

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 18-0115.01 Thomas Morris x4218

SENATE BILL 18-109

SENATE SPONSORSHIP

Gardner, Guzman, Neville T., Sonnenberg, Williams A.

HOUSE SPONSORSHIP

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Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING AN AUTHORIZATION FOR NOTARIES PUBLIC TO PERFORM**
102 **NOTARIAL ACTS USING AUDIO-VIDEO COMMUNICATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires an individual who wishes to have a document notarized to appear personally before the notary public. The bill authorizes notaries public to perform a notarial act on behalf of an individual who is not in the notary's physical presence, but only with respect to an electronic document.

To perform a "remote notarization", a notary must use a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

tamper-evident electronic system that conforms to standards established by rules of the secretary of state, including using real-time audio-video communications and keeping an audio-video recording of the notarization for at least 10 years. The bill establishes the standards that a notary must comply with to have satisfactory evidence of the identity of the person seeking the remote notarization. A notary is prohibited from using information collected during a remote notarization other than as allowed by applicable federal or state law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-21-502 **as it will**
3 **become effective July 1, 2018, add** (1.5), (10.5), (11.5), and (15.5) as
4 follows:

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

6 (1.5) "CREDENTIAL" MEANS A TANGIBLE RECORD EVIDENCING THE
7 IDENTITY OF AN INDIVIDUAL.

8 (10.5) "REAL-TIME" OR "IN REAL TIME" MEANS, WITH RESPECT TO
9 AN INTERACTION BETWEEN INDIVIDUALS BY MEANS OF AUDIO-VIDEO
10 COMMUNICATIONS, THAT THE INDIVIDUALS CAN SEE AND HEAR EACH
11 OTHER SUBSTANTIALLY SIMULTANEOUSLY AND WITHOUT INTERRUPTION
12 OR DISCONNECTION. DELAYS OF A FEW SECONDS THAT ARE INHERENT IN
13 THE METHOD OF COMMUNICATION DO NOT PREVENT THE INTERACTION
14 FROM BEING CONSIDERED TO HAVE OCCURRED IN REAL TIME.

15 (11.5) "REMOTE NOTARIZATION" MEANS AN ELECTRONIC
16 NOTARIAL ACT PERFORMED WITH RESPECT ONLY TO AN ELECTRONIC
17 RECORD BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION IN
18 ACCORDANCE WITH SECTION 24-21-514.5 AND RULES ADOPTED BY THE
19 SECRETARY OF STATE.

20 (15.5) "TAMPER-EVIDENT" MEANS THE USE OF A SET OF
21 APPLICATIONS, PROGRAMS, HARDWARE, SOFTWARE, OR OTHER

1 TECHNOLOGIES THAT WILL DISPLAY EVIDENCE OF ANY CHANGES MADE TO
2 AN ELECTRONIC RECORD.

3 **SECTION 2.** In Colorado Revised Statutes, **amend as it will**
4 **become effective July 1, 2018,** 24-21-506 as follows:

5 **24-21-506. Personal appearance required - definition.** (1) If
6 a notarial act relates to a statement made in or a signature executed on a
7 record, the individual making the statement or executing the signature
8 shall appear personally before the notarial officer.

9 (2) FOR PURPOSES OF THIS SECTION, "APPEAR PERSONALLY"
10 MEANS:

11 (a) BEING IN THE SAME PHYSICAL LOCATION AS ANOTHER
12 INDIVIDUAL AND CLOSE ENOUGH TO SEE, HEAR, COMMUNICATE WITH, AND
13 EXCHANGE TANGIBLE IDENTIFICATION CREDENTIALS WITH THAT
14 INDIVIDUAL; OR

15 (b) INTERACTING WITH ANOTHER INDIVIDUAL BY MEANS OF
16 REAL-TIME AUDIO-VIDEO COMMUNICATION IN COMPLIANCE WITH SECTION
17 24-21-514.5 AND RULES ADOPTED BY THE SECRETARY OF STATE.

