

FINAL BILL REPORT

SB 5641

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Synopsis as Enacted

Brief Description: Adopting the 2018 uniform law commission amendments to the uniform law on notarial acts.

Sponsors: Senators Holy, Pedersen and Padden; by request of Uniform Law Commission.

Senate Committee on Law & Justice
House Committee on Civil Rights & Judiciary

Background: The Washington Legislature enacted the Revised Uniform Law on Notarial Acts (RULONA) in 2017. RULONA governs actions by a notary public which includes taking an acknowledgment, administering an oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, certifying the occurrence of an event or the performance of an act, and noting a protest of a negotiable instrument in certain instances. A notarial act may be performed with respect to a tangible or electronic record. An "electronic records notary public" means an individual commissioned by the director of the Department of Licensing (DOL) to perform a notarial act with respect to electronic records.

Current law requires an individual who wishes to have a document notarized to appear personally before a notary public. A notarial officer must determine from personal knowledge or satisfactory evidence in order to verify the identity of the individual, and that the signature on the record is the signature of the individual.

Summary: The bill enacts the 2018 amendments to RULONA drafted by the Uniform Law Commission. An electronic records notary public is authorized to perform a notarial act on behalf of a remotely located individual who is not in the notary's physical presence.

To perform a remote notarization, a notary must use a communications technology, such as an electronic device, allowing the notary to simultaneously communicate with the remote individual in both sight and sound. The notary may perform a notarial act for a remote individual if the notary:

- has personal knowledge or satisfactory evidence of the identity of the remote individual;
- is able to confirm that the record before the notary is the same as the record before the remote individual;
- creates an audio-visual recording of the notary act; and

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- the record relates to a matter before an entity subject to the jurisdiction of the United States for a remote individual located outside of the United States.

The notary's certificate—or short form certificate—must indicate that the notarial act was performed using communication technology. Unless DOL adopts a rule governing a different period of retention, the audio-visual recording must be retained for at least ten years.

The director of DOL may adopt rules:

- prescribing the means for performing a notarial act with a remote individual;
- establishing standards for communication technologies and identity proofing;
- establishing requirements to approve providers of communication technologies and identity proofing; and
- establishing standards and a period of retention for audio-visual recordings.

The notary must notify DOL about the communication technologies intended to be used prior to a notary act with a remote individual. The communication technology and identity proofing must conform to any standards adopted by DOL rule.

A notary may certify that a tangible copy of an electronic record is an accurate copy. A notarial officer is guilty of false certification if the notarial officer certifies falsely that a tangible copy of an electronic record is an accurate copy. False certification is a gross misdemeanor.

A tangible copy of an electronic record purporting to convey or encumber any interest in real estate, which is recorded with a county auditor, is notice to third parties of the conveyance or encumbrance even if the record is not certified by a notary. A county auditor may accept a tangible copy of an electronic record to satisfy any requirement that the record be an original if the notarial officer certifies the tangible copy as an accurate copy of the electronic record.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: October 1, 2020