

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0656.01 Thomas Morris x4218

HOUSE BILL 19-1167

HOUSE SPONSORSHIP

Duran and Carver,

SENATE SPONSORSHIP

Rodriguez,

House Committees

State, Veterans, & Military Affairs

Senate 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 an

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.

electronic system that conforms to standards established by rules of the secretary of state, including using real-time audio-video communication. 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.

A notary and the operator of a remote notarization system are prohibited from using personal information collected during a remote notarization for any purpose other than completing the notarial act or as necessary to effect, administer, enforce, service, or process the transaction for which the information was provided.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-21-502, **add** (1.5),
3 (10.5), (11.5), and (15.5) as follows:

4 **24-21-502. Definitions.** In this part 5:

5 (1.5) "CREDENTIAL" MEANS A TANGIBLE RECORD EVIDENCING THE
6 IDENTITY OF AN INDIVIDUAL.

7 (10.5) "REAL-TIME" OR "IN REAL TIME" MEANS, WITH RESPECT TO
8 AN INTERACTION BETWEEN INDIVIDUALS BY MEANS OF AUDIO-VIDEO
9 COMMUNICATION, THAT THE INDIVIDUALS CAN SEE AND HEAR EACH OTHER
10 SUBSTANTIALLY SIMULTANEOUSLY AND WITHOUT INTERRUPTION OR
11 DISCONNECTION. DELAYS OF A FEW SECONDS THAT ARE INHERENT IN THE
12 METHOD OF COMMUNICATION DO NOT PREVENT THE INTERACTION FROM
13 BEING CONSIDERED TO HAVE OCCURRED IN REAL TIME.

14 (11.5) "REMOTE NOTARIZATION" MEANS AN ELECTRONIC
15 NOTARIAL ACT PERFORMED WITH RESPECT ONLY TO AN ELECTRONIC
16 RECORD BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION IN
17 ACCORDANCE WITH SECTION 24-21-514.5 AND RULES ADOPTED BY THE
18 SECRETARY OF STATE.

19 (15.5) "TAMPER-EVIDENT" MEANS THE USE OF A SET OF
20 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** 24-21-506 as
4 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) (I) "PERSONAL INFORMATION" MEANS AN INDIVIDUAL'S:

14 (A) FIRST NAME OR FIRST INITIAL AND LAST NAME IN
15 COMBINATION WITH ANY ONE OR MORE OF THE FOLLOWING DATA
16 ELEMENTS THAT RELATE TO THE INDIVIDUAL, WHEN THE DATA ELEMENTS
17 ARE NOT ENCRYPTED, REDACTED, OR SECURED BY ANY OTHER METHOD
18 RENDERING THE NAME OR THE ELEMENT UNREADABLE OR UNUSABLE:
19 SOCIAL SECURITY NUMBER; DRIVER'S LICENSE NUMBER OR IDENTIFICATION
20 CARD NUMBER; STUDENT, MILITARY, OR PASSPORT IDENTIFICATION
21 NUMBER; ACCOUNT NUMBER OR CREDIT CARD OR DEBIT CARD NUMBER;
22 MEDICAL INFORMATION; HEALTH INSURANCE IDENTIFICATION NUMBER; OR
23 BIOMETRIC DATA;

24 (B) USERNAME OR E-MAIL ADDRESS THAT, IN COMBINATION WITH
25 A PASSWORD OR SECURITY QUESTIONS AND ANSWERS, WOULD PERMIT
26 ACCESS TO AN ONLINE ACCOUNT; OR

27 (C) BIRTH DATE, TELEPHONE NUMBER, STREET ADDRESS, OR ANY

1 LEGAL DESCRIPTION OF PROPERTY.

2 (II) "PERSONAL INFORMATION" DOES NOT INCLUDE PUBLICLY
3 AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE
4 GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT
5 RECORDS OR WIDELY DISTRIBUTED MEDIA.

6 (f) "PUBLIC KEY CERTIFICATE" MEANS AN ELECTRONIC
7 CREDENTIAL THAT IS USED TO IDENTIFY AN INDIVIDUAL WHO SIGNED AN
8 ELECTRONIC RECORD WITH THE CREDENTIAL.

9 (g) "REMOTE NOTARIZATION SYSTEM" MEANS ANY TECHNOLOGY
10 THAT ENABLES A NOTARY PUBLIC TO PERFORM REMOTE NOTARIZATIONS.

