

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 595 Session of 2017

INTRODUCED BY FOLMER, MARTIN, GREENLEAF, RAFFERTY, BROWNE AND BREWSTER, APRIL 17, 2017

SENATOR FOLMER, STATE GOVERNMENT, AS AMENDED, JUNE 5, 2017

AN ACT

1 Amending Title 57 (Notaries Public) of the Pennsylvania
2 Consolidated Statutes, in revised uniform law on notarial
3 acts, further providing for definitions, for personal
4 appearance required and, for identification of individual-, <--
5 FOR SHORT FORM CERTIFICATES, FOR JOURNAL, FOR NOTIFICATION
6 REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD
7 AND SELECTION OF TECHNOLOGY AND FOR REGULATIONS.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 302 of Title 57 of the Pennsylvania
11 Consolidated Statutes is amended by adding a definition- <--
12 DEFINITIONS to read: <--

13 § 302. Definitions.

14 The following words and phrases when used in this chapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 * * *

18 "Audio-video communication." Being able to see, hear and
19 communicate with another individual in real time using
20 electronic means.

1 * * *

2 "IDENTITY PROOFING." A PROCESS OR SERVICE BY WHICH A THIRD <--
3 PERSON PROVIDES A NOTARY PUBLIC WITH A REASONABLE MEANS TO
4 VERIFY THE IDENTITY OF AN INDIVIDUAL BY A REVIEW OF PERSONAL
5 INFORMATION FROM PUBLIC OR PROPRIETARY DATA SOURCES.

6 * * *

7 Section 2. Section 306 of Title 57 is amended to read:

8 § 306. [Personal appearance required] Appearance.

9 [If] (A) PERSONAL APPEARANCE.--EXCEPT AS PROVIDED BY <--
10 SUBSECTION (B), IF a notarial act relates to a statement made in
11 or a signature executed on a record, the individual making the
12 statement or executing the signature shall appear personally
13 ~~either by being in the notarial officer's physical presence or~~ <--
14 ~~by means of audio video communication~~ before the notarial
15 officer, EITHER BY BEING IN THE NOTARIAL OFFICER'S PHYSICAL <--
16 PRESENCE OR BY MEANS OF AUDIO-VIDEO COMMUNICATION.

17 (B) USE OF AUDIO-VISUAL COMMUNICATIONS.--A NOTARY PUBLIC IN <--
18 THIS COMMONWEALTH MAY PERFORM BY MEANS OF AUDIO-VIDEO
19 COMMUNICATION A NOTARIAL ACT IF THE NOTARIAL ACT IS PERFORMED IN
20 A MANNER THAT COMPLIES WITH REGULATIONS PROMULGATED BY THE
21 DEPARTMENT UNDER SECTION 327(A)(1.1) (RELATING TO REGULATIONS).

22 Section 3. Section 307(b)(1) of Title 57 is amended by
23 adding a subparagraph to read:

24 § 307. Identification of individual.

25 * * *

26 (b) Satisfactory evidence.--A notarial officer has
27 satisfactory evidence of the identity of an individual appearing
28 before the notarial officer if the notarial officer can identify
29 the individual as set forth in any of the following paragraphs:

30 (1) By means set forth in any of the following

1 subparagraphs:

2 * * *

3 ~~(iii) In the case of a notarial act by means of~~ <--
4 ~~audio video communication, by any method which complies~~
5 ~~with rules adopted by the department under this section.~~

6 (III) IDENTITY PROOFING. <--

7 * * *

8 SECTION 4. SECTION 316 OF TITLE 57 IS AMENDED TO READ: <--

9 § 316. SHORT FORM CERTIFICATES.

10 [THE] (A) FORM.--IN ACCORDANCE WITH SUBSECTION (B), THE
11 FOLLOWING SHORT FORM CERTIFICATES OF NOTARIAL ACTS ARE
12 SUFFICIENT FOR THE PURPOSES INDICATED IF COMPLETED WITH THE
13 INFORMATION REQUIRED BY SECTION 315 (A) AND (B) (RELATING TO
14 CERTIFICATE OF NOTARIAL ACT):

15 (1) FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:
16 STATE OF.....