18 **SECTION 3.** In Colorado Revised Statutes, **add** 24-21-514.5 as
19 follows:

20 **24-21-514.5. Audio-video communication - definitions.** (1) AS
21 USED IN THIS SECTION:

22 (a) "AUDIO-VIDEO COMMUNICATION" MEANS COMMUNICATION BY
23 WHICH AN INDIVIDUAL IS ABLE TO SEE, HEAR, AND COMMUNICATE WITH
24 ANOTHER INDIVIDUAL IN REAL TIME USING ELECTRONIC MEANS.

25 (b) "CREDENTIAL ANALYSIS" MEANS A PROCESS OR SERVICE THAT
26 COMPLIES WITH ANY RULES ADOPTED BY THE SECRETARY OF STATE
27 THROUGH WHICH A THIRD PARTY AFFIRMS THE VALIDITY OF A

1 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THROUGH THE REVIEW
2 OF PUBLIC OR PROPRIETARY DATA SOURCES.

3 (c) "DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION
4 ASSESSMENT" MEANS AN IDENTITY ASSESSMENT THAT IS BASED ON A SET
5 OF QUESTIONS FORMULATED FROM PUBLIC OR PRIVATE DATA SOURCES FOR
6 WHICH THE INDIVIDUAL TAKING THE ASSESSMENT HAS NOT PREVIOUSLY
7 PROVIDED AN ANSWER AND THAT MEETS ANY RULES ADOPTED BY THE
8 SECRETARY OF STATE.

9 (d) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE
10 THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE
11 UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY OR INSULAR
12 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

13 (e) "PUBLIC KEY CERTIFICATE" MEANS AN ELECTRONIC
14 CREDENTIAL THAT IS USED TO IDENTIFY AN INDIVIDUAL WHO SIGNED AN
15 ELECTRONIC RECORD WITH THE CERTIFICATE.

16 (f) "REMOTE NOTARIZATION SYSTEM" MEANS ANY TECHNOLOGY
17 THAT ENABLES A NOTARY PUBLIC TO PERFORM REMOTE NOTARIZATIONS
18 IN COMPLIANCE WITH THIS PART 5 AND RULES ADOPTED BY THE
19 SECRETARY OF STATE.

20 (g) "REMOTE PRESENTATION" MEANS TRANSMISSION TO THE
21 NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE
22 OF A GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT IS OF
23 SUFFICIENT QUALITY TO ENABLE THE NOTARY PUBLIC TO:

24 (I) IDENTIFY THE INDIVIDUAL SEEKING THE NOTARY PUBLIC'S
25 SERVICES; AND

26 (II) PERFORM CREDENTIAL ANALYSIS.

27 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS

1 SECTION, A NOTARY PUBLIC MAY PERFORM A REMOTE NOTARIZATION ONLY
2 WITH RESPECT TO AN ELECTRONIC RECORD AND IN COMPLIANCE WITH THIS
3 SECTION AND ANY RULES ADOPTED BY THE SECRETARY OF STATE FOR AN
4 INDIVIDUAL WHO IS LOCATED:

5 (I) IN THIS STATE;

6 (II) OUTSIDE OF THIS STATE BUT WITHIN THE UNITED STATES; OR

7 (III) OUTSIDE THE UNITED STATES IF:

8 (A) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE
9 NOTARIAL ACT IS PROHIBITED IN THE JURISDICTION IN WHICH THE
10 INDIVIDUAL IS PHYSICALLY LOCATED AT THE TIME OF THE ACT; AND

11 (B) THE INDIVIDUAL CONFIRMS TO THE NOTARY PUBLIC THAT THE
12 REQUESTED NOTARIAL ACT AND THE RECORD RELATE TO: A MATTER THAT
13 WILL BE FILED WITH OR IS CURRENTLY BEFORE A COURT, GOVERNMENTAL
14 ENTITY, OR OTHER ENTITY IN THE UNITED STATES; PROPERTY LOCATED IN
15 THE UNITED STATES; OR A TRANSACTION SUBSTANTIALLY CONNECTED TO
16 THE UNITED STATES.

17 (b) A NOTARY PUBLIC SHALL NOT PERFORM A REMOTE
18 NOTARIZATION FOR:

19 (I) A RECORD RELATING TO THE ELECTORAL PROCESS; OR

20 (II) A WILL, CODICIL, DOCUMENT PURPORTING TO BE A WILL OR
21 CODICIL, OR ANY ACKNOWLEDGMENT REQUIRED UNDER SECTION
22 15-11-502 OR 15-11-504.

