

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 28, 2023
Date

Committee on Business, Labor, & Technology.

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

SB23-153 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

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

2 "SECTION 1. In Colorado Revised Statutes, 24-21-502, add
3 (5.5) as follows:

4 **24-21-502. Definitions.** In this part 5:

5 (5.5) "INTERPRETER" MEANS AN INDIVIDUAL WHO PROVIDES
6 INTERPRETER SERVICES WHEN A NOTARIAL OFFICER AND AN INDIVIDUAL
7 EXECUTING A RECORD DO NOT COMMUNICATE IN THE SAME LANGUAGE.

8 **SECTION 2.** In Colorado Revised Statutes, add 24-21-514.7 as
9 follows:

10 **24-21-514.7. Interpreters - use in facilitation of notarial acts**
11 **- limitations.** (1) IF A NOTARIAL OFFICER AND AN INDIVIDUAL FOR WHOM
12 A NOTARIAL ACT IS TO BE PERFORMED DO NOT COMMUNICATE IN THE SAME
13 LANGUAGE, AN INTERPRETER WHO COMMUNICATES IN A LANGUAGE IN
14 COMMON WITH BOTH THE NOTARIAL OFFICER AND THE INDIVIDUAL MAY BE
15 USED TO FACILITATE THE NOTARIAL ACT. A NOTARIAL OFFICER MAY RELY
16 ON REPRESENTATIONS MADE BY THE INTERPRETER ON BEHALF OF THE
17 INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED AS FACTUAL.
18 ANY ERRORS IN INTERPRETATION ARE NOT ATTRIBUTABLE TO THE
19 NOTARIAL OFFICER, AND THE NOTARIAL OFFICER IS NOT BE LIABLE IN ANY
20 DISPUTES ARISING FROM SUCH ERRORS.

21 (2) AN INTERPRETER SHALL APPEAR PERSONALLY, AS DEFINED IN
22 SECTION 24-21-506 (2), BEFORE THE NOTARIAL OFFICER. AN INTERPRETER
23 APPEARING PERSONALLY BEFORE THE NOTARIAL OFFICER SHALL BE
24 IDENTIFIED PURSUANT TO SECTION 24-21-507 OR, IF APPEARING
25 PERSONALLY BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION,
26 PURSUANT TO SECTION 24-21-514.5.

27 (3) (a) AN INTERPRETER SHALL NOT PROVIDE INTERPRETER

1 SERVICES WHEN THE INTERPRETER HAS A DISQUALIFYING INTEREST IN THE
2 TRANSACTION. FOR THE PURPOSES OF THIS SUBSECTION (3), AN
3 INTERPRETER HAS A DISQUALIFYING INTEREST IN A TRANSACTION IF:

4 (I) THE INTERPRETER OR THE INTERPRETER'S SPOUSE, PARTNER IN
5 A CIVIL UNION, ANCESTOR, DESCENDENT, OR SIBLING IS A PARTY TO OR IS
6 NAMED IN THE RECORD THAT IS TO BE NOTARIZED; OR

7 (II) THE INTERPRETER OR THE INTERPRETER'S SPOUSE OR PARTNER
8 IN A CIVIL UNION MAY RECEIVE DIRECTLY, AND AS A PROXIMATE RESULT
9 OF THE NOTARIZATION ANY ADVANTAGE, RIGHT, TITLE, INTEREST, CASH,
10 OR PROPERTY. THIS SUBSECTION (3)(a)(II) DOES NOT APPLY TO A
11 REASONABLE FEE RECEIVED BY THE INTERPRETER FOR PROVIDING
12 INTERPRETER SERVICES.

13 (b) A NOTARIAL ACT IS VOIDABLE IF INTERPRETER SERVICES ARE
14 PROVIDED IN VIOLATION OF THIS SUBSECTION (3) IN RELATION TO THE
15 NOTARIAL ACT.

