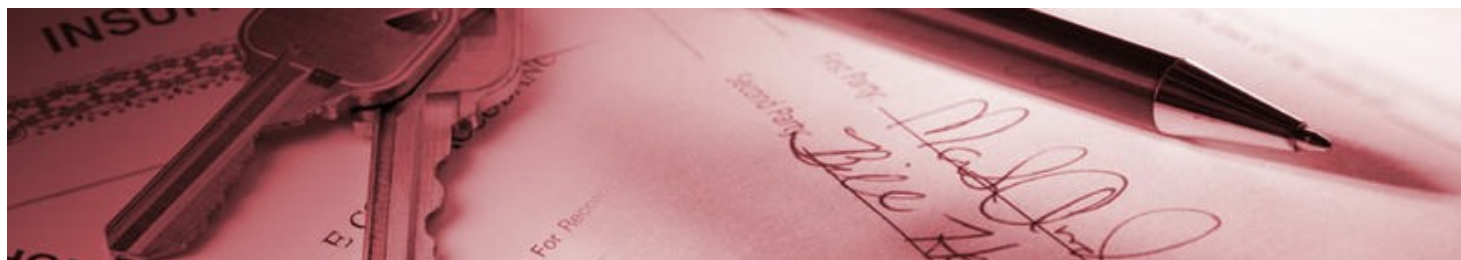


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Remote Notarization Laws Amid COVID-19

APR 13, 2020 | [LEAVE A COMMENT](#)

In response to the growing COVID-19 pandemic, many state governors and legislators have swiftly moved to pass laws—either by executive order (“EO”) or traditional legislative processes—to allow notaries to remotely carry out their duties while maintaining social distancing practices and abiding by stay-at-home orders.

Moreover, on March 19, 2020, United States Senators Mark R. Warner (D-VA) and Kevin Cramer (R-ND) introduced S. 3533, the “Securing and Enabling Commerce Using Remote and Electronic (SECURE) Notarization Act of 2020” which would permit immediate nationwide use of remote notarizations on a federal level that would, if enacted, preempt any and all of these state measures.

However, until then, the following list illustrates the current landscape of remote notarization laws among all 50 states as of April 13, 2020:

I. State Laws Authorizing Remote Notarization

The following states have laws that authorize, with varying requirements, remote notarizations: Arizona, Florida, Idaho, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Virginia, Vermont, Washington, Wisconsin.¹

II. Pending State Legislation for Remote Notarization

Both Alaska and New Jersey currently have remote notarization bills which have passed both houses and are awaiting action by their respective Governors.

III. Executive Orders/Actions in Response to COVID-19

a. Alabama

On March 26, 2020, Alabama Governor Kay Ivey issued an executive order (Proclamation of Governor) permitting Alabama notaries who are licensed attorneys, and Alabama notaries who work under the supervision of licensed attorneys, to notarize using videoconferencing in lieu of personal appearance. Further, any individual who witnesses a document through videoconference technology is considered an “in person” witness, if the identity of the individual is validated by the remote notary. The executive order expires at the termination of the public health emergency.

b. Arkansas

On March 30, 2020, Arkansas Governor Asa Hutchinson signed EO 20-12 permitting, among other things, certain remote notaries—*i.e.*, only notaries who are (1) attorneys licensed to



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practice law in Arkansas, or (2) licensed Arkansas title agents, or (3) supervised by such an attorney or title agent, or (4) employed by a financial institution registered with the Arkansas State Bank Department—to notarize documents through remote “real-time audio and visual means.” Further, both the notary and the signer must be physically located in Arkansas. EO 20-12 expires at the termination of the public health emergency.

c. Arizona

In April of 2019, Arizona enacted SB Bill 1030 which allows remote notarizations subject to certain requirements starting on June 30, 2020. However, due to COVID-19, on April 8, 2020, Arizona Governor Doug Ducey signed EO 2020-26 which accelerates the SB 1030 timeline to start on April 10, 2020.

d. Colorado

On March 27, 2020, Colorado Governor Jared Polis signed EO D 2020 019 permitting notarial officers to perform remote notarizations using real-time audio-visual communication technology. Further, the EO authorized Colorado’s Secretary of State to establish rules in furtherance of this temporary remote authorization. On March 30, 2020, the Colorado Secretary of State issued detailed implementation rules which stated, among other things, that the notary and signer must be physically located in Colorado and the process must be recorded and stored for 10 years. EO D 2020 019 expires on April 27, 2020 unless extended by further executive order.