11 (h) "REMOTE PRESENTATION" MEANS TRANSMISSION TO THE
12 NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE
13 OF A GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT IS OF
14 SUFFICIENT QUALITY TO ENABLE THE NOTARY PUBLIC TO:

15 (I) IDENTIFY THE INDIVIDUAL SEEKING THE NOTARY PUBLIC'S
16 SERVICES; AND

17 (II) PERFORM CREDENTIAL ANALYSIS.

18 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS
19 SECTION, A NOTARY PUBLIC MAY PERFORM A REMOTE NOTARIZATION ONLY
20 WITH RESPECT TO AN ELECTRONIC RECORD AND IN COMPLIANCE WITH THIS
21 SECTION AND ANY RULES ADOPTED BY THE SECRETARY OF STATE FOR AN
22 INDIVIDUAL WHO IS LOCATED:

23 (I) IN THIS STATE;

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

25 (III) OUTSIDE THE UNITED STATES IF:

26 (A) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE
27 NOTARIAL ACT IS PROHIBITED IN THE JURISDICTION IN WHICH THE

1 INDIVIDUAL IS PHYSICALLY LOCATED AT THE TIME OF THE ACT; AND

2 (B) THE INDIVIDUAL CONFIRMS TO THE NOTARY PUBLIC THAT THE
3 REQUESTED NOTARIAL ACT AND THE RECORD RELATE TO: A MATTER THAT
4 WILL BE FILED WITH OR IS CURRENTLY BEFORE A COURT, GOVERNMENTAL
5 ENTITY, OR OTHER ENTITY IN THE UNITED STATES; PROPERTY LOCATED IN
6 THE UNITED STATES; OR A TRANSACTION SUBSTANTIALLY CONNECTED TO
7 THE UNITED STATES.

8 (b) A NOTARY PUBLIC SHALL NOT USE A REMOTE NOTARIZATION
9 SYSTEM TO NOTARIZE:

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

11 (II) A WILL, CODICIL, DOCUMENT PURPORTING TO BE A WILL OR
12 CODICIL, OR ANY ACKNOWLEDGMENT REQUIRED UNDER SECTION
13 15-11-502 OR 15-11-504.

14 (3) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S
15 INITIAL NOTARIZATION USING A REMOTE NOTARIZATION SYSTEM, THE
16 NOTARY PUBLIC SHALL NOTIFY THE SECRETARY OF STATE THAT THE
17 NOTARY PUBLIC WILL BE PERFORMING REMOTE NOTARIZATIONS AND
18 SHALL IDENTIFY EACH REMOTE NOTARIZATION SYSTEM THAT THE NOTARY
19 PUBLIC INTENDS TO USE. THE REMOTE NOTARIZATION SYSTEM MUST
20 CONFORM TO THIS PART 5 AND ANY RULES ADOPTED BY THE SECRETARY
21 OF STATE. THE NOTICE MUST BE SUBMITTED IN THE FORMAT REQUIRED BY
22 THE SECRETARY OF STATE AND MUST:

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

26 (b) BE ACCOMPANIED BY PROOF THAT THE NOTARY PUBLIC HAS
27 SUCCESSFULLY COMPLETED ANY TRAINING AND EXAMINATION REQUIRED

1 BY THE SECRETARY OF STATE.

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

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

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

7 (c) CONFIRM THAT ANY RECORD THAT IS SIGNED, ACKNOWLEDGED,
8 OR OTHERWISE PRESENTED FOR NOTARIZATION BY THE INDIVIDUAL IS THE
9 SAME RECORD SIGNED BY THE NOTARY PUBLIC;

10 (d) CONFIRM THAT THE QUALITY OF THE AUDIO-VIDEO
11 COMMUNICATION IS SUFFICIENT TO MAKE THE DETERMINATIONS REQUIRED
12 FOR THE NOTARIAL ACT UNDER THIS PART 5 AND ANY OTHER LAW OF THIS
13 STATE; AND

14 (e) IDENTIFY THE VENUE FOR THE NOTARIAL ACT AS THE
15 JURISDICTION WITHIN THIS STATE WHERE THE NOTARY PUBLIC IS
16 PHYSICALLY LOCATED WHILE PERFORMING THE ACT.

17 (5) A REMOTE NOTARIZATION SYSTEM USED TO PERFORM REMOTE
18 NOTARIZATIONS MUST:

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

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

27 (c) CONFIRM THAT THE NOTARY PUBLIC, THE INDIVIDUAL, AND

1 ANY REQUIRED WITNESS ARE VIEWING THE SAME RECORD AND THAT ALL
2 SIGNATURES, CHANGES, AND ATTACHMENTS TO THE RECORD ARE MADE IN
3 REAL TIME.