17 COUNTY OF.....

18 THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON

19 (DATE).....

20 BY (NAME(S) OF INDIVIDUAL(S)).....

21

22 SIGNATURE OF NOTARIAL OFFICER.....

23 STAMP

24

25 TITLE OF OFFICE.....

26 MY COMMISSION EXPIRES:.....

27 (2) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

28 STATE OF.....

29 COUNTY OF.....

30 THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON

1 (DATE).....
2 BY (NAME(S) OF INDIVIDUAL(S)).....
3
4 AS (TYPE OF AUTHORITY, SUCH AS OFFICER OR TRUSTEE)
5
6 WHO REPRESENT THAT (HE, SHE OR THEY) ARE AUTHORIZED TO
7 ACT ON BEHALF OF (NAME OF PARTY ON BEHALF OF WHOM RECORD
8 WAS EXECUTED).....
9
10 SIGNATURE OF NOTARIAL OFFICER.....
11 STAMP
12
13 TITLE OF OFFICE.....
14 MY COMMISSION EXPIRES:.....
15 (2.1) FOR AN ACKNOWLEDGMENT BY AN ATTORNEY AT LAW
16 PURSUANT TO 42 PA.C.S. § 327 (RELATING TO OATHS AND
17 ACKNOWLEDGMENTS):.....
18 STATE OF.....
19 COUNTY OF.....
20 THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON
21 (DATE).....
22 BY (NAME OF ATTORNEY).....
23 SUPREME COURT IDENTIFICATION NUMBER.....
24 AS A MEMBER OF THE BAR OF THE PENNSYLVANIA SUPREME COURT
25 CERTIFIED THAT HE/SHE WAS PERSONALLY PRESENT WHEN
26 (NAME(S) OF INDIVIDUAL(S)) EXECUTED THE RECORD AND THAT
27 (NAME(S) OF INDIVIDUAL(S)) EXECUTED THE RECORD FOR THE
28 PURPOSES CONTAINED THEREIN.
29 SIGNATURE OF NOTARIAL OFFICER.....
30 STAMP

1
2 TITLE OF OFFICE.....
3 MY COMMISSION EXPIRES:.....
4 (3) FOR A VERIFICATION ON OATH OR AFFIRMATION:
5 STATE OF.....
6 COUNTY OF.....
7 SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME ON
8 (DATE).....
9 BY (NAME(S) OF INDIVIDUAL(S)).....
10
11 MAKING STATEMENT.....
12 SIGNATURE OF NOTARIAL OFFICER.....
13 STAMP
14
15 TITLE OF OFFICE.....
16 MY COMMISSION EXPIRES:.....
17 (4) FOR WITNESSING OR ATTESTING A SIGNATURE:
18 STATE OF.....
19 COUNTY OF.....
20 SIGNED (OR ATTESTED) BEFORE ME ON
21 (DATE).....
22 BY (NAME(S) OF INDIVIDUAL(S)).....
23
24 SIGNATURE OF NOTARIAL OFFICER.....
25 STAMP
26
27 TITLE OF OFFICE.....
28 MY COMMISSION EXPIRES:.....
29 (5) FOR CERTIFYING A COPY OF A RECORD:
30 STATE OF.....

1 COUNTY OF.....
2 I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF A...
3 IN THE POSSESSION OF.....
4 DATED.....
5 SIGNATURE OF NOTARIAL OFFICER.....
6 STAMP

7
8 TITLE OF OFFICE.....
9 MY COMMISSION EXPIRES:.....

10 (6) FOR CERTIFYING THE TRANSCRIPT OF A DEPOSITION:
11 STATE OF.....
12 COUNTY OF.....

13 I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE
14 TRANSCRIPT OF THE DEPOSITION OF.....
15 DATED.....
16 SIGNATURE OF NOTARIAL OFFICER.....
17 STAMP
18
19 TITLE OF OFFICE:.....

20 MY COMMISSION EXPIRES:.....

21 (B) AUDIO-VISUAL COMMUNICATION.--THE DEPARTMENT SHALL
22 INCLUDE IN REGULATIONS PROMULGATED UNDER SECTION 327(A)(1.1)
23 (RELATING TO REGULATIONS) MODIFIED SHORT FORM CERTIFICATES FOR
24 NOTARIAL ACTS PERFORMED BY MEANS OF AUDIO-VISUAL COMMUNICATION.