23 (3) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S
24 INITIAL REMOTE NOTARIZATION, THE NOTARY PUBLIC SHALL NOTIFY THE
25 SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE PERFORMING
26 REMOTE NOTARIZATIONS AND SHALL IDENTIFY EACH REMOTE
27 NOTARIZATION SYSTEM THAT THE NOTARY PUBLIC INTENDS TO USE. THE

1 REMOTE NOTARIZATION SYSTEM MUST CONFORM TO THIS PART 5 AND ANY
2 RULES ADOPTED BY THE SECRETARY OF STATE. THE NOTICE MUST BE
3 SUBMITTED IN THE FORMAT REQUIRED BY THE SECRETARY OF STATE AND
4 MUST:

5 (a) INCLUDE AN AFFIRMATION THAT THE NOTARY PUBLIC HAS READ
6 AND WILL COMPLY WITH THIS SECTION AND ALL RULES ADOPTED BY THE
7 SECRETARY OF STATE; AND

8 (b) BE ACCOMPANIED BY PROOF THAT THE NOTARY PUBLIC HAS
9 SUCCESSFULLY COMPLETED ANY TRAINING AND EXAMINATION REQUIRED
10 BY THE SECRETARY OF STATE.

11 (4) A NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT FOR AN
12 INDIVIDUAL BY MEANS OF AUDIO-VIDEO COMMUNICATION MUST:

13 (a) BE LOCATED WITHIN THIS STATE AT THE TIME THE NOTARIAL
14 ACT IS PERFORMED;

15 (b) EXECUTE THE NOTARIAL ACT IN A SINGLE, REAL-TIME SESSION;

16 (c) CONFIRM THAT ANY RECORD THAT IS SIGNED, ACKNOWLEDGED,
17 OR OTHERWISE PRESENTED FOR NOTARIZATION BY THE INDIVIDUAL IS THE
18 SAME RECORD SIGNED BY THE NOTARY PUBLIC;

19 (d) CONFIRM THAT THE QUALITY OF THE AUDIO-VIDEO
20 COMMUNICATION IS SUFFICIENT TO MAKE THE DETERMINATIONS REQUIRED
21 FOR THE NOTARIAL ACT UNDER THIS PART 5 AND ANY OTHER LAW OF THIS
22 STATE; AND

23 (e) IDENTIFY THE VENUE FOR THE NOTARIAL ACT AS THE
24 JURISDICTION WITHIN THIS STATE WHERE THE NOTARY PUBLIC IS
25 PHYSICALLY LOCATED WHILE PERFORMING THE ACT.

26 (5) A REMOTE NOTARIZATION SYSTEM USED TO PERFORM REMOTE
27 NOTARIZATIONS MUST:

1 (a) REQUIRE THE NOTARY PUBLIC, THE INDIVIDUAL, AND ANY
2 REQUIRED WITNESS TO ACCESS THE SYSTEM THROUGH AN
3 AUTHENTICATION PROCEDURE THAT COMPLIES WITH RULES ADOPTED BY
4 THE SECRETARY OF STATE REGARDING SECURITY AND ACCESS;

5 (b) ENABLE THE NOTARY PUBLIC TO VERIFY THE IDENTITY OF THE
6 INDIVIDUAL AND ANY REQUIRED WITNESS BY MEANS OF PERSONAL
7 KNOWLEDGE OR SATISFACTORY EVIDENCE OF IDENTITY IN COMPLIANCE
8 WITH SUBSECTION (6) OF THIS SECTION; AND

9 (c) CONFIRM THAT THE NOTARY PUBLIC, THE INDIVIDUAL, AND
10 ANY REQUIRED WITNESS ARE VIEWING THE SAME RECORD AND THAT ALL
11 SIGNATURES, CHANGES, AND ATTACHMENTS TO THE RECORD ARE MADE IN
12 REAL TIME.