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

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

13 (I) THE OATH OR AFFIRMATION OF A CREDIBLE WITNESS WHO
14 PERSONALLY KNOWS THE INDIVIDUAL, IS PERSONALLY KNOWN TO THE
15 NOTARY PUBLIC, AND IS IN THE PHYSICAL PRESENCE OF THE NOTARY
16 PUBLIC OR THE INDIVIDUAL DURING THE REMOTE NOTARIZATION;

17 (II) REMOTE PRESENTATION AND CREDENTIAL ANALYSIS OF A
18 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL, AND THE DATA
19 CONTAINED ON THE CREDENTIAL, THAT CONTAINS THE SIGNATURE AND A
20 PHOTOGRAPH OF THE INDIVIDUAL, AND AT LEAST ONE OF THE FOLLOWING:

21 (A) A DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION
22 ASSESSMENT BY A TRUSTED THIRD PARTY THAT COMPLIES WITH RULES
23 ADOPTED BY THE SECRETARY OF STATE;

24 (B) A VALID PUBLIC KEY CERTIFICATE THAT COMPLIES WITH RULES
25 ADOPTED BY THE SECRETARY OF STATE; OR

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

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

3 (7) WITHOUT LIMITING THE AUTHORITY OF A NOTARY PUBLIC
4 UNDER SECTION 24-21-508 TO REFUSE TO PERFORM A NOTARIAL ACT, A
5 NOTARY PUBLIC MAY REFUSE TO PERFORM A NOTARIAL ACT UNDER THIS
6 SECTION IF THE NOTARY PUBLIC IS NOT SATISFIED THAT THE
7 REQUIREMENTS OF THIS SECTION ARE MET.

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

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

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

19 STATE OF _____

20 COUNTY OF _____

21 SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME BY USE
22 OF AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON

23 _____ (DATE) BY _____ (NAME(S) OF INDIVIDUAL(S)), WHO

24 DECLARED THAT (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN

25 _____ (LOCATION OF INDIVIDUAL) [AND THAT THIS RECORD IS

26 PART OF OR PERTAINS TO A MATTER THAT IS TO BE FILED

27 WITH OR IS BEFORE A COURT, GOVERNMENTAL ENTITY, OR

1 OTHER ENTITY LOCATED IN THE UNITED STATES OR
2 INVOLVES PROPERTY LOCATED IN, OR A TRANSACTION
3 SUBSTANTIALLY CONNECTED WITH, THE UNITED STATES].

4 _____

5 SIGNATURE OF NOTARIAL OFFICER

6 STAMP

7 (_____ (TITLE OF OFFICE) _____)

8 MY COMMISSION EXPIRES: _____

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

12 STATE OF _____

13 COUNTY OF _____

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

24 _____

25 SIGNATURE OF NOTARIAL OFFICER

26 STAMP

27 (_____ (TITLE OF OFFICE) _____)

1 MY COMMISSION EXPIRES: _____

2 (c) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY
3 BY AN INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF
4 AUDIO-VIDEO COMMUNICATION TECHNOLOGY:

5 STATE OF _____

6 COUNTY OF _____

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

19 _____

20 SIGNATURE OF NOTARIAL OFFICER

21 STAMP

22 (_____ (TITLE OF OFFICE) _____)

23 MY COMMISSION EXPIRES: _____

24 (d) FOR WITNESSING OR ATTESTING A SIGNATURE BY AN
25 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO
26 COMMUNICATION TECHNOLOGY:

27 STATE OF _____

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

12 _____

13 SIGNATURE OF NOTARIAL OFFICER

14 STAMP

15 ((TITLE OF OFFICE))

16 MY COMMISSION EXPIRES: _____

17 (10) (a) A NOTARY PUBLIC SHALL CREATE AN AUDIO-VIDEO
18 RECORDING OF A REMOTE NOTARIZATION IF:

19 (I) THE NOTARY PUBLIC FIRST DISCLOSES TO THE INDIVIDUAL THE
20 FACT OF THE RECORDING AND THE DETAILS OF ITS INTENDED STORAGE,
21 INCLUDING WHERE AND FOR HOW LONG IT WILL BE STORED;

22 (II) THE INDIVIDUAL EXPLICITLY CONSENTS TO BOTH THE
23 RECORDING AND THE STORAGE OF THE RECORDING; AND

24 (III) THE RECORDING IS STORED AND SECURED IN COMPLIANCE
25 WITH RULES ADOPTED BY THE SECRETARY OF STATE.