25 SECTION 5. SECTION 319(C) OF TITLE 57 IS AMENDED BY ADDING
26 PARAGRAPHS TO READ:

27 § 319. JOURNAL.

28 * * *

29 (C) ENTRIES.--AN ENTRY IN A JOURNAL SHALL BE MADE
30 CONTEMPORANEOUSLY WITH PERFORMANCE OF THE NOTARIAL ACT AND

1 CONTAIN ALL OF THE FOLLOWING INFORMATION:

2 * * *

3 (7) WHETHER AN INDIVIDUAL MAKING A STATEMENT OR
4 EXECUTING A SIGNATURE WHICH IS THE SUBJECT OF THE NOTARIAL
5 ACT APPEARED BEFORE A NOTARIAL OFFICER PERSONALLY OR BEFORE A
6 NOTARY PUBLIC BY MEANS OF AUDIO-VISUAL COMMUNICATION.

7 (8) IF AN INDIVIDUAL MAKES A STATEMENT OR EXECUTES A
8 SIGNATURE WHICH IS THE SUBJECT OF THE NOTARIAL ACT BEFORE A
9 NOTARY PUBLIC BY MEANS OF AUDIO-VISUAL COMMUNICATION, THE
10 STATE OR COUNTRY WHERE THE INDIVIDUAL IS LOCATED.

11 * * *

12 SECTION 6. SECTION 320 (A) AND (B) (1) OF TITLE 57 ARE AMENDED
13 TO READ:

14 § 320. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON
15 ELECTRONIC RECORD; SELECTION OF TECHNOLOGY.

16 (A) SELECTION.--A NOTARY PUBLIC MAY SELECT ONE OR MORE
17 TAMPER-EVIDENT TECHNOLOGIES TO PERFORM NOTARIAL ACTS WITH
18 RESPECT TO ELECTRONIC RECORDS, TO PERFORM NOTARIAL ACTS BY MEANS
19 OF AUDIO-VISUAL COMMUNICATION OR TO CONDUCT IDENTITY PROOFING. A
20 PERSON MAY NOT REQUIRE A NOTARY PUBLIC TO PERFORM A NOTARIAL ACT
21 WITH RESPECT TO AN ELECTRONIC RECORD, USING AUDIO-VISUAL
22 COMMUNICATION OR IDENTITY PROOFING WITH A TECHNOLOGY THAT THE
23 NOTARY PUBLIC HAS NOT SELECTED.

24 (B) NOTICE AND APPROVAL.--

25 (1) BEFORE A NOTARY PUBLIC PERFORMS THE INITIAL NOTARIAL
26 ACT WITH RESPECT TO AN ELECTRONIC RECORD, USING AUDIO-VISUAL
27 COMMUNICATION OR IDENTITY PROOFING A NOTARY PUBLIC SHALL
28 NOTIFY THE DEPARTMENT THAT THE NOTARY PUBLIC WILL BE
29 PERFORMING NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS
30 AND IDENTIFY EACH TECHNOLOGY THE NOTARY PUBLIC INTENDS TO

1 USE.

2 * * *

3 SECTION 7. SECTION 327(A) OF TITLE 57 IS AMENDED AND THE
4 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

5 § 327. REGULATIONS.

6 (A) AUTHORITY.--EXCEPT AS PROVIDED IN SECTION 329.1(A)
7 (RELATING TO FEES OF NOTARIES PUBLIC), THE DEPARTMENT MAY
8 PROMULGATE REGULATIONS TO IMPLEMENT THIS CHAPTER. REGULATIONS
9 REGARDING THE PERFORMANCE OF NOTARIAL ACTS WITH RESPECT TO
10 ELECTRONIC RECORDS MAY NOT REQUIRE OR ACCORD GREATER LEGAL
11 STATUS OR EFFECT TO THE IMPLEMENTATION OR APPLICATION OF A
12 SPECIFIC TECHNOLOGY OR TECHNICAL SPECIFICATION. REGULATIONS MAY:

13 (1) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS
14 REGARDING TANGIBLE AND ELECTRONIC RECORDS.

