



OFFICE OF THE IOWA SECRETARY OF STATE

In-Person Notarization Requirement Waiver Guidance

Beginning March 22nd, Governor Reynolds declared that the in-person requirement for notarizing documents in Iowa is temporarily waived for the duration of the COVID-19 emergency, subject to guidance provided by Secretary of State Paul Pate.

These are temporary guidelines that apply during the emergency waiver of the in-person requirement. A formal set of more-stringent provisions (the new remote notary law) is currently scheduled to take effect on July 1, 2020. As that date approaches, we will be re-evaluating what the changeover will look like and how to make the transition as smooth as possible. We will issue further guidance at that time. Questions may be emailed to the Secretary of State (SOS) at: notary@sos.iowa.gov.

Guidelines

1. The governor's proclamation of the temporary waiver of the in-person requirement makes significant changes to notarization practice in Iowa. Under the emergency declaration, remote notarial acts must conform to all of the provisions in Iowa Administrative Code 721-43, Iowa Code chapter 9B, *and every provision of Section 6 of Senate File 475, passed in 2019*, which has been included at the end of this guidance document for your convenience.
2. Some of the requirements outlined in Iowa Code 9B with the addition of Section 6 mean you will need to use a software service designed for the purpose of facilitating remote online notarization, as opposed to services that primarily offer video-conferencing ability. Such purpose-designed remote online notarization services include the identity-proofing technology, e-signing capability, and storage of notarial act recordings that you will need. Some examples of such services are eNotaryDox by Signix, Notarize, and DocVerify. Others are available, but when deciding on a service to use, keep in mind that when the full text of SF475 becomes the law in a few months, additional administrative rules will also go into effect, and may place additional limits on what services you may use. Even though these revised administrative rules are not in effect at this time, you may request a copy of the draft rules from our office to help you be sure you will be in compliance when they do take effect.
3. Take special note of each of the provisions in Section 6. Subsection 3 of Section 6 requires you to make a recording of each remote notarial act. Subsection 6 of Section 6 requires you to retain that recording. An appropriate remote notarization service will provide both of these capabilities. Subsection 7 requires you to register with our office before performing any remote notarial acts. The application is available to complete and submit on our website at this address: [**https://sos.iowa.gov/remotenotary**](https://sos.iowa.gov/remotenotary)
4. When you select a remote online notarization service, that service will provide you with training on how to use it. Follow that training so that you are best able to use the identity-proofing, oath-administration, e-signing, and other important features that the service provides.
5. Verification of the customer's identity is of critical. Make certain that the video resolution through the service you use is sufficient to see identity-proofing documents clearly, and that the audio clarity is sufficient to understand everything the customer says.
6. When deciding if the customer is answering your questions truthfully, use your best judgment. Remember that you are the professional, and that your professional reputation is at stake in every transaction. It is your legal responsibility to perform notarizations correctly under the law, so be certain you have read and understand all of the legal requirements under both the existing notary statute and the provisions added by the emergency proclamation.

Senate File 475 - Sec. 6. NEW SECTION. 9B.14A Notarial act performed for remotely located individual.

1. As used in this section unless the context otherwise requires:

a. “Communication technology” means an electronic device or process that does all of the following:

(1) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound.

(2) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

b. “Foreign state” means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

c. “Identity proofing” means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

d. “Outside the United States” means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

e. “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection 3.

2. A remotely located individual may comply with section 9B.6 by using communication technology to appear before a notary public.

3. A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if all of the following applies:

a. The notary public has any of the following:

(1) Personal knowledge under section 9B.7, subsection 1, of the identity of the individual.

(2) Satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under section 9B.7, subsection 2, or this section.

(3) Obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing.

b. The notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature.

c. The notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act.

d. For a remotely located individual located outside the United States, all of the following applies:

(1) The record complies with any of the following:

(a) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States.

(b) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States.

(2) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

4. If a notarial act is performed under this section, the certificate of notarial act required by section 9B.15 and the short-form certificate provided in section 9B.16 must indicate that the notarial act was performed using communication technology.

5. A short-form certificate provided in section 9B.16 for a notarial act subject to this section is sufficient if any of the following applies:

a. It complies with rules adopted under subsection 8, paragraph “a”.

b. It is in the form provided in section 9B.16 and contains a statement substantially as follows: “This notarial act involved the use of communication technology”.

6. A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subsection 3, paragraph “c”, or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection 8, paragraph “d”, the recording must be retained for a period of at least ten years after the recording is made.

7. Before a notary public performs the notary public’s initial notarial act under this section, the notary public must notify the secretary of state that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the secretary of state has established standards under subsection 8 and section 9B.27 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

8. In addition to adopting rules under section 9B.27, the secretary of state may adopt rules under this section regarding performance of a notarial act. The rules may do all of the following:

a. Prescribe the means and process, including training requirements, of performing a notarial act involving a remotely located individual using communication technology.

b. Establish standards for communication technology and identity proofing.

c. Establish requirements or procedures to approve providers of communication technology and the process of identity proofing.

d. Establish standards and a period for the retention of an audio-visual recording created under subsection 3, paragraph “c”.

9. Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state must consider all of the following:

a. The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the national association of secretaries of state.

b. Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section.

c. The views of governmental officials and entities and other interested persons.

10. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording created under subsection 3, paragraph “c”, the provider of the communication technology, identity proofing, or storage appoints the secretary of state as the provider’s agent for service of process in any civil action in this state related to the notarial act.

10A. A document purporting to convey or encumber real property that has been recorded by the county recorder for the jurisdiction in which the real property is located, although the document may not have been certified according to this section, shall give the same notice to third persons and be effective from the time of recording as if the document had been certified according to this section.

10B. A notary public who performs a notarial act under this section must be duly commissioned under and remain subject to the requirements of section 9B.21 and all other applicable requirements of this chapter.