

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0656.01 Thomas Morris x4218

HOUSE BILL 19-1167

HOUSE SPONSORSHIP

Duran and Carver, Baisley, Benavidez, Liston, Lontine, Snyder, Will

SENATE SPONSORSHIP

Rodriguez and Holbert,

House Committees

State, Veterans, & Military Affairs
Finance
Appropriations

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.*

HOUSE
3rd Reading Unamended
April 3, 2019

HOUSE
Amended 2nd Reading
April 2, 2019

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.

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

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

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

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

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

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

(15.5) "TAMPER-EVIDENT" MEANS THE USE OF A SET OF 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 A REMOTELY LOCATED INDIVIDUAL BY
16 MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION IN COMPLIANCE
17 WITH SECTION 24-21-514.5 AND RULES ADOPTED BY THE SECRETARY OF
18 STATE.

19 **SECTION 3.** In Colorado Revised Statutes, **add** 24-21-514.5 as
20 follows:

21 **24-21-514.5. Audio-video communication - definitions.** (1) AS
22 USED IN THIS SECTION:

23 (a) "AUDIO-VIDEO COMMUNICATION" MEANS COMMUNICATION BY
24 WHICH AN INDIVIDUAL IS ABLE TO SEE, HEAR, AND COMMUNICATE WITH A
25 REMOTELY LOCATED INDIVIDUAL IN REAL TIME USING ELECTRONIC MEANS.

26 (b) "CREDENTIAL ANALYSIS" MEANS A PROCESS OR SERVICE THAT
27 COMPLIES WITH ANY RULES ADOPTED BY THE SECRETARY OF STATE

1 THROUGH WHICH A THIRD PARTY AFFIRMS THE VALIDITY OF A
2 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THROUGH THE REVIEW
3 OF PUBLIC OR PROPRIETARY DATA SOURCES.

4 (c) "DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION
5 ASSESSMENT" MEANS AN IDENTITY ASSESSMENT THAT IS BASED ON A SET
6 OF QUESTIONS FORMULATED FROM PUBLIC OR PRIVATE DATA SOURCES FOR
7 WHICH THE REMOTELY LOCATED INDIVIDUAL TAKING THE ASSESSMENT
8 HAS NOT PREVIOUSLY PROVIDED AN ANSWER AND THAT MEETS ANY RULES
9 ADOPTED BY THE SECRETARY OF STATE.

10 (d) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE
11 THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE
12 UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY OR INSULAR
13 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

14 (e) (I) "PERSONAL INFORMATION" MEANS PERSONAL
15 IDENTIFYING INFORMATION AS DEFINED IN SECTION 6-1-713 (2)(b).

16 (II) "PERSONAL INFORMATION" DOES NOT INCLUDE PUBLICLY
17 AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE
18 GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT
19 RECORDS OR WIDELY DISTRIBUTED MEDIA.

20 (f) "PUBLIC KEY CERTIFICATE" MEANS AN ELECTRONIC
21 CREDENTIAL THAT IS USED TO IDENTIFY A REMOTELY LOCATED
22 INDIVIDUAL WHO SIGNED AN ELECTRONIC RECORD WITH THE CREDENTIAL.

23 (g) "REMOTE NOTARIZATION SYSTEM" MEANS AN ELECTRONIC
24 DEVICE OR PROCESS THAT:

25 (I) ALLOWS A NOTARY PUBLIC AND A REMOTELY LOCATED
26 INDIVIDUAL TO COMMUNICATE WITH EACH OTHER SIMULTANEOUSLY BY
27 SIGHT AND SOUND; AND

1 (II) WHEN NECESSARY AND CONSISTENT WITH OTHER APPLICABLE
2 LAW, FACILITATES COMMUNICATION WITH A REMOTELY LOCATED
3 INDIVIDUAL WHO HAS A VISION, HEARING, OR SPEECH IMPAIRMENT.

4 (h) "REMOTE PRESENTATION" MEANS TRANSMISSION TO THE
5 NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE
6 OF A GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT IS OF
7 SUFFICIENT QUALITY TO ENABLE THE NOTARY PUBLIC TO:

8 (I) IDENTIFY THE REMOTELY LOCATED INDIVIDUAL SEEKING THE
9 NOTARY PUBLIC'S SERVICES; AND

10 (II) PERFORM CREDENTIAL ANALYSIS.

