

First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0161.01 Thomas Morris x4218

SENATE BILL 19-084

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SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None),

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Senate Committees

State, Veterans, & Military Affairs

House Committees

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A BILL FOR AN ACT

101 CONCERNING AN AUTHORIZATION OF REMOTE NOTARIZATION, AND, IN  
102 CONNECTION THEREWITH, ENACTING THE 2018 AMENDMENTS  
103 TO THE "REVISED UNIFORM LAW ON NOTARIAL ACTS".

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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/>.)*

**Colorado Commission on Uniform State Laws.** Current law requires an individual who wishes to have a document notarized to appear personally before a notary public. The bill enacts the 2018 amendments to the "Revised Uniform Law on Notarial Acts", drafted by the Uniform Law Commission, which authorize notaries public to perform a notarial

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.

act on behalf of an individual who is not in the notary's physical presence.

To perform a remote notarization, a notary must use an electronic system that conforms to standards established by rules of the secretary of state, including using communication technology 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 individual seeking the remote notarization.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-21-501 as  
3 follows:

4 **24-21-501. Short title.** The short title of this part 5 is the "Revised  
5 Uniform Law on Notarial ~~Acts~~ ACTS (2018)".

6 **SECTION 2.** In Colorado Revised Statutes, 24-21-504, **add** (4)  
7 as follows:

8 **24-21-504. Authority to perform notarial act.** (4) A NOTARIAL  
9 OFFICER MAY CERTIFY THAT A TANGIBLE COPY OF AN ELECTRONIC RECORD  
10 IS AN ACCURATE COPY OF THE ELECTRONIC RECORD.

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

13 **24-21-514.5. Notarial act performed by remotely located**  
14 **individual - definitions - rules.** (1) AS USED IN THIS SECTION, UNLESS  
15 THE CONTEXT OTHERWISE REQUIRES:

16 (a) "COMMUNICATION TECHNOLOGY" MEANS AN ELECTRONIC  
17 DEVICE OR PROCESS THAT:

18 (I) ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED  
19 INDIVIDUAL TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY  
20 SIGHT AND SOUND; AND

21 (II) WHEN NECESSARY AND CONSISTENT WITH OTHER APPLICABLE

1 LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED  
2 INDIVIDUAL WHO HAS A VISION, HEARING, OR SPEECH IMPAIRMENT.

3 (b) "FOREIGN STATE" MEANS A JURISDICTION OTHER THAN THE  
4 UNITED STATES, A STATE, OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

5 (c) "IDENTITY PROOFING" MEANS A PROCESS OR SERVICE BY WHICH  
6 A THIRD PERSON PROVIDES A NOTARY PUBLIC WITH A MEANS TO VERIFY  
7 THE IDENTITY OF A REMOTELY LOCATED INDIVIDUAL BY A REVIEW OF  
8 PERSONAL INFORMATION FROM PUBLIC OR PRIVATE DATA SOURCES.

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, INSULAR  
12 POSSESSION, OR OTHER LOCATION SUBJECT TO THE JURISDICTION OF THE  
13 UNITED STATES.

14 (e) "REMOTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL  
15 WHO IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO  
16 PERFORMS A NOTARIAL ACT UNDER SUBSECTION (3) OF THIS SECTION.

17 (2) A REMOTELY LOCATED INDIVIDUAL MAY COMPLY WITH  
18 SECTION 24-21-506 BY USING COMMUNICATION TECHNOLOGY TO APPEAR  
19 BEFORE A NOTARY PUBLIC.

20 (3) A NOTARY PUBLIC LOCATED IN THIS STATE MAY PERFORM A  
21 NOTARIAL ACT USING COMMUNICATION TECHNOLOGY FOR A REMOTELY  
22 LOCATED INDIVIDUAL IF:

23 (a) THE NOTARY PUBLIC:

24 (I) HAS PERSONAL KNOWLEDGE UNDER SECTION 24-21-507 (1) OF  
25 THE IDENTITY OF THE INDIVIDUAL;

26 (II) HAS SATISFACTORY EVIDENCE OF THE IDENTITY OF THE  
27 REMOTELY LOCATED INDIVIDUAL BY OATH OR AFFIRMATION FROM A

1 CREDIBLE WITNESS APPEARING BEFORE THE NOTARY PUBLIC UNDER  
2 SECTION 24-21-507 (2) OR UNDER THIS SECTION; OR

3 (III) HAS OBTAINED SATISFACTORY EVIDENCE OF THE IDENTITY OF  
4 THE REMOTELY LOCATED INDIVIDUAL BY USING AT LEAST TWO DIFFERENT  
5 TYPES OF IDENTITY PROOFING;