13 (6) (a) A NOTARY PUBLIC SHALL DETERMINE FROM PERSONAL
14 KNOWLEDGE OR SATISFACTORY EVIDENCE OF IDENTITY AS DESCRIBED IN
15 SUBSECTION (6)(b) OF THIS SECTION THAT THE INDIVIDUAL APPEARING
16 BEFORE THE NOTARY PUBLIC BY MEANS OF AUDIO-VIDEO COMMUNICATION
17 IS THE INDIVIDUAL THAT HE OR SHE PURPORTS TO BE.

18 (b) A NOTARY PUBLIC HAS SATISFACTORY EVIDENCE OF IDENTITY
19 IF THE NOTARY PUBLIC CAN IDENTIFY THE INDIVIDUAL WHO PERSONALLY
20 APPEARS BEFORE THE NOTARY PUBLIC BY MEANS OF AUDIO-VIDEO
21 COMMUNICATION BY USING AT LEAST ONE OF THE FOLLOWING METHODS:

22 (I) THE OATH OR AFFIRMATION OF A CREDIBLE WITNESS WHO
23 PERSONALLY KNOWS THE INDIVIDUAL, IS PERSONALLY KNOWN TO THE
24 NOTARY PUBLIC, AND IS IN THE PHYSICAL PRESENCE OF THE NOTARY
25 PUBLIC OR THE INDIVIDUAL DURING THE REMOTE NOTARIZATION;

26 (II) AT LEAST TWO OF THE FOLLOWING:

27 (A) A DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION

1 ASSESSMENT BY A TRUSTED THIRD PARTY THAT COMPLIES WITH RULES
2 ADOPTED BY THE SECRETARY OF STATE;

3 (B) A VALID PUBLIC KEY CERTIFICATE THAT COMPLIES WITH RULES
4 ADOPTED BY THE SECRETARY OF STATE;

5 (C) AN IDENTITY VERIFICATION BY A TRUSTED THIRD PARTY THAT
6 COMPLIES WITH RULES ADOPTED BY THE SECRETARY OF STATE; OR

7 (D) REMOTE PRESENTATION AND CREDENTIAL ANALYSIS OF A
8 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL AND THE DATA
9 CONTAINED ON THE CREDENTIAL; OR

10 (III) ANY OTHER METHOD THAT COMPLIES WITH RULES ADOPTED
11 BY THE SECRETARY OF STATE.

12 (7) WITHOUT LIMITING THE AUTHORITY OF A NOTARY PUBLIC
13 UNDER SECTION 24-21-508 TO REFUSE TO PERFORM A NOTARIAL ACT, A
14 NOTARY PUBLIC MAY REFUSE TO PERFORM A NOTARIAL ACT UNDER THIS
15 SECTION IF THE NOTARY PUBLIC IS NOT SATISFIED THAT THE
16 REQUIREMENTS OF THIS SECTION ARE MET.

17 (8) THE CERTIFICATE OF NOTARIAL ACT FOR A REMOTE
18 NOTARIZATION MUST, IN ADDITION TO COMPLYING WITH THE
19 REQUIREMENTS OF SECTION 24-21-515, INDICATE THAT THE NOTARIAL ACT
20 WAS PERFORMED USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY.

21 (9) THE FOLLOWING SHORT-FORM CERTIFICATES OF REMOTE
22 NOTARIZATIONS ARE SUFFICIENT FOR THE PURPOSES INDICATED, IF
23 COMPLETED WITH THE INFORMATION REQUIRED BY SECTION 24-21-515 (1)
24 AND (2) AND SUBSECTION (8) OF THIS SECTION:

25 (a) FOR A VERIFICATION ON OATH OR AFFIRMATION BY AN
26 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO
27 COMMUNICATION TECHNOLOGY:

1 STATE OF _____
2 COUNTY OF _____
3 SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME BY USE
4 OF AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON
5 _____ (DATE) BY _____ (NAME(S) OF INDIVIDUAL(S)), WHO
6 DECLARED THAT (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN
7 _____ (LOCATION OF INDIVIDUAL) [AND THAT THIS RECORD IS
8 PART OF OR PERTAINS TO A MATTER THAT IS TO BE FILED
9 WITH OR IS BEFORE A COURT, GOVERNMENTAL ENTITY, OR
10 OTHER ENTITY LOCATED IN THE UNITED STATES OR
11 INVOLVES PROPERTY LOCATED IN, OR A TRANSACTION
12 SUBSTANTIALLY CONNECTED WITH, THE UNITED STATES].

