding sections accordingly.

10 Page 12, line 16, strike "AN INDIVIDUAL" and substitute "A PERSON".

11 Page 14, line 10, strike "(1)(g) and (1)(h)" and substitute "(1)(g), (1)(h),
12 and (3)".

13 Page 14, line 11, strike "**Rules.**" and substitute "**Rules - definitions -
14 repeal.**".

15 Page 14, after line 24 insert:

16 "(3) (a) AS USED IN THIS SUBSECTION (3):

17 (I) "INTERIM PERIOD" MEANS THE PERIOD BEGINNING ON MARCH

1 30, 2020, AND ENDING ON DECEMBER 31, 2020.

2 (II) "TEMPORARY RULE" MEANS RULE 5 OF THE NOTARY PROGRAM
3 RULES AS ADOPTED BY THE SECRETARY OF STATE EFFECTIVE MARCH 30,
4 2020, AND PUBLISHED AT 8 CCR 1505-11, AND ANY ANALOGOUS
5 SUCCESSOR EMERGENCY RULE OF THE NOTARY PROGRAM THAT
6 AUTHORIZES REMOTE NOTARIZATIONS.

7 (b) DURING THE INTERIM PERIOD:

8 (I) A NOTARY PUBLIC COMMISSIONED BY THE SECRETARY OF STATE
9 MAY PERFORM NOTARIAL ACTS WITH RESPECT TO A REMOTELY LOCATED
10 INDIVIDUAL USING AUDIO-VIDEO COMMUNICATION IN ACCORDANCE WITH,
11 AND SUBJECT TO THE LIMITATIONS AND RESTRICTIONS SET FORTH IN, THE
12 TEMPORARY RULE; AND

13 (II) IN SO FAR AS IT RELATES TO ANY NOTARIAL ACT PERMITTED BY
14 THE TEMPORARY RULE AND PERFORMED DURING THE INTERIM PERIOD, ANY
15 REQUIREMENT IN THIS PART 5 OR TITLE 38 THAT AN INDIVIDUAL MAKING
16 A STATEMENT OR EXECUTING A SIGNATURE APPEAR PERSONALLY BEFORE
17 A NOTARIAL OFFICER IS SATISFIED BY THE PROCEDURES SPECIFIED IN AND
18 PERMITTED BY THE TEMPORARY RULE.

19 (c) THE SECRETARY OF STATE MAY AMEND THE TEMPORARY RULE
20 IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24, BUT THE AMENDMENT
21 MUST NOT PERMIT THE PERFORMANCE OF A REMOTE NOTARIZATION WITH
22 RESPECT TO A RECORD DESCRIBED IN SECTION 5.2.2 OF THE TEMPORARY
23 RULE OTHER THAN IN ACCORDANCE WITH THE PROVISIONS OF THE
24 TEMPORARY RULE AS IT EXISTED ON THE EFFECTIVE DATE OF THIS
25 SUBSECTION (3).

26 (d) A NOTARIAL ACT PERFORMED DURING THE INTERIM PERIOD
27 WITH RESPECT TO A REMOTELY LOCATED INDIVIDUAL THAT COMPLIED
28 WITH THE TEMPORARY RULE IS NOT INVALID DUE TO THE LACK OF EXPRESS
29 STATUTORY AUTHORITY FOR THE NOTARIAL ACT.

30 (e) THE SECRETARY OF STATE SHALL UPDATE THE APPLICABLE
31 JOINT COMMITTEE OF REFERENCE DURING THE DEPARTMENT OF STATE'S
32 2020 PRESENTATION MADE PURSUANT TO SECTION 2-7-203 REGARDING
33 THE IMPLEMENTATION OF THIS SUBSECTION (3).

34 (f) SUBSECTIONS (3)(b), (3)(c), AND (3)(e) OF THIS SECTION AND
35 THIS SUBSECTION (3)(f) ARE REPEALED, EFFECTIVE DECEMBER 31, 2020."

36 Page 15, strike lines 16 through 25 and substitute:

37 **"SECTION 9. Effective date - applicability.** (1) This act:

38 (a) Takes effect upon passage; except that sections 1 through 5
39 and 7 of this act take effect December 31, 2020; and

1 (b) Applies to conduct occurring on or after March 30, 2020.
2 **SECTION 10. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety."

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