6 (b) THE NOTARY PUBLIC IS ABLE REASONABLY TO CONFIRM THAT  
7 A RECORD BEFORE THE NOTARY PUBLIC IS THE SAME RECORD IN WHICH THE  
8 REMOTELY LOCATED INDIVIDUAL MADE A STATEMENT OR ON WHICH THE  
9 REMOTELY LOCATED INDIVIDUAL EXECUTED A SIGNATURE;

10 (c) THE NOTARY PUBLIC, OR A PERSON ACTING ON BEHALF OF THE  
11 NOTARY PUBLIC, CREATES AN AUDIO-VISUAL RECORDING OF THE  
12 PERFORMANCE OF THE NOTARIAL ACT; AND

13 (d) FOR A REMOTELY LOCATED INDIVIDUAL WHO IS LOCATED  
14 OUTSIDE THE UNITED STATES:

15 (I) THE RECORD:

16 (A) IS TO BE FILED WITH OR RELATES TO A MATTER BEFORE A  
17 PUBLIC OFFICIAL OR COURT, GOVERNMENTAL ENTITY, OR OTHER ENTITY  
18 SUBJECT TO THE JURISDICTION OF THE UNITED STATES; OR

19 (B) INVOLVES PROPERTY LOCATED IN THE TERRITORIAL  
20 JURISDICTION OF THE UNITED STATES OR INVOLVES A TRANSACTION  
21 SUBSTANTIALLY CONNECTED WITH THE UNITED STATES; AND

22 (II) THE ACT OF MAKING THE STATEMENT OR SIGNING THE RECORD  
23 IS NOT PROHIBITED BY THE FOREIGN STATE IN WHICH THE REMOTELY  
24 LOCATED INDIVIDUAL IS LOCATED.

25 (4) IF A NOTARIAL ACT IS PERFORMED UNDER THIS SECTION, THE  
26 CERTIFICATE OF NOTARIAL ACT REQUIRED BY SECTION 24-21-515 AND THE  
27 SHORT-FORM CERTIFICATE PROVIDED IN SECTION 24-21-516 MUST

1 INDICATE THAT THE NOTARIAL ACT WAS PERFORMED USING  
2 COMMUNICATION TECHNOLOGY.

3 (5) A SHORT-FORM CERTIFICATE PROVIDED IN SECTION 24-21-516  
4 FOR A NOTARIAL ACT SUBJECT TO THIS SECTION IS SUFFICIENT IF IT:

5 (a) COMPLIES WITH RULES ADOPTED UNDER SUBSECTION (8)(a) OF  
6 THIS SECTION; OR

7 (b) IS IN THE FORM PROVIDED BY SECTION 24-21-516 AND  
8 CONTAINS A STATEMENT SUBSTANTIALLY AS FOLLOWS: "THIS NOTARIAL  
9 ACT INVOLVED THE USE OF COMMUNICATION TECHNOLOGY."

10 (6) A NOTARY PUBLIC, A GUARDIAN, CONSERVATOR, OR AGENT OF  
11 A NOTARY PUBLIC, OR A PERSONAL REPRESENTATIVE OF A DECEASED  
12 NOTARY PUBLIC SHALL RETAIN THE AUDIO-VISUAL RECORDING CREATED  
13 UNDER SUBSECTION (3)(c) OF THIS SECTION OR CAUSE THE RECORDING TO  
14 BE RETAINED BY A REPOSITORY DESIGNATED BY OR ON BEHALF OF THE  
15 PERSON REQUIRED TO RETAIN THE RECORDING. UNLESS A DIFFERENT  
16 PERIOD IS REQUIRED BY RULE ADOPTED UNDER SUBSECTION (8)(d) OF THIS  
17 SECTION, THE RECORDING MUST BE RETAINED FOR A PERIOD OF AT LEAST  
18 TEN YEARS AFTER THE RECORDING IS MADE.

19 (7) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S  
20 INITIAL NOTARIAL ACT UNDER THIS SECTION, THE NOTARY PUBLIC MUST  
21 NOTIFY THE SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE  
22 PERFORMING NOTARIAL ACTS WITH RESPECT TO REMOTELY LOCATED  
23 INDIVIDUALS AND IDENTIFY THE TECHNOLOGIES THE NOTARY PUBLIC  
24 INTENDS TO USE. IF THE SECRETARY OF STATE HAS ESTABLISHED  
25 STANDARDS UNDER SUBSECTION (8) OF THIS SECTION AND SECTION  
26 24-21-527 FOR APPROVAL OF COMMUNICATION TECHNOLOGY OR IDENTITY  
27 PROOFING, THE COMMUNICATION TECHNOLOGY AND IDENTITY PROOFING