13 _____

14 SIGNATURE OF NOTARIAL OFFICER

15 STAMP

16 (_____ (TITLE OF OFFICE) _____)

17 MY COMMISSION EXPIRES: _____

18 (b) FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY BY AN
19 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO
20 COMMUNICATION TECHNOLOGY:

21 STATE OF _____

22 COUNTY OF _____

23 THIS RECORD WAS ACKNOWLEDGED BEFORE ME BY USE OF
24 AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON _____ (DATE)
25 BY _____ (NAME(S) OF INDIVIDUAL(S)), WHO DECLARED THAT
26 (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN _____ (LOCATION OF
27 INDIVIDUAL) [AND THAT THIS RECORD IS PART OF OR

1 PERTAINS TO A MATTER THAT IS TO BE FILED WITH OR IS
2 BEFORE A COURT, GOVERNMENTAL ENTITY, OR OTHER
3 ENTITY LOCATED IN THE UNITED STATES OR INVOLVES
4 PROPERTY LOCATED IN, OR A TRANSACTION SUBSTANTIALLY
5 CONNECTED WITH, THE UNITED STATES].

6 _____
7 SIGNATURE OF NOTARIAL OFFICER
8 (_____ (TITLE OF OFFICE) _____)

9 MY COMMISSION EXPIRES: _____

10 (c) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY
11 BY AN INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF
12 AUDIO-VIDEO COMMUNICATION TECHNOLOGY:

13 STATE OF _____
14 COUNTY OF _____

15 THIS RECORD WAS ACKNOWLEDGED BEFORE ME BY USE OF
16 AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON (DATE)
17 BY (NAME(S) OF INDIVIDUAL(S)) AS (TYPE OF AUTHORITY,
18 SUCH AS OFFICER OR TRUSTEE) OF (NAME OF PARTY ON
19 BEHALF OF WHOM RECORD WAS EXECUTED), WHO
20 DECLARED THAT (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN
21 (LOCATION OF INDIVIDUAL) [AND THAT THIS RECORD IS
22 PART OF OR PERTAINS TO A MATTER THAT IS TO BE FILED
23 WITH OR IS BEFORE A COURT, GOVERNMENTAL ENTITY, OR
24 OTHER ENTITY LOCATED IN THE UNITED STATES, OR
25 INVOLVES PROPERTY LOCATED IN, OR A TRANSACTION
26 SUBSTANTIALLY CONNECTED WITH, THE UNITED STATES].

27 _____

1 SIGNATURE OF NOTARIAL OFFICER

2 STAMP

3 (_____ (TITLE OF OFFICE) _____)

4 MY COMMISSION EXPIRES: _____

5 (d) FOR WITNESSING OR ATTESTING A SIGNATURE BY AN
6 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO
7 COMMUNICATION TECHNOLOGY:

8 STATE OF _____

9 COUNTY OF _____

10 SIGNED OR ATTESTED BEFORE ME BY USE OF AUDIO-VIDEO
11 COMMUNICATION TECHNOLOGY ON (DATE) BY (NAME(S)
12 OF INDIVIDUAL(S)), WHO DECLARED THAT
13 (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN (LOCATION OF
14 INDIVIDUAL) [AND THAT THIS RECORD IS PART OF OR
15 PERTAINS TO A MATTER THAT IS TO BE FILED WITH OR IS
16 BEFORE A COURT, A GOVERNMENTAL ENTITY, OR OTHER
17 ENTITY LOCATED IN THE UNITED STATES, OR INVOLVES
18 PROPERTY LOCATED IN, OR A TRANSACTION SUBSTANTIALLY
19 CONNECTED WITH, THE UNITED STATES].

