

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 664**

A bill to amend 2003 PA 238, entitled
"Michigan notary public act,"
by amending sections 3, 5, 7, 15, 26b, and 27 (MCL 55.263, 55.265,
55.267, 55.275, 55.286b, and 55.287), section 5 as amended by 2006
PA 426 and sections 15 and 27 as amended and 26b as added by 2018
PA 330, and by adding sections 26 and 26a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Acknowledgment" means ~~the confirmation by a person~~ **A**
3 **DECLARATION BY AN INDIVIDUAL** in the presence of a notary public
4 that he or she ~~is placing or has placed his or her signature on~~ **HAS**
5 **SIGNED** a record for the purposes stated in the record and, if the

1 record is signed in a representative capacity, that he or she ~~is~~
 2 ~~placing or has placed his or her signature on~~ **SIGNED** the record
 3 with the proper authority and ~~in the capacity~~ **SIGNED IT AS THE ACT**
 4 of the person ~~represented and identified~~ in the record.

5 (b) "Cancellation" means the nullification of a notary public
 6 commission due to an error or defect or because the notary public
 7 is no longer entitled to the commission.

8 (C) **"CREDENTIAL ANALYSIS" MEANS A PROCESS OR SERVICE BY WHICH**
 9 **A THIRD PARTY AFFIRMS THE VALIDITY OF AN IDENTITY DOCUMENT**
 10 **DESCRIBED IN SECTION 25(6) (C) THROUGH A REVIEW OF PUBLIC AND**
 11 **PROPRIETARY DATA SOURCES CONDUCTED REMOTELY.**

12 (D) ~~(e)~~ "Department" means the department of state.

13 (E) ~~(d)~~ "Electronic" means ~~that term as defined in the uniform~~
 14 ~~electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849.~~

15 **RELATING TO TECHNOLOGY THAT HAS ELECTRICAL, DIGITAL, MAGNETIC,**
 16 **WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.**

17 ~~—— (e) "Electronic signature in global and national commerce act"~~
 18 ~~means Public Law 106-229, 114 Stat. 464.~~

19 (F) **"ELECTRONIC NOTARIZATION SYSTEM" MEANS A SET OR SYSTEM OF**
 20 **APPLICATIONS, PROGRAMS, HARDWARE, SOFTWARE, OR TECHNOLOGIES**
 21 **DESIGNED TO ENABLE A NOTARY PUBLIC TO PERFORM ELECTRONIC**
 22 **NOTARIZATIONS.**

23 (G) **"ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND, SYMBOL,**
 24 **OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A RECORD AND**
 25 **EXECUTED OR ADOPTED BY AN INDIVIDUAL WITH THE INTENT TO SIGN THE**
 26 **RECORD.**

27 (H) **"IDENTITY PROOFING" MEANS A PROCESS OR SERVICE BY WHICH A**

1 THIRD PARTY PROVIDES A NOTARY PUBLIC WITH A REASONABLE MEANS TO
2 VERIFY THE IDENTITY OF AN INDIVIDUAL THROUGH A REVIEW OF PERSONAL
3 INFORMATION FROM PUBLIC OR PROPRIETARY DATA SOURCES CONDUCTED
4 REMOTELY.

5 (I) ~~(f)~~-"Information" means ~~that term as defined in the~~
6 ~~electronic signature in global and national commerce act.~~**INCLUDES**
7 **DATA, TEXT, IMAGES, SOUNDS, CODES, COMPUTER PROGRAMS, SOFTWARE, AND**
8 **DATABASES.**

9 (J) ~~(g)~~-"In a representative capacity" means any of the
10 following:

11 (i) For and on behalf of a corporation, **LIMITED LIABILITY**
12 **COMPANY**, partnership, trust, association, or other legal entity as
13 an authorized officer, **MANAGER**, agent, partner, trustee, or other
14 representative of the entity.

15 (ii) As a public officer, personal representative, guardian,
16 or other representative in the capacity recited in the
17 ~~document.~~**RECORD.**

18 (iii) As an attorney in fact for a principal.

19 (iv) In any other capacity as an authorized representative of
20 another person.