11 (i) "REMOTELY LOCATED INDIVIDUAL" MEANS AN INDIVIDUAL WHO
12 IS NOT IN THE PHYSICAL PRESENCE OF THE NOTARY PUBLIC WHO PERFORMS
13 A NOTARIAL ACT UNDER THIS SECTION.

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

19 (I) IN THIS STATE;

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

21 (III) OUTSIDE THE UNITED STATES IF:

22 (A) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE
23 NOTARIAL ACT IS PROHIBITED IN THE JURISDICTION IN WHICH THE
24 REMOTELY LOCATED INDIVIDUAL IS PHYSICALLY LOCATED AT THE TIME OF
25 THE ACT; AND

26 (B) THE REMOTELY LOCATED INDIVIDUAL CONFIRMS TO THE
27 NOTARY PUBLIC THAT THE REQUESTED NOTARIAL ACT AND THE RECORD

1 RELATE TO: A MATTER THAT WILL BE FILED WITH OR IS CURRENTLY
2 BEFORE A COURT, GOVERNMENTAL ENTITY, OR OTHER ENTITY IN THE
3 UNITED STATES; PROPERTY LOCATED IN THE UNITED STATES; OR A
4 TRANSACTION SUBSTANTIALLY CONNECTED TO THE UNITED STATES.

5 (b) A NOTARY PUBLIC SHALL NOT USE A REMOTE NOTARIZATION
6 SYSTEM TO NOTARIZE:

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

8 (II) A WILL, CODICIL, DOCUMENT PURPORTING TO BE A WILL OR
9 CODICIL, OR ANY ACKNOWLEDGMENT REQUIRED UNDER SECTION
10 15-11-502 OR 15-11-504.

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

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

23 (b) BE ACCOMPANIED BY PROOF THAT THE NOTARY PUBLIC HAS
24 SUCCESSFULLY COMPLETED ANY TRAINING AND EXAMINATION REQUIRED
25 BY THE SECRETARY OF STATE.

26 (4) A NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT FOR A
27 REMOTELY LOCATED INDIVIDUAL BY MEANS OF AUDIO-VIDEO

1 COMMUNICATION MUST:

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

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

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

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

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

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

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

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

27 (c) CONFIRM THAT THE NOTARY PUBLIC, **THE REMOTELY LOCATED**

1 INDIVIDUAL, AND ANY REQUIRED WITNESS ARE VIEWING THE SAME
2 RECORD AND THAT ALL SIGNATURES, CHANGES, AND ATTACHMENTS TO
3 THE RECORD ARE MADE IN 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 REMOTELY LOCATED
7 INDIVIDUAL APPEARING BEFORE THE NOTARY PUBLIC BY MEANS OF
8 AUDIO-VIDEO COMMUNICATION IS THE INDIVIDUAL THAT HE OR SHE
9 PURPORTS TO BE.

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

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

20 (II) REMOTE PRESENTATION AND CREDENTIAL ANALYSIS OF A
21 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL, AND THE DATA
22 CONTAINED ON THE CREDENTIAL, THAT CONTAINS THE SIGNATURE AND A
23 PHOTOGRAPH OF THE REMOTELY LOCATED INDIVIDUAL, AND AT LEAST ONE
24 OF THE FOLLOWING:

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

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

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

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

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

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

16 [REDACTED]

17 (9) (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 REMOTELY
20 LOCATED INDIVIDUAL THE FACT OF THE RECORDING AND THE DETAILS OF
21 ITS INTENDED STORAGE, INCLUDING WHERE AND FOR HOW LONG IT WILL
22 BE STORED;

23 (II) THE REMOTELY LOCATED INDIVIDUAL EXPLICITLY CONSENTS
24 TO BOTH THE RECORDING AND THE STORAGE OF THE RECORDING; AND

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

27 (b) THE AUDIO-VIDEO RECORDING REQUIRED BY THIS SUBSECTION

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

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

22 (II) A DECLARATION BY THE REMOTELY LOCATED INDIVIDUAL
23 THAT THE INDIVIDUAL'S SIGNATURE ON THE RECORD IS KNOWINGLY AND
24 VOLUNTARILY MADE;