26 (b) THE AUDIO-VIDEO RECORDING REQUIRED BY THIS SUBSECTION
27 (10) MUST BE IN ADDITION TO THE JOURNAL ENTRY FOR THE NOTARIAL ACT

1 WHERE REQUIRED BY SECTION 24-21-519. THE RECORDING MUST INCLUDE
2 THE INFORMATION DESCRIBED IN THIS SUBSECTION (10)(b), BUT MUST NOT
3 INCLUDE ANY OTHER INFORMATION. ANY OTHER INFORMATION INCLUDED
4 ON THE RECORDING IS NOT ADMISSIBLE IN ANY COLORADO COURT OF LAW,
5 LEGAL PROCEEDING, OR ADMINISTRATIVE HEARING FOR ANY PURPOSE, NOR
6 IS THE INFORMATION ADMISSIBLE IN ANY PROCEEDING IN ANY OTHER
7 COURT OF LAW, LEGAL PROCEEDING, OR ADMINISTRATIVE HEARING IF
8 COLORADO LAW APPLIES WITH RESPECT TO REMOTE NOTARIZATION. THE
9 RECORDING MUST INCLUDE:

10 (I) AT THE COMMENCEMENT OF THE RECORDING, A RECITATION BY
11 THE NOTARY PUBLIC OF INFORMATION SUFFICIENT TO IDENTIFY THE
12 NOTARIAL ACT, INCLUDING THE NAME OF THE NOTARY PUBLIC, THE DATE
13 AND TIME OF THE NOTARIAL ACT, A DESCRIPTION OF THE NATURE OF THE
14 DOCUMENT OR DOCUMENTS TO WHICH THE NOTARIAL ACT IS TO RELATE,
15 THE IDENTITY OF THE INDIVIDUAL WHOSE SIGNATURE IS TO BE THE
16 SUBJECT OF THE NOTARIAL ACT AND OF ANY PERSON WHO WILL ACT AS A
17 CREDIBLE WITNESS TO IDENTIFY THE INDIVIDUAL SIGNER, AND THE
18 METHOD OR METHODS BY WHICH THE INDIVIDUAL AND ANY CREDIBLE
19 WITNESS WILL BE IDENTIFIED TO THE NOTARY PUBLIC;

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

22 (III) 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 THE NOTARY PUBLIC KNOWS THE
25 INDIVIDUAL AND HOW LONG THE NOTARY PUBLIC HAS KNOWN THE
26 INDIVIDUAL; AND

27 (IV) IF THE INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS BEING

1 PERFORMED IS IDENTIFIED BY A CREDIBLE WITNESS:

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

5 (B) AN EXPLANATION BY THE CREDIBLE WITNESS AS TO HOW THE
6 CREDIBLE WITNESS KNOWS THE INDIVIDUAL AND HOW LONG THE CREDIBLE
7 WITNESS HAS KNOWN THE INDIVIDUAL.

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

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

18 (12) BY ALLOWING ITS AUDIO-VIDEO COMMUNICATION OR
19 IDENTITY PROOFING TECHNOLOGY TO FACILITATE A NOTARIAL ACT FOR A
20 REMOTELY LOCATED INDIVIDUAL OR BY PROVIDING STORAGE OF THE
21 AUDIO-VISUAL RECORDING CREATED UNDER SUBSECTION (10) OF THIS
22 SECTION, A REMOTE NOTARIZATION SYSTEM OR OTHER PROVIDER OF THE
23 TECHNOLOGY OR STORAGE APPOINTS THE SECRETARY OF STATE AS THE
24 PROVIDER'S AGENT FOR SERVICE OF PROCESS IN ANY CIVIL ACTION IN THIS
25 STATE RELATED TO THE NOTARIAL ACT.

26 **SECTION 4.** In Colorado Revised Statutes, 24-21-515, **amend**
27 (3)(a), (3)(d), and (4) as follows:

1 **24-21-515. Certificate of notarial act.** (3) A certificate of a
2 notarial act is sufficient if it meets the requirements of subsections (1) and
3 (2) of this section and:

4 (a) Is in a short form set forth in section 24-21-516 OR, IF
5 APPLICABLE, SECTION 24-21-514.5;

6 (d) Sets forth ~~the~~ actions of the notarial officer ~~and the actions~~
7 THAT are sufficient to meet the requirements of the notarial act as
8 provided in sections 24-21-505, 24-21-506, and 24-21-507 AND, IF
9 APPLICABLE, SECTION 24-21-514.5 or law of this state other than this part
10 5.

11 (4) By executing a certificate of a notarial act, a notarial officer
12 certifies that the officer has complied with the requirements and made the
13 determinations specified in sections 24-21-504, 24-21-505, and
14 24-21-506 AND, IF APPLICABLE, SECTION 24-21-514.5.

