

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

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Double underlining
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LLS NO. 18-0115.01 Thomas Morris x4218

SENATE BILL

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None,)

BILL TOPIC: "Authorize Audio-video Communication Notarial Acts"

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/>.)

The bill summary for this measure has been intentionally omitted and will appear on future redrafts of this measure.

1 *Be it enacted by the General Assembly of the State of Colorado:*
2 **SECTION 1.** In Colorado Revised Statutes, **24-21-502 as it will**
3 **become effective July 1, 2018, add (10.5), (11.5), and (15.5) as follows:**
4 **24-21-502. Definitions.** In this part 5:
5 (10.5) "PRINCIPAL" MEANS:
6 (a) AN INDIVIDUAL WHOSE SIGNATURE IS NOTARIZED IN A REMOTE
7 NOTARIZATION; OR
8 (b) AN INDIVIDUAL TAKING AN OATH OR AFFIRMATION FROM THE
9 NOTARY PUBLIC, BUT NOT IN THE CAPACITY OF A CREDIBLE OR OTHER
10 WITNESS FOR THE NOTARIAL ACT.
11 (11.5) "REMOTE NOTARIZATION" MEANS AN ELECTRONIC
12 NOTARIAL ACT PERFORMED BY MEANS OF AUDIO-VIDEO COMMUNICATION
13 IN ACCORDANCE WITH SECTION 24-21-514.5.
14 (15.5) "TAMPER-EVIDENT" MEANS THE USE OF A SET OF
15 APPLICATIONS, PROGRAMS, HARDWARE, SOFTWARE, OR OTHER
16 TECHNOLOGIES THAT ENABLES A NOTARY PUBLIC TO PERFORM NOTARIAL
17 ACTS WITH RESPECT TO ELECTRONIC RECORDS AND TO DISPLAY EVIDENCE
18 OF ANY CHANGES MADE TO AN ELECTRONIC RECORD.
19 *<{I moved the definition of "principal" to the general definition section*
20 *because the term is used both in the new section 525 (8) and existing*
21 *section 502 (5)(c). I moved the definition of "remote notarization" here*
22 *as well because it is also used in new section 519 (2)(b). Finally, I*
23 *moved a slightly revised definition of "tamper evident" here because*
24 *the term "tamper-evident electronic format" is used in existing section*
25 *519 (2) and the term "tamper-evident technologies" is used in section*
26 *520 (1).}>*
27 **SECTION 2.** In Colorado Revised Statutes, **amend as it will**

1 (d) "DYNAMIC KNOWLEDGE-BASED AUTHENTICATION
2 ASSESSMENT" MEANS AN IDENTITY ASSESSMENT THAT IS BASED ON A SET
3 OF QUESTIONS FORMULATED FROM PUBLIC OR PRIVATE DATA SOURCES FOR
4 WHICH THE PERSON TAKING THE ASSESSMENT HAS NOT PREVIOUSLY
5 PROVIDED AN ANSWER AND THAT MEETS ANY RULES ADOPTED BY THE
6 SECRETARY OF STATE.

7 (e) "IDENTITY PROOFING" MEANS A PROCESS OR SERVICE
8 OPERATING ACCORDING TO CRITERIA APPROVED BY THE SECRETARY OF
9 STATE THROUGH WHICH A THIRD PARTY PROVIDES A NOTARY PUBLIC WITH
10 A REASONABLE MEANS TO VERIFY THE IDENTITY OF AN INDIVIDUAL
11 THROUGH A REVIEW OF PERSONAL INFORMATION FROM PUBLIC AND
12 PROPRIETARY DATA SOURCES.

13 (f) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE
14 THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE
15 UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY OR INSULAR
16 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

17 _____

18 (g) "PUBLIC KEY CERTIFICATE" MEANS AN ELECTRONIC
19 CREDENTIAL THAT IS USED TO IDENTIFY AN INDIVIDUAL WHO SIGNED AN
20 ELECTRONIC RECORD WITH THE CERTIFICATE.

21 (h) "REAL TIME" MEANS THE ACTUAL SPAN OF UNINTERRUPTED
22 TIME DURING WHICH ALL PARTS OF A REMOTE NOTARIZATION OCCUR.