16 (4) (a) IF A NOTARIAL OFFICER DOES NOT COMMUNICATE IN THE
17 SAME LANGUAGE AS THE INDIVIDUAL EXECUTING THE RECORD WITH
18 RESPECT TO WHICH THE NOTARIAL OFFICER IS PERFORMING A NOTARIAL
19 ACT, THE NOTARIAL OFFICER IS NOT LIABLE IN ANY LEGAL ACTION
20 REGARDING A DISPUTE THAT DIRECTLY RESULTS FROM AN ERROR IN
21 INTERPRETATION.

22 (b) A PARTY WHO FILES AN ACTION FOR DAMAGES BASED ON A
23 VIOLATION OF THIS PART 5 RELATED TO A NOTARIAL ACT THAT A
24 NOTARIAL OFFICER PERFORMED IN ACCORDANCE WITH THIS SECTION HAS
25 THE BURDEN OF PROOF IN ESTABLISHING THAT THE DISPUTE IS RELATED TO
26 A CAUSE OTHER THAN THE INTERPRETATION.

27 (5) NOTHING IN THIS SECTION LIMITS A NOTARIAL OFFICER'S
28 AUTHORITY TO REFUSE TO PERFORM A NOTARIAL ACT AS SET FORTH IN
29 SECTION 24-21-508.

30 (6) IN ADDITION TO COMPLYING WITH THE REQUIREMENTS OF
31 SECTION 24-21-515, THE CERTIFICATE OF NOTARIAL ACT FOR A REMOTE
32 NOTARIZATION THAT WAS PERFORMED USING AN INTERPRETER MUST
33 INDICATE THAT THE NOTARIAL ACT WAS PERFORMED USING AN
34 INTERPRETER AND INCLUDE THE NAME AND CREDENTIAL OR
35 CERTIFICATION NUMBER, IF ANY, OF THE INTERPRETER."

36 Renumber succeeding sections accordingly.

37 Page 2, line 12, strike "(5)" and substitute "(3) introductory portion,
38 (3)(f), (3)(g), and (5); and **add** (3)(h) and (3)(i)".

39 Page 2, strike line 13 and substitute:

1 **"24-21-519. Journal.** (3) An entry in a journal must be made
2 contemporaneously with performance of ~~the~~ A notarial act and contain the
3 following information:
4 (f) If identity of the individual is based on satisfactory evidence,
5 a brief description of the method of identification and the type of
6 identification credential presented, if any; ~~and~~
7 (g) ~~The fee, if any, charged by the notary public~~ FULL NAME AND
8 ADDRESS OF ANY INTERPRETER WHO PROVIDED INTERPRETER SERVICES TO
9 FACILITATE THE NOTARIAL ACT;
10 (h) THE CERTIFICATION OR CREDENTIAL NUMBER OF ANY
11 INTERPRETER WHO PROVIDED INTERPRETER SERVICES TO FACILITATE THE
12 NOTARIAL ACT; AND
13 (i) THE FEE, IF ANY, CHARGED BY THE NOTARY PUBLIC.
14 (5) Upon written request of any member of".

15 Page 3, after line 2 insert:

16 **"SECTION 5.** In Colorado Revised Statutes, 24-21-523, **amend**
17 (2) as follows:
18 **24-21-523. Grounds to deny, refuse to renew, revoke, suspend,**
19 **or condition commission of notary public.** (2) Whenever the secretary
20 of state or the secretary of state's designee believes that a violation of this
21 part 5 has occurred, the secretary of state or the secretary of state's
22 designee may investigate the violation. The secretary of state or the
23 secretary of state's designee may also investigate possible violations of
24 this part 5 upon a signed complaint from any person. HOWEVER, THIS
25 SECTION DOES NOT AUTHORIZE THE SECRETARY OF STATE OR THE
26 SECRETARY OF STATE'S DESIGNEE TO INVESTIGATE A POTENTIAL
27 VIOLATION CONCERNING AN ACTION TAKEN BY AN INTERPRETER DURING
28 A NOTARIAL ACT."

29 Renumber succeeding sections accordingly.

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