21 (K) ~~(h)~~-"In the presence of" means ~~in compliance with section~~
22 ~~101(g) of title I of the electronic signature in global and~~
23 ~~national commerce act, 15 USC 7001.~~**EITHER OF THE FOLLOWING:**

24 (i) **IN THE SAME PHYSICAL LOCATION WITH AND CLOSE ENOUGH TO**
25 **SEE, HEAR, COMMUNICATE WITH, AND EXCHANGE TANGIBLE IDENTIFICATION**
26 **CREDENTIALS WITH ANOTHER INDIVIDUAL.**

27 (ii) **INTERACTING WITH ANOTHER INDIVIDUAL BY MEANS OF AUDIO AND**

1 **VISUAL COMMUNICATION TECHNOLOGY THAT IS PART OF A REMOTE ELECTRONIC**
 2 **NOTARIZATION PLATFORM APPROVED UNDER SECTION 26B.**

3 Sec. 5. As used in this act:

4 (a) "Jurat" means a certification by a notary public that a
 5 signer, whose identity is personally known to the notary public or
 6 proven on the basis of satisfactory evidence, has made in the
 7 presence of the notary public a voluntary signature and taken an
 8 oath or affirmation vouching for the truthfulness of the signed
 9 record.

10 (b) "Lineal ancestor" means an individual **WHO IS** in the direct
 11 line of ascent including, but not limited to, a parent or
 12 grandparent.

13 (c) "Lineal descendant" means an individual **WHO IS** in the
 14 direct line of descent including, but not limited to, a child or
 15 grandchild.

16 (d) "Notarial act" means any **OF THE FOLLOWING:**

17 **(i) AN act, WHETHER PERFORMED WITH RESPECT TO A TANGIBLE OR**
 18 **ELECTRONIC RECORD**, that a notary public commissioned in this state
 19 is authorized to perform including, but not limited to, ~~the taking~~
 20 ~~of an acknowledgment, the administration of~~ **ADMINISTERING** an oath
 21 or affirmation, ~~the taking of a verification upon oath or~~
 22 ~~affirmation, and the~~ **OR** witnessing or attesting a signature
 23 performed in compliance with this act. ~~and the uniform recognition~~
 24 ~~of acknowledgments act, 1969 PA 57, MCL 565.261 to 565.270.~~

25 **(ii) AN ACT DESCRIBED IN SUBPARAGRAPH (i) THAT IS PERFORMED IN**
 26 **ANOTHER JURISDICTION AND MEETS THE REQUIREMENTS OF SECTION 25A.**

27 (e) "Notify" means to communicate or send a message by a

1 recognized mail, delivery service, or electronic means.

2 (f) "Official misconduct" means ~~either or both~~ **1 OR MORE** of
3 the following:

4 (i) The exercise of power or the performance of a duty that is
5 unauthorized, unlawful, abusive, negligent, reckless, or injurious.

6 (ii) The charging of a fee that exceeds the maximum amount
7 authorized by law.

8 (g) "Person" means ~~every natural person, corporation,~~
9 ~~partnership, trust, association, or other legal entity and its~~
10 ~~legal successors.~~ **AN INDIVIDUAL OR A CORPORATION, BUSINESS TRUST,**
11 **STATUTORY TRUST, ESTATE, PARTNERSHIP, TRUST, LIMITED LIABILITY**
12 **COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT**
13 **OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY**
14 **OTHER LEGAL OR COMMERCIAL ENTITY.**

15 (h) "Record" means ~~that term as defined in the uniform~~
16 ~~electronic transactions act, 2000 PA 305, MCL 450.831 to~~
17 ~~450.849.~~ **INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT**
18 **IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN**
19 **PERCEIVABLE FORM.**

20 (I) "REMOTE ELECTRONIC NOTARIZATION PLATFORM" MEANS ANY
21 COMBINATION OF TECHNOLOGY THAT ENABLES A NOTARY PUBLIC TO PERFORM A
22 NOTARIAL ACT REMOTELY; THAT ALLOWS THE NOTARY PUBLIC TO COMMUNICATE
23 BY SIGHT AND SOUND WITH THE INDIVIDUAL FOR WHOM HE OR SHE IS
24 PERFORMING THE NOTARIAL ACT, AND WITNESSES, IF APPLICABLE, BY MEANS
25 OF AUDIO AND VISUAL COMMUNICATION; AND THAT INCLUDES FEATURES TO
26 CONDUCT CREDENTIAL ANALYSIS AND IDENTITY PROOFING.

