

## LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO SENATE BILL NO. 595

Sponsor:

Printer's No. 912

1 Amend Bill, page 1, lines 1 through 7, by striking out all of  
2 said lines and inserting

3 Amending Title 57 (Notaries Public) of the Pennsylvania  
4 Consolidated Statutes, in revised uniform law on notarial  
5 acts, providing for notarial acts performed by remotely  
6 located individuals.

7 Amend Bill, page 1, lines 10 through 20; pages 2 through 9,  
8 lines 1 through 30; page 10, lines 1 through 6; by striking out  
9 all of said lines on said pages and inserting

10 Section 1. Title 57 of the Pennsylvania Consolidated  
11 Statutes is amended by adding a section to read:

12 § 314.1. Notarial act performed by a remotely located  
13 individual.

14 (a) Definitions.--Terms are defined in subsection (i).

15 (b) Use of communication technology.--A notary public  
16 located in this Commonwealth may perform a notarial act  
17 facilitated by communication technology relating to a statement  
18 made in or signature executed on a record by a remotely located  
19 individual if all of the following paragraphs apply:

20 (1) The notary public:

21 (i) has personal knowledge under section 307(a)  
22 (relating to identification of individual); or

23 (ii) reasonably can identify the individual by at  
24 least two identity proofing processes or services.

25 (2) The notarial act relates to an:

26 (i) electronic record or signature; or

27 (ii) acknowledgment of a signature on a tangible  
28 record.

29 (3) The notary public is able to reasonably identify the  
30 record before the notary public as the same record:

31 (i) in which the remotely located individual made  
32 the statement; or

33 (ii) on which the remotely located individual  
34 executed the signature.

35 (4) The notary public, or a person acting on behalf of

1 the notary public, creates an audio-visual recording of the  
2 performance of the notarial act.

3 (5) If the remotely located individual is located  
4 outside the United States, all of the following subparagraphs  
5 apply:

6 (i) The record:

7 (A) is to be filed with or relates to a matter  
8 before a court, governmental entity, public official  
9 or other entity under the jurisdiction of the United  
10 States; or

11 (B) involves:

12 (I) property located in the territorial  
13 jurisdiction of the United States; or

14 (II) a transaction substantially connected  
15 with the United States.

16 (ii) The act of making the statement or signing the  
17 record is not prohibited by the foreign state where the  
18 remotely located individual is located.

19 (c) Notarial certificate.--If a notarial act involves a  
20 statement made in or a signature executed on a record by a  
21 remotely located individual, the certificate of notarial act  
22 required by section 315 (relating to certificate of notarial  
23 act) and the certificate under section 316 (relating to short  
24 form certificates) must indicate that the individual was  
25 remotely located.

26 (d) Sufficiency.--A certificate under section 316 for a  
27 notarial act subject to this section is sufficient if either of  
28 the following paragraphs apply:

29 (1) The certificate is in the form provided by section  
30 316 and contains a statement substantially as follows:

31 "This notarial act involved a statement made in or a  
32 signature executed on a record by a remotely located  
33 individual using communication technology."

34 (2) The certificate complies with the regulations  
35 promulgated under subsection (g)(1).

36 (e) Audio-visual recording.--

37 (1) This subsection applies to:

38 (i) a notary public;

39 (ii) a guardian, a conservator or an agent of a  
40 notary public; or

41 (iii) the personal representative of a deceased  
42 notary public.

43 (2) A person under paragraph (1) shall retain the audio-  
44 visual recording created under subsection (b)(4) or cause the  
45 recording to be retained by a repository designated by or on  
46 behalf of the notary public. The person shall retain the  
47 recording:

48 (i) for at least 10 years after the recording is  
49 made; or

50 (ii) as otherwise required by the regulations  
51 promulgated under subsection (g)(4).

1 (f) Notification.--

2 (1) Before a notary public performs the notary public's  
3 initial notarial act under this section, the notary public  
4 must notify the department that the notary public will be  
5 performing notarial acts facilitated by communication  
6 technology and identify the communication technology.

7 (2) If the department has established standards for  
8 approval of communication technology or identity proofing  
9 under subsection (g) and section 327 (relating to  
10 regulations), the communication technology and identity  
11 proofing must conform to the standards.

12 (g) Regulations.--In addition to matters listed in section  
13 327, the department may promulgate regulations regarding  
14 performance of a notarial act with respect to a remotely located  
15 individual. The regulations may do all of the following:

16 (1) Prescribe the means of performing a notarial act  
17 involving communication technology to communicate with a  
18 remotely located individual.

19 (2) Establish standards for communication technology and  
20 identity proofing. This paragraph includes the use of  
21 credential analysis, dynamic knowledge-based authentication,  
22 biometrics and other means of identification.

23 (3) Establish requirements or procedures to approve  
24 providers of communication technology and the process of  
25 identity proofing.

26 (4) Establish standards and periods for the retention of  
27 an audio-visual recording under subsection (b)(4) of the  
28 performance of a notarial act and establish a procedure to  
29 preserve the recording if the notary public dies or is  
30 incapacitated or if the notary public's commission or  
31 authority to perform notarial acts is otherwise suspended or  
32 terminated.

33 (h) Promotion of uniformity.--Before promulgating or  
34 deleting regulations about the performance of a notarial act  
35 with respect to a remotely located individual, the department  
36 shall consider, if consistent with this chapter, all of the  
37 following:

38 (1) The most recent standards regarding the performance  
39 of a notarial act with respect to remotely located  
40 individuals promulgated by a national standard-setting  
41 organization. This paragraph includes the National  
42 Association of Secretaries of State.

43 (2) Standards, practices, and customs of other  
44 jurisdictions which enact a statutory provision  
45 substantially similar to this section.

46 (3) The views of governmental officials and entities and  
47 other interested persons.

48 (i) Definitions.--As used in this section, the following  
49 words and phrases shall have the meanings given to them in this  
50 subsection unless the context clearly indicates otherwise:

51 "Communication technology." An electronic device or process

1 which:

2 (1) allows a notary public located in this Commonwealth  
3 and a remotely located individual to communicate with each  
4 other simultaneously by sight and sound; and

5 (2) makes reasonable accommodations for an individual  
6 with a vision, hearing or speech impairment.

7 "Foreign state." A jurisdiction other than the United  
8 States, a state or a federally recognized Indian tribe.

9 "Identity proofing." A process or service by which a third  
10 person provides a notary public with a means to verify the  
11 identity of a remotely located individual by a review of  
12 personal information from public or private data sources.

13 "Outside the United States." A location outside the  
14 geographic boundaries of:

15 (1) the United States;

16 (2) Puerto Rico;

17 (3) the Virgin Islands; and

18 (4) any territory, insular possession or other location  
19 subject to the jurisdiction of the United States.

20 "Remotely located individual." An individual who is not in  
21 the physical presence of the notary public who performs a  
22 notarial act under subsection (b).

23 Section 2. This act shall take effect in 90 days.