
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1097 Session of
2020

INTRODUCED BY MASTRIANO, BAKER, BOSCOLA, BREWSTER, BROWNE,
FONTANA, MENSCH, SCAVELLO AND J. WARD, MARCH 23, 2020

REFERRED TO STATE GOVERNMENT, MARCH 23, 2020

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 authority to perform notarial
4 act, providing for notarial act performed by remotely located
5 individual and further providing for notification regarding
6 performance of notarial act on electronic record and
7 selection of technology.

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

10 Section 1. Section 304 of Title 57 of the Pennsylvania
11 Consolidated Statutes is amended by adding a subsection to read:

12 § 304. Authority to perform notarial act.

13 * * *

14 (c) Certification of tangible copies.--A notary public may
15 certify that a tangible copy of an electronic record is a true
16 and correct copy of the electronic record.

17 Section 2. Title 57 is amended by adding a section to read:

18 § 314.1. Notarial act performed by remotely located individual.

19 (a) Definitions.--Terms are defined in subsection (j).

20 (b) General rule.--A remotely located individual may comply

1 with section 306 (relating to personal appearance required) by
2 appearing before a notary public by means of communication
3 technology.

4 (c) Use of communication technology.--A notary public
5 located in this Commonwealth may perform a notarial act
6 facilitated by communication technology for a remotely located
7 individual if all of the following paragraphs apply:

8 (1) The notary public:

9 (i) has personal knowledge under section 307(a)
10 (relating to identification of individual) of the
11 identity of the individual;

12 (ii) has satisfactory evidence of the identity of
13 the remotely located individual by oath or affirmation
14 from a credible witness appearing before the notary
15 public under section 307(b) or under this section; or

16 (iii) is able to reasonably identify the individual
17 by at least two different types of identity proofing
18 processes or services.

19 (2) The notary public is able to reasonably identify a
20 record before the notary public as the same record:

21 (i) in which the remotely located individual made
22 the statement; or

23 (ii) on which the remotely located individual
24 executed the signature.

25 (3) The notary public, or a person acting on behalf of
26 the notary public, creates an audio-visual recording of the
27 performance of the notarial act.

28 (4) If the remotely located individual is located
29 outside the United States, all of the following subparagraphs
30 apply:

1 (i) The record:

2 (A) is to be filed with or relates to a matter
3 before a court, governmental entity, public official
4 or other entity under the jurisdiction of the United
5 States; or

6 (B) involves:

7 (I) property located in the territorial
8 jurisdiction of the United States; or

9 (II) a transaction substantially connected
10 with the United States.

11 (ii) The act of making the statement or signing the
12 record is not prohibited by the foreign state where the
13 remotely located individual is located.

14 (d) Notarial certificate.--If a notarial act is subject to
15 this section, the certificate of notarial act required by
16 section 315 (relating to certificate of notarial act) and the
17 short form certificate under section 316 (relating to short form
18 certificates) must indicate that the notarial act was performed
19 by means of communication technology.

20 (e) Sufficiency.--A short form certificate under section 316
21 for a notarial act subject to this section is sufficient if
22 either of the following paragraphs apply:

23 (1) The short form certificate is in the form provided
24 by section 316 and contains a statement substantially as
25 follows:

26 "This notarial act involved the use of communication
27 technology."

28 (2) The certificate complies with the regulations
29 promulgated under subsection (h)(1).

30 (f) Audio-visual recording.--

1 (1) This subsection applies to:

2 (i) a notary public;

3 (ii) a guardian, a conservator or an agent of a
4 notary public; or

5 (iii) a personal representative of a deceased notary
6 public.

7 (2) A person under paragraph (1) shall retain the audio-
8 visual recording created under subsection (c)(3) or cause the
9 recording to be retained by a repository designated by or on
10 behalf of the notary public. The person shall retain the
11 recording:

12 (i) for at least 10 years after the recording is
13 created; or

14 (ii) as otherwise required by the regulations
15 promulgated under subsection (h)(4).

16 (g) Notification.--

17 (1) Before a notary public performs the notary public's
18 initial notarial act under this section, the notary public
19 must notify the department that the notary public will be
20 performing notarial acts facilitated by communication
21 technology and identify the technology.

22 (2) If the department has established standards for
23 approval of communication technology or identity proofing
24 under subsection (h) and section 327 (relating to
25 regulations), the communication technology and identity
26 proofing must conform to the standards.

27 (h) Regulations.--In addition to matters listed in section
28 327, the department shall promulgate regulations regarding
29 performance of a notarial act performed under this section. The
30 regulations shall do all of the following:

1 (1) Prescribe the means of performing a notarial act
2 involving communication technology to communicate with a
3 remotely located individual.

4 (2) Establish standards for communication technology and
5 identity proofing. This paragraph includes the use of
6 credential analysis, dynamic knowledge-based authentication,
7 biometrics and other means of identification.

8 (3) Establish requirements or procedures to approve
9 providers of communication technology and the process of
10 identity proofing.

11 (4) Establish standards and periods for the retention of
12 an audio-visual recording created under subsection (c) (3) of
13 the performance of a notarial act.

14 (i) Promotion of uniformity.--Before promulgating, amending
15 or repealing regulations about the performance of a notarial act
16 with respect to a remotely located individual, the department
17 shall consider, if consistent with this chapter, all of the
18 following:

19 (1) The most recent standards regarding the performance
20 of a notarial act with respect to remotely located
21 individuals promulgated by a national standard-setting
22 organization. This paragraph includes the National
23 Association of Secretaries of State.

24 (2) Standards, practices and customs of other
25 jurisdictions that enact a statutory provision substantially
26 similar to this section.

27 (3) The views of governmental officials and entities and
28 other interested persons.

29 (j) Definitions.--As used in this section, the following
30 words and phrases shall have the meanings given to them in this

1 subsection unless the context clearly indicates otherwise:

2 "Communication technology." An electronic device or process
3 that:

4 (1) allows a notary public located in this Commonwealth
5 and a remotely located individual to communicate with each
6 other simultaneously by sight and sound; and

7 (2) makes reasonable accommodations for an individual
8 with a vision, hearing or speech impairment in accordance
9 with law.

10 "Foreign state." A jurisdiction other than the United
11 States, a state or a federally recognized Indian tribe.

12 "Identity proofing." A process or service by which a third
13 person provides a notary public with a means to verify the
14 identity of a remotely located individual by a review of
15 personal information from public or private data sources.

16 "Outside the United States." A location outside the
17 geographic boundaries of:

18 (1) the United States;

19 (2) Puerto Rico;

20 (3) the Virgin Islands; and

21 (4) any territory, insular possession or other location
22 subject to the jurisdiction of the United States.

23 "Remotely located individual." An individual who is not in
24 the physical presence of the notary public performing a notarial
25 act under subsection (c).

26 Section 3. Section 320 of Title 57 is amended by adding a
27 subsection to read:

28 § 320. Notification regarding performance of notarial act on
29 electronic record; selection of technology.

30 * * *

1 (c) Certification of tangible copies.--A recorder of deeds
2 may accept for recording a tangible copy of an electronic record
3 containing a notarial certificate as satisfying any requirements
4 that the record be an original, if the notarial officer
5 executing the notarial certificate certifies that the tangible
6 copy is a true and correct copy of the electronic record.

7 Section 4. This act shall take effect as follows:

8 (1) The addition of 57 Pa.C.S. §§ 304(c), 314.1(h) and
9 (j) and 320(c) shall take effect immediately.

10 (2) This section shall take effect immediately.

11 (3) The remainder of this act shall take effect January
12 1, 2021.