

SENATE BILL NO. 1187

October 08, 2020, Introduced by Senator MACGREGOR and referred to the Committee on Government Operations.

A bill to amend 2003 PA 238, entitled
"Michigan law on notarial acts,"
by amending section 26 (MCL 55.286), as added by 2018 PA 360, and
by adding section 26c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 26. (1) ~~A—Subject to section 26c, a~~ notary public may
2 select 1 or more tamper-evident electronic notarization systems to
3 perform notarial acts electronically. A person may not require a
4 notary public to perform a notarial act electronically with an

1 electronic notarization system that the notary public has not
2 selected.

3 (2) Before a notary public performs the notary public's
4 initial notarial act electronically, the notary public shall notify
5 the secretary that the notary public will be performing notarial
6 acts electronically and identify the electronic notarization system
7 the notary public intends to use for electronic notarizations. If
8 the secretary and the department of technology, management, and
9 budget have approved the use of 1 or more electronic notarization
10 systems under section 26a, the notary public must select the system
11 he or she intends to use from the approved electronic notarization
12 systems. The secretary may disallow the use of an electronic
13 notarization system if the electronic notarization system does not
14 satisfy the criteria described in section 26a.

15 **Sec. 26c. (1) Notwithstanding any other provision of this act,**
16 **beginning April 30, 2020, a notary public may utilize a 2-way real-**
17 **time audiovisual technology to perform notarial acts electronically**
18 **if all of the following requirements are met:**

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

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

28 (c) The individual seeking the notary's services and any
29 required witnesses, if not personally known to the notary, presents

1 satisfactory evidence of identity to the notary during the video
2 conference, and does not merely transmit it before or after the
3 transaction, to satisfy the requirements of this act and any other
4 applicable law.

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

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

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

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

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

26 (g) The individual seeking the notary's services or the
27 individual's designee transmits by facsimile, mail, or electronic
28 means a legible copy of the entire signed document directly to the
29 notary on the same date it was signed. This requirement applies

1 regardless of the manner in which the document is signed.

2 (h) Once the notary has received a legible copy of the
3 document with all necessary signatures, the notary notarizes the
4 document and transmits the notarized document back to the
5 individual seeking the notary's services.

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

9 (2) This section does not apply after December 31, 2020.