23 _____

24 (i) "REMOTE NOTARIZATION SYSTEM" MEANS A SET OF
25 APPLICATIONS, PROGRAMS, HARDWARE, SOFTWARE, OR TECHNOLOGIES
26 DESIGNED TO ENABLE A NOTARY PUBLIC TO PERFORM REMOTE
27 NOTARIZATIONS.

1 (j) "REMOTE PRESENTATION" MEANS TRANSMISSION TO THE _____
2 NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE
3 OF A GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT IS OF
4 SUFFICIENT QUALITY TO ENABLE THE _____ NOTARY PUBLIC TO:

5 (I) IDENTIFY THE INDIVIDUAL SEEKING THE _____ NOTARY PUBLIC'S
6 SERVICES; AND

7 (II) PERFORM CREDENTIAL ANALYSIS.

8 _____

9 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS
10 SECTION, A NOTARY PUBLIC MAY PERFORM A REMOTE NOTARIZATION ONLY
11 IN COMPLIANCE WITH THIS SECTION AND ANY RULES ADOPTED BY THE
12 SECRETARY OF STATE FOR A PRINCIPAL WHO IS LOCATED:

13 (I) IN THIS STATE;

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

15 (III) OUTSIDE THE UNITED STATES IF:

16 (A) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE OF THE
17 NOTARIAL ACT BEING PROHIBITED IN THE JURISDICTION IN WHICH THE
18 PRINCIPAL IS PHYSICALLY LOCATED AT THE TIME OF THE ACT; AND

19 (B) THE PRINCIPAL CONFIRMS TO THE NOTARY PUBLIC THAT THE
20 REQUESTED NOTARIAL ACT AND THE RECORD: RELATE TO A MATTER
21 THAT WILL BE FILED WITH OR IS CURRENTLY BEFORE A COURT,
22 GOVERNMENTAL ENTITY, OR OTHER ENTITY IN THE UNITED STATES; _____
23 RELATE TO PROPERTY LOCATED IN THE UNITED STATES; OR _____RELATE
24 TO A TRANSACTION SUBSTANTIALLY CONNECTED TO THE UNITED STATES.

25 (b) A NOTARY PUBLIC SHALL NOT PERFORM A REMOTE
26 NOTARIZATION FOR:

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

1 (II) A WILL, CODICIL, DOCUMENT PURPORTING TO BE A WILL,
2 TESTAMENTARY INSTRUMENT THAT ONLY APPOINTS AN EXECUTOR,
3 INSTRUMENT THAT REVOKES OR REVISES A TESTAMENTARY INSTRUMENT,
4 RENUNCIATION OF SUCCESSION, TESTAMENTARY APPOINTMENT OF A
5 GUARDIAN, OR INSTRUMENT THAT EXPRESSLY EXCLUDES OR LIMITS THE
6 RIGHT OF AN INDIVIDUAL OR CLASS TO SUCCEED TO PROPERTY OF THE
7 DECEDENT PASSING BY INTESTATE SUCCESSION.

8 <*{I did not delete the phrase "notary public's" in the first sentence of*
9 *subsection (3) as suggested because this phrase is included in existing*
10 *section 520 (2), upon which subsection (3) appears to be based. That's*
11 *also why I changed "must" to "shall".}*>

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

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

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

26 (4) A NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT FOR A
27 PRINCIPAL BY MEANS OF AUDIO-VIDEO COMMUNICATION MUST:

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

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

5 (c) BE SATISFIED THAT ANY RECORD THAT IS SIGNED,
6 ACKNOWLEDGED, OR OTHERWISE PRESENTED FOR NOTARIZATION BY THE
7 PRINCIPAL IS THE SAME RECORD SIGNED BY THE NOTARY PUBLIC;

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

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

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

17 (a) REQUIRE THE NOTARY PUBLIC, THE PRINCIPAL, AND ANY
18 REQUIRED WITNESS TO ACCESS THE SYSTEM THROUGH AN
19 AUTHENTICATION PROCEDURE THAT IS REASONABLY SECURE FROM
20 UNAUTHORIZED ACCESS;

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

25 (c) FOR AN ELECTRONIC RECORD, PROVIDE REASONABLE
26 CERTAINTY THAT THE NOTARY PUBLIC, PRINCIPAL, AND ANY REQUIRED
27 WITNESS ARE VIEWING THE SAME ELECTRONIC RECORD AND THAT ALL