27 (J) ~~(i)~~ "Revocation" means the termination of a notary

1 public's commission **TO PERFORM NOTARIAL ACTS.**

2 Sec. 7. As used in this act:

3 (a) "Secretary" means the secretary of state ~~acting directly~~
 4 ~~or through his or her duly authorized deputies, assistants, and~~
 5 ~~employees.~~ **OR HIS OR HER DESIGNEE.**

6 (b) "Signature" means ~~a person's written or printed name or~~
 7 ~~electronic signature as that term is defined in the uniform~~
 8 ~~electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849,~~
 9 ~~or the person's mark attached to or logically associated with a~~
 10 ~~record including, but not limited to, a contract and executed or~~
 11 ~~adopted by the person with the intent to sign the record.~~ **AN**
 12 **INDIVIDUAL'S WRITTEN OR PRINTED NAME, ELECTRONIC SIGNATURE, OR**
 13 **MARK, ATTACHED TO OR LOGICALLY ASSOCIATED WITH A CONTRACT OR OTHER**
 14 **RECORD AND EXECUTED, ADOPTED, OR MADE BY THE INDIVIDUAL WITH THE**
 15 **INTENT TO SIGN THE RECORD.**

16 (c) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT
 17 OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE UNITED STATES
 18 VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO
 19 THE JURISDICTION OF THE UNITED STATES.

20 (D) ~~(e)~~ "Suspension" means the temporary withdrawal of the
 21 ~~notary's~~ **NOTARY PUBLIC'S** commission to perform notarial acts during
 22 the period of the suspension.

23 (E) ~~(d)~~ "Verification upon oath or affirmation" means ~~the~~
 24 ~~declaration by~~ **A DECLARATION, MADE BY AN INDIVIDUAL ON** oath or
 25 affirmation **BEFORE A NOTARY PUBLIC,** that a statement **IN A RECORD** is
 26 true.

27 Sec. 15. (1) An individual shall apply to the secretary for

1 appointment as a notary public in a format as prescribed by the
2 secretary. ~~An~~ **UNLESS THE APPLICATION IS SUBMITTED ELECTRONICALLY**
3 **UNDER SUBSECTION (5), AN** application for appointment as a notary
4 public must include the handwritten signature of the applicant. ~~and~~
5 **AN APPLICATION MUST INCLUDE** all of the following information:

6 (a) The applicant's name, residence address, business address,
7 date of birth, residence and business telephone numbers, and
8 electronic mail address.

9 (b) The applicant's driver license or state personal
10 identification card number.

11 (c) A validated copy of the filing of the bond, if applicable,
12 and oath certificate received from the county clerk.

13 (d) If applicable, a statement showing whether the applicant
14 has previously applied for an appointment as a notary public in
15 this or any other state, the result of the application, and whether
16 the applicant has ever been the holder of a notary public
17 appointment that was revoked, suspended, or canceled in this or any
18 other state.

19 (e) A statement describing the date and circumstances of any
20 felony or misdemeanor conviction of the applicant during the
21 preceding 10 years.

22 (f) A declaration that the applicant is a citizen of the
23 United States or, if not a citizen of the United States, proof of
24 the applicant's legal presence in this country.

25 (g) An affirmation by the applicant that the application is
26 correct, that the applicant has read this act, and that the
27 applicant will perform his or her notarial acts faithfully.

1 (h) Any other information required by the secretary.

2 (2) ~~Each application shall be accompanied by an~~ **AN** application
3 processing fee of \$10.00 **MUST ACCOMPANY AN APPLICATION OR BE PAID**
4 **ELECTRONICALLY UNDER SUBSECTION (5)**. The secretary shall deposit
5 \$1.00 of each fee collected under this subsection into the notary
6 education and training fund established in section 17 on a schedule
7 determined by the secretary.

8 (3) When he or she receives an application ~~that is accompanied~~
9 ~~by~~ **AND** the prescribed processing fee, the secretary may inquire as
10 to the qualifications of the applicant and shall determine whether
11 the applicant meets the qualifications for appointment as a notary
12 public under this act. To assist in deciding whether the applicant
13 is qualified, the secretary may use the law enforcement information
14 network as provided in the C.J.I.S. policy council act, 1974 PA
15 163, MCL 28.211 to 28.215, or the internet criminal history access
16 tool (ICHAT) maintained by the department of state police, to check
17 the criminal background of the applicant.

18 (4) After approval of an application for appointment as a
19 notary public, the secretary shall mail directly to the applicant
20 the certificate of appointment as a notary public. Each certificate
21 of appointment shall identify the individual as a notary public of
22 this state and shall specify the term and county of his or her
23 commission.