e. Connecticut

On March 23, 2020, Connecticut Governor Ned Lamont signed EO No. 7K authorizing, among other things, notarial officials (or Commissioners of the Superior Court of Connecticut) to perform remote notarizations using “an electronic device or process” to communicate with a remotely located signer if the following conditions are met: (1) if not personally known to the notary, the signer must present valid photo ID during the remote session; (2) the “communicative technology” used must be capable of recording the session and storing it for 10 years; (3) the signer must be physically situated in Connecticut; and (4) signer must transmit an electronic version of the signed document to notary on same day it was signed. Further, EO No. 7K contains additional requirements related to remote notarizations for wills and real estate closings. EO No. 7K expires on June 23, 2020 unless extended by executive order.

f. Illinois

On March 26, 2020, Illinois Governor JB Pritzker signed EO 2020-14 which permits, among other things, Illinois notaries to perform remote notarizations “via two-way audio-video communication technology” provided that (i) the notary is physically within the state while performing the act; and (2) the notarial act follows the guidance posted by the Illinois Secretary of State. The Secretary of State’s guidance requires, among other things, that both the signer and notary be located in Illinois and that the recording of the notarial session be stored for at least three (3) years. EO 2020-14 expires when the Governor’s proclamation is rescinded.

g. Iowa

In April of 2019, Iowa enacted Senate File 475 which allows remote notarizations subject to certain requirements starting on July 1, 2020. However, due to COVID-19, on March 22, 2020, Iowa Governor Kimberly K. Reynolds issued a Proclamation which temporarily authorizes remote notarizations until April 16, 2020, unless terminated or extended by the Governor. As such, unless further action is taken by the Governor, after April 16, 2020, remote notarizations will not be allowed in Iowa until July 1, 2020.

h. Maryland

In May of 2019, Maryland enacted Senate Bill 678 enabling remote notarizations subject to certain requirements starting on October 1, 2020. In response to COVID-19, on March 30, 2020, Maryland Governor Larry Hogan signed EO 20-03-30-04 which, among other things, authorizes remote notarizations during the emergency. Governor Hogan did not accelerate the timeline of Senate Bill 678 and, therefore, EO 20-03-30-04 is only a temporary measure allowing remote notarization in Maryland until the end of the state of emergency. At the conclusion of EO 20-03-30-04, remote notarization will not be available in Maryland until October 1, 2020.

i. Michigan

In 2018, Michigan enacted HB 511 authorizing remote notarizations subject to certain requirements. However, in response to COVID-19, on April 8, 2020, Michigan Governor signed EO 2020-41 which, among other things, temporarily relaxes strict compliance with certain requirements under Michigan law as they relate to in-person notarial acts and witnessing. EO 2020-41 expires on May 6, 2020.

j. Nebraska

On May 30, 2019, Nebraska enacted LBI 86 (Online Notary Public Act) which authorizes remote notarizations subject to certain requirements starting on July 1, 2020. However, in response to COVID-19, Nebraska Governor Pete Ricketts signed EO 20-13 which, among other things, waived the July 1, 2020 effective date and allowed the Nebraska Secretary of State to immediately implement the remote notarization act.

k. New Hampshire

On March 23, 2020, New Hampshire Governor signed EO 2020-04 #11 permitting remote notarizations subject to certain requirements, including, but not limited to: (1) the notary and the signer can communicate simultaneously by sight and sound through an electronic device or process; (2) if the signer is out of the state, the document to be signed must relate to New Hampshire; (3) the remote recording must be kept for the duration of the notary's commission; and (4) upon signature, the document must be mailed by the signer to the notary. EO 2020-04 #11 expires at the end of the state of emergency.

l. New Mexico

On March 30, 2020, New Mexico Governor Michelle Grisham signed EO 2020-015 permitting remote notarizations subject to certain requirements, including, but not limited to: (1) technology used must allow for the direct interaction between the notary, the signer, and any required witnesses; (2) each party must represent that they are presently in New Mexico; (3) if unknown to notary, signer and/or witness must present valid identification; and (4) the signer must transmit the signed document to any witnesses and then to the notary on the same day. EO 2020-015 expires at the end of the state of emergency.

