

Act No. 336  
Public Acts of 2020  
Approved by the Governor  
December 29, 2020  
Filed with the Secretary of State  
December 29, 2020  
EFFECTIVE DATE: December 29, 2020

**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

Introduced by Senator MacGregor

## **ENROLLED SENATE BILL No. 1187**

AN ACT to amend 2003 PA 238, entitled “An act to provide for the qualification, appointment, and regulation of notaries; to provide for the levy, assessment, and collection of certain service charges and fees and to provide for their disposition; to create funds; to provide for liability for certain persons; to provide for the admissibility of evidence; to establish the recognition to be given in this state to acknowledgments and other notarial acts performed outside of this state; to prescribe powers and duties of state agencies and local officers; to provide for remedies and penalties; and to repeal acts and parts of acts,” by amending sections 9, 26c, and 26d (MCL 55.269, 55.286c, and 55.286d), section 9 as amended and sections 26c and 26d as added by 2020 PA 249.

*The People of the State of Michigan enact:*

Sec. 9. (1) The secretary may appoint as a notary public a person who complies with the requirements of this act.

(2) Except as otherwise provided in subsection (4), a notary public may reside in, move to, and perform notarial acts anywhere in this state from the date of appointment until the notary’s birthday occurring not less than 6 years and not more than 7 years after the date of his or her appointment unless the appointment is canceled, suspended, or revoked by the secretary or by operation of law.

(3) The secretary shall not appoint as a notary public a person who is serving a term of imprisonment in a state correctional facility or jail in this or any other state or in a federal correctional facility.

(4) A notary public’s commission under subsection (2) that expired after March 1, 2020 and before June 30, 2021 is valid through June 30, 2021.

Sec. 26c. (1) Notwithstanding any other provision of this act, a notary public may utilize a 2-way real-time audiovisual technology to perform notarial acts electronically if all of the following requirements are met:

(a) The 2-way real-time audiovisual technology allows direct interaction between the individual seeking the notary’s services, any witnesses, and the notary, so that each can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarization.

(b) The 2-way real-time audiovisual technology is capable of creating an audio and visual recording of the complete notarial act and the recording is made and retained as a notarial record in accordance with section 26b(7) to (9).

(c) The individual seeking the notary's services and any required witnesses, if not personally known to the notary, presents satisfactory evidence of identity to the notary during the video conference, and does not merely transmit it before or after the transaction, to satisfy the requirements of this act and any other applicable law.

(d) Subject to subdivision (e), the individual seeking the notary's services affirmatively represents that the individual is physically situated in this state or is physically located outside the geographic boundaries of this state and that 1 of the following applies:

(i) The record is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state.

(ii) The record involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.

(e) If an individual is physically located outside of the geographic boundaries of this state, the notary has no actual knowledge that the individual's act of making the statement or signing the record is prohibited by the laws of the jurisdiction in which the individual is physically located.

(f) The individual seeking the notary's services, any required witnesses, and the notary are able to affix their signatures to the record in a manner that renders any subsequent change or modification of the remote online notarial act to be tamper evident.

(g) The individual seeking the notary's services or the individual's designee transmits by facsimile, mail, or electronic means a legible copy of the entire signed record directly to the notary on the same date it was signed. This requirement applies regardless of the manner in which the record is signed.

(h) Once the notary has received a legible copy of the record with all necessary signatures, the notary notarizes the record in accordance with section 27 and transmits the notarized record back to the individual seeking the notary's services.

(2) The official date and time of the notarization performed under this section is the date and time when the notary witnesses the signature via 2-way real-time audiovisual technology as required under this section.

(3) Notwithstanding any other law or regulation of this state, beginning April 30, 2020, and before July 1, 2021, absent an express prohibition in a record against signing the record in counterparts, a record signed under this act may be signed in counterparts.

(4) This section applies to a notarial act described in subsection (1) performed on or after April 30, 2020 and before July 1, 2021.

(5) If a record is notarized electronically under this section, all of the following apply:

(a) The record does not need to be notarized under any other provision of this act.

(b) The rights or interests of a person that relies in good faith and without actual notice that the record was executed on or after April 30, 2020 and before July 1, 2021 but was not executed or notarized in accordance with this section are not impaired, challenged, or terminated on that basis alone.

(c) Compliance with this section is presumed. A person challenging a record notarized under this section may overcome the presumption by establishing, by clear and convincing evidence, that the notary or the individual seeking the notary public's services intentionally failed to comply with a requirement described in this section.

Sec. 26d. (1) Beginning April 30, 2020, it is the intent of the legislature that, governmental agencies and officials of this state are encouraged to use or permit the use of electronic records and electronic signatures to transact business, process applications, and recognize the validity of legal instruments, and, when a notarized signature is required by a law of this state, to use a notary public who performs notarial acts electronically under this act.

(2) Beginning April 30, 2020, it is the intent of the legislature that, any requirement under the law of this state that an in-person witness attests to or acknowledges an instrument, record, or deed is satisfied by the use of 2-way real-time audiovisual technology in accordance with section 26c.

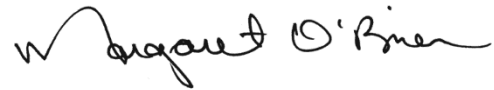
(3) Beginning April 30, 2020, it is the intent of the legislature that, any requirement that an individual appears personally before or be in the presence of either a notary public at the time of a notarization or a witness at the time of an attestation or acknowledgment is satisfied if the individual, the witnesses, or the notary public are not in the physical presence of each other but can communicate simultaneously by 2-way real-time audiovisual technology in accordance with section 26c at the time of the notarization, attestation, or acknowledgment.

(4) This section does not apply after June 30, 2021.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 100th Legislature are enacted into law:

- (a) Senate Bill No. 1186.
- (b) Senate Bill No. 1188.
- (c) Senate Bill No. 1189.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 1186 was filed with the Secretary of State December 29, 2020, and became 2020 PA 335, Imd. Eff. Dec. 29, 2020.

Senate Bill No. 1188 was filed with the Secretary of State December 29, 2020, and became 2020 PA 337, Imd. Eff. Dec. 29, 2020.

Senate Bill No. 1189 was filed with the Secretary of State December 29, 2020, and became 2020 PA 338, Imd. Eff. Dec. 29, 2020.