15 (1.1) REGARDING NOTARIAL ACTS PERFORMED USING AUDIO-
16 VISUAL COMMUNICATION:

17 (I) PRESCRIBE THE MEANS OF PERFORMING A NOTARIAL ACT
18 INVOLVING AUDIO-VISUAL COMMUNICATION;

19 (II) ESTABLISH STANDARDS FOR THE APPROVAL OF AUDIO-
20 VISUAL COMMUNICATION TECHNOLOGY;

21 (III) ESTABLISH STANDARDS FOR THIRD PERSON IDENTITY
22 VERIFICATION AND THE PROCESS OF IDENTITY PROOFING; AND

23 (IV) ESTABLISH STANDARDS FOR THE RETENTION OF
24 RECORDS RELATING TO AUDIO-VISUAL COMMUNICATIONS.

25 (2) INCLUDE PROVISIONS TO ENSURE THAT ANY CHANGE TO OR
26 TAMPERING WITH A RECORD BEARING A CERTIFICATE OF A NOTARIAL
27 ACT IS SELF-EVIDENT.

28 (3) INCLUDE PROVISIONS TO ENSURE INTEGRITY IN THE
29 CREATION, TRANSMITTAL, STORAGE OR AUTHENTICATION OF
30 ELECTRONIC RECORDS OR SIGNATURES.

1 (4) PRESCRIBE THE PROCESS OF GRANTING, RENEWING,
2 CONDITIONING, DENYING, SUSPENDING OR REVOKING A NOTARY PUBLIC
3 COMMISSION AND ASSURING THE TRUSTWORTHINESS OF AN INDIVIDUAL
4 HOLDING A COMMISSION AS NOTARY PUBLIC.

5 (5) INCLUDE PROVISIONS TO PREVENT FRAUD OR MISTAKE IN
6 THE PERFORMANCE OF NOTARIAL ACTS.

7 (6) ESTABLISH THE PROCESS FOR APPROVING AND ACCEPTING
8 SURETY BONDS UNDER SECTION 321(D) (RELATING TO APPOINTMENT
9 AND COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO IMMUNITY
10 OR BENEFIT).

11 (7) PROVIDE FOR THE ADMINISTRATION OF THE EXAMINATION
12 UNDER SECTION 322(A) (RELATING TO EXAMINATION, BASIC
13 EDUCATION AND CONTINUING EDUCATION) AND THE COURSE OF STUDY
14 UNDER SECTION 322(B).

15 (7.1) REQUIRE APPLICANTS FOR APPOINTMENT AND COMMISSION
16 AS NOTARIES PUBLIC TO SUBMIT CRIMINAL HISTORY RECORD
17 INFORMATION AS PROVIDED IN 18 PA.C.S. CH. 91 (RELATING TO
18 CRIMINAL HISTORY RECORD INFORMATION) AS A CONDITION OF
19 APPOINTMENT.

20 (8) INCLUDE ANY OTHER PROVISION NECESSARY TO IMPLEMENT
21 THIS CHAPTER.

22 * * *

23 (C) AUDIO-VISUAL COMMUNICATIONS.--REGULATIONS REGARDING THE
24 PERFORMANCE OF NOTARIAL ACTS BY MEANS OF AUDIO-VISUAL
25 COMMUNICATION SHALL BE PUBLISHED FOR NOTICE OF PROPOSED
26 RULEMAKING IN THE PENNSYLVANIA BULLETIN WITHIN 18 MONTHS OF THE
27 EFFECTIVE DATE OF THIS SUBSECTION.

28 Section 4 8. This act shall take effect ~~in 60 days~~. AS <--
29 FOLLOWS:

30 (1) THE FOLLOWING SHALL TAKE EFFECT IMMEDIATELY:

1 (I) THIS SECTION.

2 (II) THE AMENDMENT OR ADDITION OF SECTION 327(A) AND
3 (C) OF THE ACT.

4 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT ON THE
5 DATE OF PUBLICATION OF THE NOTICE OF PROPOSED RULEMAKING IN
6 THE PENNSYLVANIA BULLETIN UNDER SECTION 327(C) OF THE ACT.