25 (III) IF THE REMOTELY LOCATED INDIVIDUAL FOR WHOM THE
26 NOTARIAL ACT IS BEING PERFORMED IS IDENTIFIED BY PERSONAL
27 KNOWLEDGE, AN EXPLANATION BY THE NOTARY PUBLIC AS TO HOW THE

1 NOTARY PUBLIC KNOWS THE REMOTELY LOCATED INDIVIDUAL AND HOW
2 LONG THE NOTARY PUBLIC HAS KNOWN THE REMOTELY LOCATED
3 INDIVIDUAL; AND

4 (IV) IF THE REMOTELY LOCATED INDIVIDUAL FOR WHOM THE
5 NOTARIAL ACT IS BEING PERFORMED IS IDENTIFIED BY A CREDIBLE
6 WITNESS:

7 (A) A STATEMENT BY THE NOTARY PUBLIC AS TO HOW THE
8 NOTARY PUBLIC KNOWS THE CREDIBLE WITNESS AND HOW LONG THE
9 NOTARY PUBLIC HAS KNOWN THE CREDIBLE WITNESS; AND

10 (B) AN EXPLANATION BY THE CREDIBLE WITNESS AS TO HOW THE
11 CREDIBLE WITNESS KNOWS THE REMOTELY LOCATED INDIVIDUAL AND
12 HOW LONG THE CREDIBLE WITNESS HAS KNOWN THE REMOTELY LOCATED
13 INDIVIDUAL.

14 (c) THE PROVISIONS OF SECTION 24-21-519 THAT RELATE TO THE
15 SECURITY, INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF A
16 NOTARY PUBLIC'S JOURNAL APPLY EQUALLY TO THE SECURITY,
17 INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF AUDIO-VIDEO
18 RECORDINGS ALLOWED BY THIS SECTION.

19 (10) REGARDLESS OF THE PHYSICAL LOCATION OF THE REMOTELY
20 LOCATED INDIVIDUAL AT THE TIME OF THE NOTARIAL ACT, THE VALIDITY
21 OF A REMOTE NOTARIZATION PERFORMED BY A NOTARY IN THIS STATE IS
22 GOVERNED BY THE LAWS OF THIS STATE, INCLUDING ANY RULES ADOPTED
23 BY THE SECRETARY OF STATE PURSUANT TO THIS PART 5.

24 (11) THE OPERATOR OF A REMOTE NOTARIZATION SYSTEM OR
25 OTHER PROVIDER OF TECHNOLOGY OR STORAGE FOR AN AUDIO-VIDEO
26 RECORDING CREATED UNDER SUBSECTION (9) OF THIS SECTION SHALL BE
27 DEEMED TO BE TRANSACTING BUSINESS IN THIS STATE AND, IF A FOREIGN

1 ENTITY, SHALL APPOINT AND MAINTAIN A REGISTERED AGENT, IN
2 ACCORDANCE WITH SECTION 7-90-701, WITH AUTHORITY TO ACCEPT
3 SERVICE OF PROCESS IN CONNECTION WITH A CIVIL ACTION OR OTHER
4 PROCEEDING THAT INVOLVES ISSUES RELATING TO THE AUDIO-VIDEO
5 RECORDING.

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

8 **24-21-515. Certificate of notarial act.** (3) A certificate of a
9 notarial act is sufficient if it meets the requirements of subsections (1) and
10 (2) of this section and:

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

13 (d) Sets forth ~~the~~ actions of the notarial officer ~~and the actions~~
14 THAT are sufficient to meet the requirements of the notarial act as
15 provided in sections 24-21-505, 24-21-506, and 24-21-507 AND, IF
16 APPLICABLE, SECTION 24-21-514.5 or law of this state other than this part
17 5.

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

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

24 **24-21-519. Journal.** (2) (a) A journal may be created on a
25 tangible medium or in an electronic format. If a journal is maintained on
26 a tangible medium, it must be a permanent, bound register with numbered
27 pages. If a journal is maintained in an electronic format, it must be in a

1 permanent, tamper-evident electronic format complying with the rules of
2 the secretary of state.