1 SIGNATURES, CHANGES, AND ATTACHMENTS TO THE ELECTRONIC RECORD
2 ARE MADE IN REAL TIME.

3 _____

4 <{*Identity of the Signer Option 2 (MENA)*}>

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

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

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

18 (II) A DYNAMIC KNOWLEDGE-BASED AUTHENTICATION
19 ASSESSMENT BY A TRUSTED THIRD PERSON THAT COMPLIES WITH RULES
20 ADOPTED BY THE SECRETARY OF STATE;

21 (III) A VALID PUBLIC KEY CERTIFICATE THAT COMPLIES WITH
22 RULES ADOPTED BY THE SECRETARY OF STATE; _____

23 (IV) AN IDENTITY VERIFICATION BY A TRUSTED THIRD PERSON
24 THAT COMPLIES WITH RULES ADOPTED BY THE SECRETARY OF STATE; OR

25 (V) REMOTE PRESENTATION AND CREDENTIAL ANALYSIS OF A
26 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL AND THE DATA
27 CONTAINED ON THE CREDENTIAL.

1 <*Identity of the Signer Option 3 (NV; TX is similar, differences noted*
2 *in brackets)*>

3 (6) FOR THE PURPOSES OF PERFORMING A REMOTE NOTARIZATION,
4 A NOTARY PUBLIC HAS SATISFACTORY EVIDENCE OF THE IDENTITY OF THE
5 PRINCIPAL IF THE NOTARY PUBLIC CONFIRMS THE IDENTITY OF THE PERSON
6 BY:

7 (a) PERSONAL KNOWLEDGE; OR
8 (b) EACH OF THE FOLLOWING:

9 (I) REMOTE PRESENTATION BY THE PRINCIPAL OF A
10 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT CONTAINS A
11 PHOTOGRAPH AND THE SIGNATURE OF THE PERSON;

12 (II) CREDENTIAL ANALYSIS OF THE GOVERNMENT-ISSUED
13 IDENTIFICATION CREDENTIAL AND THE DATA THEREON; AND

14 (III) [A DYNAMIC KNOWLEDGE-BASED AUTHENTICATION
15 ASSESSMENT] [IDENTITY PROOFING OF THE PRINCIPAL];

16 (c) ANY OTHER METHOD THAT COMPLIES WITH ANY RULES
17 ADOPTED BY THE SECRETARY OF STATE; OR

18 (d) A VALID PUBLIC KEY CERTIFICATE THAT COMPLIES WITH ANY
19 RULES ADOPTED BY THE SECRETARY OF STATE.

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

25 (8) THE CERTIFICATE OF NOTARIAL ACT FOR A REMOTE
26 NOTARIZATION MUST, IN ADDITION TO COMPLYING WITH THE
27 REQUIREMENTS OF SECTION 24-21-515, INDICATE THAT THE NOTARIAL ACT

1 WAS PERFORMED USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY.
2 (9) THE FOLLOWING SHORT-FORM CERTIFICATES OF REMOTE
3 NOTARIZATIONS ARE SUFFICIENT FOR THE PURPOSES INDICATED, IF
4 COMPLETED WITH THE INFORMATION REQUIRED BY SECTION 24-21-515 (1)
5 AND (2) AND SUBSECTION (8) OF THIS SECTION:

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

9 [STATE] OF _____
10 [COUNTY] OF _____
11 SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME BY USE
12 OF AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON ____
13 (DATE) BY __ (NAME(S) OF INDIVIDUAL(S)), WHO DECLARED
14 THAT (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN _____
15 (LOCATION OF PRINCIPAL) [AND THAT THIS RECORD IS PART
16 OF OR PERTAINS TO A MATTER THAT IS TO BE FILED WITH OR
17 IS BEFORE A COURT, GOVERNMENTAL ENTITY, OR OTHER
18 ENTITY LOCATED IN THE UNITED STATES OR INVOLVES
19 PROPERTY LOCATED IN, OR A TRANSACTION SUBSTANTIALLY
20 CONNECTED WITH, THE UNITED STATES].