15 **SECTION 5.** In Colorado Revised Statutes, 24-21-519, **amend**
16 (2) as follows:

17 **24-21-519. Journal.** (2) (a) A journal may be created on a
18 tangible medium or in an electronic format. If a journal is maintained on
19 a tangible medium, it must be a permanent, bound register with numbered
20 pages. If a journal is maintained in an electronic format, it must be in a
21 permanent, tamper-evident electronic format complying with the rules of
22 the secretary of state.

23 (b) A NOTARY PUBLIC WHO PERFORMS A REMOTE NOTARIZATION
24 SHALL MAINTAIN A JOURNAL IN AN ELECTRONIC FORMAT WITH REGARD TO
25 EACH REMOTE NOTARIZATION. THE JOURNAL MUST INCLUDE THE
26 ELECTRONIC SIGNATURE OF THE INDIVIDUAL FOR EACH REMOTE
27 NOTARIZATION.

1 **SECTION 6.** In Colorado Revised Statutes, 24-21-525, **add** (8)
2 as follows:

3 **24-21-525. Prohibited acts.** (8) (a) NEITHER A NOTARY PUBLIC
4 NOR A REMOTE NOTARIZATION SYSTEM OR OTHER PROVIDER OF AN
5 AUDIO-VIDEO COMMUNICATION TECHNOLOGY, IDENTITY PROOFING
6 TECHNOLOGY, OR STORAGE OF AN AUDIO-VISUAL RECORDING CREATED
7 UNDER SECTION 24-21-514.5 (10) SHALL SELL, OFFER FOR SALE, USE, OR
8 TRANSFER FOR USE ANY PERSONAL INFORMATION COLLECTED IN THE
9 COURSE OF PERFORMING A NOTARIAL ACT FOR ANY PURPOSE OTHER THAN:

10 (I) COMPLETING THE NOTARIAL ACT; OR

11 (II) AS NECESSARY TO EFFECT, ADMINISTER, ENFORCE, SERVICE,
12 OR PROCESS THE TRANSACTION FOR WHICH THE INFORMATION WAS
13 PROVIDED.

14 (b) THE PROHIBITION ESTABLISHED IN SUBSECTION (8)(a) OF THIS
15 SECTION DOES NOT APPLY WHEN THE NOTARY PUBLIC OR THE PROVIDER IS:

16 (I) COMPLYING WITH A REQUEST FROM A REGULATORY AGENCY OR
17 SUPERVISORY AGENCY OR WHEN RESPONDING TO A LAWFUL SUBPOENA OR
18 COURT ORDER; OR

19 (II) CAUSING A BUSINESS DIVESTITURE, SALE, MERGER, OR
20 ACQUISITION OF ITS BUSINESS INTERESTS WITH ANOTHER PERSON AS
21 PERMITTED UNDER APPLICABLE FEDERAL OR STATE LAW WHEREBY THE
22 PERSONAL INFORMATION IS BEING TRANSFERRED TO ANOTHER PERSON IN
23 THE DUE COURSE OF THE DIVESTITURE, SALE, MERGER, OR ACQUISITION.

24 **SECTION 7.** In Colorado Revised Statutes, 24-21-527, **amend**
25 (1)(e); and **add** (1)(g) and (1)(h) as follows:

26 **24-21-527. Rules.** (1) The secretary of state may adopt rules to
27 implement this part 5 in accordance with article 4 of this title 24. Rules

1 adopted regarding the performance of notarial acts with respect to
2 electronic records may not require, or accord greater legal status or effect
3 to, the implementation or application of a specific technology or technical
4 specification. The rules may:

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

7 (g) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS
8 USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY, INCLUDING
9 PROVISIONS TO ENSURE THE SECURITY, INTEGRITY, AND ACCESSIBILITY OF
10 RECORDS RELATING TO THOSE ACTS; AND

11 (h) PRESCRIBE REQUIREMENTS FOR THE APPROVAL AND USE OF
12 REMOTE NOTARIZATION SYSTEMS AND STORAGE SYSTEMS.

13 **SECTION 8. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly (August 2, 2019, if adjournment sine die is on May 3,
17 2019); except that, if a referendum petition is filed pursuant to section 1
18 (3) of article V of the state constitution against this act or an item, section,
19 or part of this act within such period, then the act, item, section, or part
20 will not take effect unless approved by the people at the general election
21 to be held in November 2020 and, in such case, will take effect on the
22 date of the official declaration of the vote thereon by the governor.

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