3 (b) A NOTARY PUBLIC WHO PERFORMS A REMOTE NOTARIZATION
4 SHALL MAINTAIN A JOURNAL IN AN ELECTRONIC FORMAT WITH REGARD TO
5 EACH REMOTE NOTARIZATION. THE JOURNAL MUST INCLUDE THE
6 ELECTRONIC SIGNATURE OF THE REMOTELY LOCATED INDIVIDUAL FOR
7 EACH REMOTE NOTARIZATION.

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

10 **24-21-525. Prohibited acts.** (8) (a) A PERSON THAT
11 PARTICIPATES IN A REMOTE NOTARIZATION IN ANY CAPACITY, INCLUDING
12 THE INDIVIDUAL, THE NOTARY PUBLIC, FINANCIAL INSTITUTIONS, REAL
13 ESTATE AGENTS, REALTY BUSINESSES, MORTGAGE INSURANCE COMPANIES,
14 TITLE INSURANCE COMPANIES, TITLE COMPANIES, ATTORNEYS, LAW FIRMS,
15 AND COUNTY GOVERNMENTS, MUNICIPAL GOVERNMENTS, SPECIAL
16 DISTRICTS, AND A REMOTE NOTARIZATION SYSTEM OR OTHER PROVIDER OF
17 AN AUDIO-VIDEO COMMUNICATION TECHNOLOGY, IDENTITY PROOFING
18 TECHNOLOGY, OR STORAGE OF AN AUDIO-VIDEO RECORDING CREATED
19 UNDER SECTION 24-21-514.5 (9), SHALL NOT SELL, OFFER FOR SALE, USE,
20 OR TRANSFER FOR USE ANY PERSONAL INFORMATION COLLECTED IN THE
21 COURSE OF PERFORMING A REMOTE NOTARIZATION FOR ANY PURPOSE
22 OTHER THAN:

23 (I) COMPLETING THE NOTARIAL ACT; OR

24 (II) AS NECESSARY TO EFFECT, ADMINISTER, ENFORCE, SERVICE,
25 OR PROCESS A NOTARIZED DOCUMENT FOR ITS INTENDED PURPOSE.

26 (b) THE PROHIBITION ESTABLISHED IN SUBSECTION (8)(a) OF THIS
27 SECTION DOES NOT APPLY WHEN AND TO THE EXTENT THE NOTARY PUBLIC

1 OR THE PROVIDER IS:

2 (I) COMPLYING WITH THE REQUIREMENTS OF THIS PART 5 OR
3 LOCAL GOVERNMENT, STATE, OR FEDERAL LAW, OR RESPONDING TO A
4 LAWFUL SUBPOENA OR COURT ORDER; OR

5 (II) CAUSING A BUSINESS DIVESTITURE, SALE, MERGER, OR
6 ACQUISITION OF ITS BUSINESS INTERESTS WITH ANOTHER PERSON AS
7 PERMITTED UNDER APPLICABLE FEDERAL OR STATE LAW WHEREBY THE
8 PERSONAL INFORMATION IS BEING TRANSFERRED TO ANOTHER PERSON IN
9 THE DUE COURSE OF THE DIVESTITURE, SALE, MERGER, OR ACQUISITION.

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

12 **24-21-527. Rules.** (1) The secretary of state may adopt rules to
13 implement this part 5 in accordance with article 4 of this title 24. Rules
14 adopted regarding the performance of notarial acts with respect to
15 electronic records may not require, or accord greater legal status or effect
16 to, the implementation or application of a specific technology or technical
17 specification. The rules may:

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

20 (g) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS
21 USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY, INCLUDING
22 PROVISIONS TO ENSURE THE SECURITY, INTEGRITY, AND ACCESSIBILITY OF
23 RECORDS RELATING TO THOSE ACTS; AND

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

26 **SECTION 8. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect January 1, 2021; except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within the ninety-day period after final adjournment of the general
4 assembly, then the act, item, section, or part will not take effect unless
5 approved by the people at the general election to be held in November
6 2020 and, in such case, will take effect January 1, 2021, or on the date of
7 the official declaration of the vote thereon by the governor, whichever is
8 later.

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