m. New York

On March 19, 2020, New York Governor Andrew Cuomo signed EO No. 202.7 permitting, among other things, remote notarizations using audio-visual technology if the following conditions are met: (i) the person seeking the notary's services, if unknown to notary, presents valid photo ID during video conference; (ii) video conference must allow for direct interaction between the signer and notary; (iii) the signer must be located in New York; (iv) the person must send an electronic version of the signed document to the notary on same day it was signed; (v) notary may notarize the transmitted copy of the document and transmit the same back to the person; and (vi) the notary may repeat the notarization of the original signed document as of the date of execution provided the notary receives such original signed document together with the electronically notarized copy within thirty days after the date of execution. EO 202.7 expires on April 18, 2020 unless extended by further executive order.

n. Pennsylvania

On March 25, 2020, the Pennsylvania Department of State requested and received a temporary suspension of the Pennsylvania statute regarding the in-person requirement for notarizations related to real estate transactions. Specifically, the March 25, 2020 notice suspended the personal appearance notary requirement for: (1) *personal* real estate transactions that were in process when the emergency was declared; and (2) all commercial real estate transactions, including new transactions. The Pennsylvania Department of State followed up with a second notice on April 2, 2020 with additional specifications for remote notarizations on other records, such as wills and power of attorneys. The notices did not specify an expiration date.

o. Rhode Island

On April 3, 2020, the Rhode Island Department of State, in collaboration with Rhode Island Governor Gina Raimondo, temporarily authorized remote notarizations subject to Standards of Conduct promulgated by the Governor and Secretary of State. Remote notarization

authorization expires at the end of the state of emergency.

p. Vermont

In 2018, Vermont enacted the Revised Uniform Law on Notarial Acts, which includes a provision enabling a notary to perform remote notarial acts, but deferred the effective date of the provision to when the Vermont Secretary of State was able to adopt rules to implement it. In response to COVID-19, on March 25, 2020, the Vermont Secretary of State promulgated emergency rules allowing remote notarizations subject to certain conditions. The emergency rules expire 180 days from the effective date.

q. Washington

In April 2019, Washington enacted SB 564 authorizing remote notarizations subject to certain requirements starting on October 1, 2020. However, in response to COVID-19, on March 24, 2020, Washington Governor Jay Inslee signed EO 20-27 which, among other things, accelerated SB 564's effective date to take effect immediately and will expire, unless further action is taken, on April 26, 2020. As such, unless further action is taken by the Governor, after April 26, 2020, remote notarizations will not be allowed in Washington until October 1, 2020.

r. Wisconsin

On March 3, 2020, Wisconsin enacted AB 293 authorizing remote notarizations subject to certain requirements starting on May 1, 2020. However, in response to COVID-19, on March 18, 2020 and March 20, 2020, the Wisconsin Department of Financial Institution issued an Emergency Guidance stating that, among other things, the Department will construe certain statutory language in existing Wisconsin statutes to allow remote notarizations. The Emergency Guidance applies until the end of the state of emergency.

s. Wyoming

On March 24, 2020, the Wyoming Secretary of State promulgated Guidance on Temporary Remote Notarization which allows, among other things, remote notarizations in light of COVID-19. The Secretary of State offers the following recommendations: (1) remote Wyoming notaries should complete the training provided by an approved remote online notarization; (2) remote notaries should use that provider's technology standards and security features; (3) remote notaries should notify the Wyoming Secretary of State and provide documentation of completed training; and (4) remote notaries should complete an intent to perform remote notary form. The Guidance does not specifically list an expiration date.

IV. Conclusion

Remote notarization laws are rapidly changing in the United States as a result of COVID-19. As such, practitioners must be familiar with evolving remote notarization laws in their respective states. This list is merely a summary of the landscape of remote notarizations as of April 13, 2020.

For more information about remote notarization laws during COVID-19, please contact [Michael O'Donnell](mailto:modonnell@riker.com) at modonnell@riker.com, [Michael Crowley](mailto:mcrowley@riker.com) at mcrowley@riker.com or [Anthony Lombardo](mailto:alombardo@riker.com) at alombardo@riker.com.

¹Many of these listed states have temporarily modified their remote notarization laws by executive order/action in light of COVID-19 (See Section III).