20 _____

21 SIGNATURE OF NOTARIAL OFFICER

22 STAMP

23 (_____ (TITLE OF OFFICE) _____)

24 MY COMMISSION EXPIRES: _____

25 (10) (a) (I) A NOTARY PUBLIC, OR A GUARDIAN, CONSERVATOR, OR
26 PERSONAL REPRESENTATIVE OF AN INCAPACITATED OR DECEASED NOTARY
27 PUBLIC, SHALL RETAIN THE AUDIO-VIDEO RECORDING OF THE

1 PERFORMANCE OF THE REMOTE NOTARIZATION FOR AT LEAST TEN YEARS
2 IN ACCORDANCE WITH RULES ADOPTED BY THE SECRETARY OF STATE;
3 EXCEPT THAT INSTEAD OF RETAINING THE RECORDING AS REQUIRED BY
4 THIS SUBSECTION (10)(a)(I), THE RECORDING MAY BE HELD BY A
5 REPOSITORY DESIGNATED BY OR ON BEHALF OF THE NOTARY PUBLIC.

6 (II) THE NOTARY PUBLIC MUST, AT THE OUTSET OF THE NOTARIAL
7 SESSION, DISCLOSE TO THE INDIVIDUAL THAT THE NOTARIAL SESSION WILL
8 BE RECORDED AND OBTAIN THE INDIVIDUAL'S CONSENT TO PROCEED.

9 (III) THE RECORDING MUST BE STORED AND SECURED IN
10 COMPLIANCE WITH RULES ADOPTED BY THE SECRETARY OF STATE.

11 (b) THE AUDIO-VIDEO RECORDING ALLOWED BY THIS SECTION
12 MUST BE IN ADDITION TO THE JOURNAL ENTRY FOR THE NOTARIAL ACT
13 REQUIRED BY SECTION 24-21-519 AND MUST INCLUDE:

14 (I) AT THE COMMENCEMENT OF THE RECORDING, A RECITATION BY
15 THE NOTARY PUBLIC OF INFORMATION SUFFICIENT TO IDENTIFY THE
16 NOTARIAL ACT;

17 (II) A DECLARATION BY THE INDIVIDUAL THAT THE INDIVIDUAL'S
18 SIGNATURE ON THE RECORD IS KNOWINGLY AND VOLUNTARILY MADE;

19 (III) ALL ACTIONS AND SPOKEN WORDS OF THE INDIVIDUAL, THE
20 NOTARY PUBLIC, AND ANY REQUIRED WITNESS DURING THE ENTIRE
21 NOTARIAL ACT;

22 (IV) IF THE INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS BEING
23 PERFORMED IS IDENTIFIED BY PERSONAL KNOWLEDGE, AN EXPLANATION
24 BY THE NOTARY PUBLIC AS TO HOW HE OR SHE KNOWS THE INDIVIDUAL
25 AND HOW LONG HE OR SHE HAS KNOWN THE INDIVIDUAL;

26 (V) IF THE INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS BEING
27 PERFORMED IS IDENTIFIED BY A CREDIBLE WITNESS:

1 (A) A STATEMENT BY THE NOTARY PUBLIC AS TO HOW THE
2 NOTARY PUBLIC KNOWS THE CREDIBLE WITNESS AND HOW LONG HE OR SHE
3 HAS KNOWN THE CREDIBLE WITNESS; AND

4 (B) AN EXPLANATION BY THE CREDIBLE WITNESS AS TO HOW HE OR
5 SHE KNOWS THE INDIVIDUAL AND HOW LONG HE OR SHE HAS KNOWN THE
6 INDIVIDUAL; AND

7 (VI) IF THE INDIVIDUAL HAS SO REQUESTED, AN ACCURATE AND
8 COMPLETE IMAGE OF THE ENTIRE RECORD THAT WAS VIEWED AND SIGNED
9 BY THE INDIVIDUAL AND NOTARY PUBLIC.

10 (c) THE PROVISIONS OF SECTION 24-21-519, RELATED
11 RESPECTIVELY TO SECURITY, INSPECTION, COPYING, AND RETENTION AND
12 DISPOSITION OF A NOTARY PUBLIC'S JOURNAL, APPLY TO SECURITY,
13 INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF AUDIO-VIDEO
14 RECORDINGS ALLOWED BY THIS SECTION.

