

**SUBSTITUTE FOR
SENATE BILL NO. 1187**

A bill to amend 2003 PA 238, entitled
"Michigan law on notarial 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:

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

3 (2) Except as otherwise provided in subsection (4), a notary
4 public may reside in, move to, and perform notarial acts anywhere
5 in this state from the date of appointment until the notary's
6 birthday occurring not less than 6 years and not more than 7 years
7 after the date of his or her appointment unless the appointment is

1 canceled, suspended, or revoked by the secretary or by operation of
2 law.

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

7 (4) A notary public's commission under subsection (2) that
8 expired after March 1, 2020 and before ~~December 31, 2020~~ **June 30,**
9 **2021** is valid through ~~December 31, 2020~~ **June 30, 2021.**

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

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

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

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

29 (d) Subject to subdivision (e), the individual seeking the

1 notary's services affirmatively represents that the individual is
2 physically situated in this state or is physically located outside
3 the geographic boundaries of this state and that 1 of the following
4 applies:

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Sec. 26d. (1) Beginning April 30, 2020, it is the intent of
29 the legislature that, governmental agencies and officials of this

1 state are encouraged to use or permit the use of electronic records
 2 and electronic signatures to transact business, process
 3 applications, and recognize the validity of legal instruments, and,
 4 when a notarized signature is required by a law of this state, to
 5 use a notary public who performs notarial acts electronically under
 6 this act.

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

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

21 (4) This section does not apply after ~~December 31, 2020.~~ **June**
 22 **30, 2021.**

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

26 (a) Senate Bill No. 1186.

27 (b) Senate Bill No. 1188.

28 (c) Senate Bill No. 1189.