21 _____

22 SIGNATURE OF NOTARY PUBLIC

23 STAMP

24 (_____(TITLE OF OFFICE)_____)

25 [MY COMMISSION EXPIRES: _____]

26 (b) FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY BY AN
27 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO

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

14 _____
15 SIGNATURE OF NOTARY PUBLIC
16 (_____ (TITLE OF OFFICE) _____)
17 [MY COMMISSION EXPIRES: _____]

18 (c) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY
19 BY AN INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF
20 AUDIO-VIDEO COMMUNICATION TECHNOLOGY:

21 [STATE] OF _____
22 [COUNTY] OF _____
23 THIS RECORD WAS ACKNOWLEDGED BEFORE ME BY USE OF
24 AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON _ (DATE)
25 BY _ (NAME(S) OF INDIVIDUAL(S)) AS (TYPE OF AUTHORITY,
26 SUCH AS OFFICER OR TRUSTEE) OF (NAME OF PARTY ON
27 BEHALF OF WHOM RECORD WAS EXECUTED), WHO

1 DECLARED THAT (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN _
2 ____ (LOCATION OF PRINCIPAL) [AND THAT THIS RECORD IS
3 PART OF OR PERTAINS TO A MATTER THAT IS TO BE FILED
4 WITH OR IS BEFORE A COURT, GOVERNMENTAL ENTITY, OR
5 OTHER ENTITY LOCATED IN THE UNITED STATES, OR
6 INVOLVES PROPERTY LOCATED IN, OR A TRANSACTION
7 SUBSTANTIALLY CONNECTED WITH, THE UNITED STATES].

8 _____

9 SIGNATURE OF NOTARY PUBLIC

10 STAMP

11 (_____ (TITLE OF OFFICE) _____)

12 [MY COMMISSION EXPIRES: _____]

13 (d) FOR WITNESSING OR ATTESTING A SIGNATURE BY AN
14 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO
15 COMMUNICATION TECHNOLOGY:

16 [STATE] OF _____

17 [COUNTY] OF _____

18 SIGNED [OR ATTESTED] BEFORE ME BY USE OF
19 COMMUNICATION TECHNOLOGY ON (DATE) BY _
20 (NAME(S) OF INDIVIDUAL(S)), WHO DECLARED THAT
21 (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN ____ (LOCATION OF
22 PRINCIPAL) [AND THAT THIS RECORD IS PART OF OR
23 PERTAINS TO A MATTER THAT IS TO BE FILED WITH OR IS
24 BEFORE A COURT, A GOVERNMENTAL ENTITY, OR OTHER
25 ENTITY LOCATED IN THE UNITED STATES, OR INVOLVES
26 PROPERTY LOCATED IN, OR A TRANSACTION SUBSTANTIALLY
27 CONNECTED WITH, THE UNITED STATES].

1 _____

2 SIGNATURE OF NOTARY PUBLIC

3 STAMP

4 (_____ (TITLE OF OFFICE) _____)

5 [MY COMMISSION EXPIRES: _____]

6 (10) (a) A NOTARY PUBLIC MAY CREATE AN AUDIO-VIDEO
7 RECORDING OF A REMOTE NOTARIZATION ONLY IF:

8 (I) THE NOTARY PUBLIC FIRST DISCLOSES TO THE PRINCIPAL THE
9 FACT OF THE RECORDING AND THE DETAILS OF ITS INTENDED STORAGE,
10 INCLUDING WHERE AND FOR HOW LONG IT WILL BE STORED; AND

11 (II) THE PRINCIPAL EXPLICITLY consents to BOTH THE
12 RECORDING AND THE STORAGE OF THE RECORDING.

13 _____

14 (b) THE AUDIO-VIDEO RECORDING ALLOWED BY THIS SECTION
15 MUST BE IN ADDITION TO THE JOURNAL ENTRY FOR THE NOTARIAL ACT
16 REQUIRED BY SECTION 24-21-519 AND MUST INCLUDE:

17 (I) AT THE COMMENCEMENT OF THE RECORDING, A RECITATION BY
18 THE NOTARY PUBLIC OF INFORMATION SUFFICIENT TO IDENTIFY THE
19 NOTARIAL ACT;

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

22 (III) ALL ACTIONS AND SPOKEN WORDS OF THE PRINCIPAL, NOTARY
23 PUBLIC, AND ANY REQUIRED WITNESS DURING THE ENTIRE NOTARIAL ACT;