15 (11) REGARDLESS OF THE PHYSICAL LOCATION OF THE INDIVIDUAL
16 AT THE TIME OF THE NOTARIAL ACT, THE VALIDITY OF A REMOTE
17 NOTARIZATION PERFORMED BY A NOTARY IN THIS STATE IS GOVERNED BY
18 THE LAWS OF THIS STATE, INCLUDING ANY RULES ADOPTED BY THE
19 SECRETARY OF STATE PURSUANT TO THIS PART 5.

20 **SECTION 4.** In Colorado Revised Statutes, 24-21-519, **amend**
21 **as it will become effective July 1, 2018,** (2) as follows:

22 **24-21-519. Journal.** (2) (a) A journal may be created on a
23 tangible medium or in an electronic format. If a journal is maintained on
24 a tangible medium, it must be a permanent, bound register with numbered
25 pages. If a journal is maintained in an electronic format, it must be in a
26 permanent, tamper-evident electronic format complying with the rules of
27 the secretary of state.

1 (b) A NOTARY PUBLIC THAT PERFORMS A REMOTE NOTARIZATION
2 SHALL MAINTAIN A JOURNAL IN AN ELECTRONIC FORMAT WITH REGARD TO
3 EACH REMOTE NOTARIZATION. THE JOURNAL MUST INCLUDE THE
4 ELECTRONIC SIGNATURE OF THE INDIVIDUAL FOR EACH REMOTE
5 NOTARIZATION.

6 **SECTION 5.** In Colorado Revised Statutes, 24-21-525 as it will
7 **become effective July 1, 2018, add (8)** as follows:

8 **24-21-525. Prohibited acts.** (8) A PERSON SHALL NOT SELL,
9 OFFER FOR SALE, OR USE ANY INFORMATION COLLECTED IN THE COURSE OF
10 PERFORMING A REMOTE NOTARIZATION FOR ANY PURPOSE OTHER THAN:

- 11 (a) COMPLETING THE NOTARIAL ACT OR RELATED ACTIVITIES;
- 12 (b) COMPLYING WITH APPLICABLE LAW;
- 13 (c) AS PERMITTED UNDER THE FEDERAL "GRAMM-LEACH-BLILEY
14 ACT", PUB.L. 106-102, THE FEDERAL "HEALTH INSURANCE PORTABILITY
15 AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, OR OTHER
16 APPLICABLE FEDERAL OR STATE LAW RELATING TO CONSUMER PRIVACY;
17 OR
- 18 (d) IN ACCORDANCE WITH CONSENT OBTAINED, IN THE MANNER
19 REQUIRED BY APPLICABLE LAW, FROM THE PERSON TO WHOM SUCH
20 INFORMATION RELATES.

21 **SECTION 6.** In Colorado Revised Statutes, 24-21-527 as it will
22 **become effective July 1, 2018, amend (1)(e); and add (1)(g) and (1)(h)**
23 as follows:

24 **24-21-527. Rules.** (1) The secretary of state may adopt rules to
25 implement this part 5 in accordance with article 4 of this title 24. Rules
26 adopted regarding the performance of notarial acts with respect to
27 electronic records may not require, or accord greater legal status or effect

1 to, the implementation or application of a specific technology or technical
2 specification. The rules may:

3 (e) Include provisions to prevent fraud or mistake in the
4 performance of notarial acts; ~~and~~

5 (g) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS
6 USING AUDIO-VIDEO COMMUNICATION, INCLUDING PROVISIONS TO ENSURE
7 THE SECURITY AND INTEGRITY OF THOSE ACTS; AND

8 (h) PRESCRIBE REQUIREMENTS FOR THE APPROVAL AND USE OF
9 REMOTE NOTARIZATION SYSTEMS.

10 **SECTION 7. Act subject to petition - effective date -**

11 **applicability.** (1) This act takes effect January 1, 2019; except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within the ninety-day period after final adjournment of the general
15 assembly, then the act, item, section, or part will not take effect unless
16 approved by the people at the general election to be held in November
17 2018 and, in such case, will take effect on January 1, 2019, or on the date
18 of the official declaration of the vote thereon by the governor, whichever
19 is later.

20 (2) This act applies to conduct occurring on or after the applicable
21 effective date of this act.