1 MUST CONFORM TO THE STANDARDS.

2 (8) IN ADDITION TO ADOPTING RULES UNDER SECTION 24-21-527,  
3 THE SECRETARY OF STATE MAY ADOPT RULES UNDER THIS SECTION  
4 REGARDING PERFORMANCE OF A NOTARIAL ACT. THE RULES MAY:

5 (a) PRESCRIBE THE MEANS OF PERFORMING A NOTARIAL ACT  
6 INVOLVING A REMOTELY LOCATED INDIVIDUAL USING COMMUNICATION  
7 TECHNOLOGY;

8 (b) ESTABLISH STANDARDS FOR COMMUNICATION TECHNOLOGY  
9 AND IDENTITY PROOFING;

10 (c) ESTABLISH REQUIREMENTS OR PROCEDURES TO APPROVE  
11 PROVIDERS OF COMMUNICATION TECHNOLOGY AND THE PROCESS OF  
12 IDENTITY PROOFING; AND

13 (d) ESTABLISH STANDARDS AND A PERIOD FOR THE RETENTION OF  
14 AN AUDIO-VISUAL RECORDING CREATED UNDER SUBSECTION (3)(c) OF THIS  
15 SECTION.

16 (9) BEFORE ADOPTING, AMENDING, OR REPEALING A RULE  
17 GOVERNING PERFORMANCE OF A NOTARIAL ACT WITH RESPECT TO A  
18 REMOTELY LOCATED INDIVIDUAL, THE SECRETARY OF STATE MUST  
19 CONSIDER:

20 (a) THE MOST RECENT STANDARDS REGARDING THE PERFORMANCE  
21 OF A NOTARIAL ACT WITH RESPECT TO A REMOTELY LOCATED INDIVIDUAL  
22 PROMULGATED BY NATIONAL STANDARD-SETTING ORGANIZATIONS AND  
23 THE RECOMMENDATIONS OF THE NATIONAL ASSOCIATION OF SECRETARIES  
24 OF STATE;

25 (b) STANDARDS, PRACTICES, AND CUSTOMS OF OTHER  
26 JURISDICTIONS THAT HAVE LAWS SUBSTANTIALLY SIMILAR TO THIS  
27 SECTION; AND

1 (c) THE VIEWS OF GOVERNMENTAL OFFICIALS AND ENTITIES AND  
2 OTHER INTERESTED PERSONS.

3 (10) BY ALLOWING ITS COMMUNICATION TECHNOLOGY OR  
4 IDENTITY PROOFING TO FACILITATE A NOTARIAL ACT FOR A REMOTELY  
5 LOCATED INDIVIDUAL OR BY PROVIDING STORAGE OF THE AUDIO-VISUAL  
6 RECORDING CREATED UNDER SUBSECTION (3)(c) OF THIS SECTION, THE  
7 PROVIDER OF THE TECHNOLOGY, IDENTITY PROOFING, OR STORAGE  
8 APPOINTS THE SECRETARY OF STATE AS THE PROVIDER'S AGENT FOR  
9 SERVICE OF PROCESS IN ANY CIVIL ACTION IN THIS STATE RELATED TO THE  
10 NOTARIAL ACT.

11 **SECTION 4.** In Colorado Revised Statutes, 24-21-520, **add** (4)  
12 as follows:

13 **24-21-520. Notification regarding performance of notarial act**  
14 **on electronic record - selection of technology - acceptance of tangible**  
15 **copy of electronic record.** (4) A COUNTY CLERK AND RECORDER MAY  
16 ACCEPT FOR RECORDING A TANGIBLE COPY OF AN ELECTRONIC RECORD  
17 CONTAINING A NOTARIAL CERTIFICATE AS SATISFYING ANY REQUIREMENT  
18 THAT A RECORD ACCEPTED FOR RECORDING BE AN ORIGINAL, IF THE  
19 NOTARIAL OFFICER EXECUTING THE NOTARIAL CERTIFICATE CERTIFIES  
20 THAT THE TANGIBLE COPY IS AN ACCURATE COPY OF THE ELECTRONIC  
21 RECORD.

22 **SECTION 5. Act subject to petition - effective date.** This act  
23 takes effect at 12:01 a.m. on the day following the expiration of the  
24 ninety-day period after final adjournment of the general assembly (August  
25 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
26 referendum petition is filed pursuant to section 1 (3) of article V of the  
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect  
2 unless approved by the people at the general election to be held in  
3 November 2020 and, in such case, will take effect on the date of the  
4 official declaration of the vote thereon by the governor.