24 (IV) IF THE PERSON FOR WHOM THE NOTARIAL ACT IS BEING
25 PERFORMED IS IDENTIFIED BY PERSONAL KNOWLEDGE, AN EXPLANATION
26 BY THE NOTARY PUBLIC AS TO HOW HE OR SHE KNOWS THE PERSON AND
27 HOW LONG HE OR SHE HAS KNOWN THE PERSON;

1 (V) IF THE PERSON FOR WHOM THE NOTARIAL ACT IS BEING
2 PERFORMED IS IDENTIFIED BY A CREDIBLE WITNESS:

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

6 (B) AN EXPLANATION BY THE CREDIBLE WITNESS AS TO HOW HE OR
7 SHE KNOWS THE PRINCIPAL AND HOW LONG HE OR SHE HAS KNOWN THE
8 PERSON <{:AND}>

9 (VI) AT THE DISCRETION OF THE PRINCIPAL, AN ACCURATE AND
10 COMPLETE IMAGE OF THE ENTIRE RECORD THAT WAS VIEWED AND SIGNED
11 BY THE PRINCIPAL AND NOTARY PUBLIC.

12 (c) THE PROVISIONS OF SECTION 24-21-519, RELATED
13 RESPECTIVELY TO SECURITY, INSPECTION, COPYING, AND RETENTION AND
14 DISPOSITION OF A NOTARY PUBLIC'S JOURNAL, APPLIES TO SECURITY,
15 INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF AUDIO-VIDEO
16 RECORDINGS ALLOWED BY THIS SECTION.

17 (11) THE VALIDITY OF A REMOTE NOTARIZATION IS GOVERNED BY
18 BOTH THIS SECTION AND OTHER APPLICABLE SECTIONS OF THIS PART 5.

19 SECTION 4. In Colorado Revised Statutes, 24-21-519, amend
20 (2) as it will become effective July 1, 2018, as follows:

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

27 (b) A NOTARY PUBLIC THAT PERFORMS A REMOTE NOTARIZATION

1 SHALL MAINTAIN A JOURNAL IN AN ELECTRONIC FORMAT WITH REGARD TO
2 EACH REMOTE NOTARIZATION. THE JOURNAL MUST INCLUDE THE
3 ELECTRONIC SIGNATURE OF THE PRINCIPAL FOR EACH REMOTE
4 NOTARIZATION.

5 **SECTION 5. In Colorado Revised Statutes, 24-21-525 as it will**
6 **become effective July 2, 2018, add (8) as follows:**

7 **24-21-525. Prohibited acts. (8) A PERSON SHALL NOT SELL,**
8 **SOLICIT, OR USE ANY INFORMATION COLLECTED IN THE COURSE OF**
9 **PERFORMING A NOTARIAL ACT FOR ANY PURPOSE OTHER THAN**
10 **COMPLETING THE NOTARIAL ACT UNLESS THE PERSON DISCLOSES THAT**
11 **PURPOSE TO THE PRINCIPAL AND THE PRINCIPAL CONSENTS BEFORE THE**
12 **INFORMATION IS COLLECTED.**

13 **SECTION 6. In Colorado Revised Statutes, 24-21-527, amend**
14 **as they will become effective July 2, 2018, (1)(e) and (1)(f); and add**
15 **(1)(g) and (1)(h) as follows:**

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

22 **(e) Include provisions to prevent fraud or mistake in the**
23 **performance of notarial acts; and**

24 **(f) Provide for the administration of the examination under**
25 **section 24-21-522 (1) and the course of study under section 24-21-522**
26 **(2);**

27 **(g) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS**

1 USING AUDIO-VIDEO COMMUNICATION, INCLUDING PROVISIONS TO ENSURE
2 THE SECURITY AND INTEGRITY OF THOSE ACTS; AND

3 (h) PRESCRIBE REQUIREMENTS FOR THE APPROVAL AND USE OF
4 REMOTE NOTARIZATION SYSTEMS.

5 **SECTION 7. Act subject to petition - effective date -**
6 **applicability.** (1) This act takes effect January 1, 2019; except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within the ninety-day period after final adjournment of the general
10 assembly, then the act, item, section, or part will not take effect unless
11 approved by the people at the general election to be held in November
12 2018 and, in such case, will take effect on January 1, 2019, or on the date
13 of the official declaration of the vote thereon by the governor, whichever
14 is later.

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