24 **(5) THE SECRETARY MAY DEVELOP AND IMPLEMENT AN ELECTRONIC**
25 **APPLICATION AND PAYMENT PROCESS FOR INDIVIDUALS WHO ARE SEEKING**
26 **APPOINTMENT AS A NOTARY PUBLIC. EXCEPT AS PROVIDED IN THIS SECTION,**
27 **ALL OF THE REQUIREMENTS OF THIS SECTION APPLY TO AN APPLICATION OR**

1 PAYMENT MADE USING THIS ELECTRONIC PROCESS.

2 SEC. 26. (1) A NOTARY PUBLIC MAY SELECT 1 OR MORE TAMPER-
3 EVIDENT ELECTRONIC NOTARIZATION SYSTEMS TO PERFORM NOTARIAL ACTS
4 ELECTRONICALLY. A PERSON MAY NOT REQUIRE A NOTARY PUBLIC TO PERFORM
5 A NOTARIAL ACT ELECTRONICALLY WITH AN ELECTRONIC NOTARIZATION
6 SYSTEM THAT THE NOTARY PUBLIC HAS NOT SELECTED.

7 (2) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S
8 INITIAL NOTARIAL ACT ELECTRONICALLY, THE NOTARY PUBLIC SHALL NOTIFY
9 THE SECRETARY THAT THE NOTARY PUBLIC WILL BE PERFORMING NOTARIAL
10 ACTS ELECTRONICALLY AND IDENTIFY THE ELECTRONIC NOTARIZATION SYSTEM
11 THE NOTARY PUBLIC INTENDS TO USE FOR ELECTRONIC NOTARIZATIONS. IF
12 THE SECRETARY AND THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND
13 BUDGET HAVE APPROVED THE USE OF 1 OR MORE ELECTRONIC NOTARIZATION
14 SYSTEMS UNDER SECTION 26A, THE NOTARY PUBLIC MUST SELECT THE SYSTEM
15 HE OR SHE INTENDS TO USE FROM THE APPROVED ELECTRONIC NOTARIZATION
16 SYSTEMS. THE SECRETARY MAY DISALLOW THE USE OF AN ELECTRONIC
17 NOTARIZATION SYSTEM IF THE ELECTRONIC NOTARIZATION SYSTEM DOES NOT
18 SATISFY THE CRITERIA DESCRIBED IN SECTION 26A.

19 SEC. 26A. (1) BY MARCH 30, 2019, THE SECRETARY AND THE
20 DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET SHALL REVIEW AND
21 APPROVE AT LEAST 1 ELECTRONIC NOTARIZATION SYSTEM FOR THE
22 PERFORMANCE OF ELECTRONIC NOTARIZATIONS IN THIS STATE. THE
23 SECRETARY AND THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET
24 MAY APPROVE MULTIPLE ELECTRONIC NOTARIZATION SYSTEMS, AND MAY GRANT
25 APPROVAL OF ADDITIONAL ELECTRONIC NOTARIZATION SYSTEMS ON AN
26 ONGOING BASIS. THE SECRETARY AND THE DEPARTMENT OF TECHNOLOGY,
27 MANAGEMENT, AND BUDGET SHALL REVIEW THE CRITERIA FOR APPROVAL OF

1 ELECTRONIC NOTARIZATION SYSTEMS, AND WHETHER CURRENTLY APPROVED
2 ELECTRONIC NOTARIZATION SYSTEMS REMAIN SUFFICIENT FOR THE
3 ELECTRONIC PERFORMANCE OF NOTARIAL ACTS, AT LEAST EVERY 4 YEARS.

4 (2) SUBJECT TO SUBSECTION (3), IN CONSIDERING WHETHER TO
5 APPROVE AN ELECTRONIC NOTARIZATION SYSTEM FOR USE IN THIS STATE
6 UNDER SUBSECTION (1), THE SECRETARY AND THE DEPARTMENT OF
7 TECHNOLOGY, MANAGEMENT, AND BUDGET SHALL CONSIDER, AT A MINIMUM,
8 THE FOLLOWING:

9 (A) THE NEED TO ENSURE THAT ANY CHANGE TO OR TAMPERING WITH AN
10 ELECTRONIC RECORD CONTAINING THE INFORMATION REQUIRED UNDER THIS
11 ACT IS EVIDENT.

12 (B) THE NEED TO ENSURE INTEGRITY IN THE CREATION, TRANSMITTAL,
13 STORAGE, OR AUTHENTICATION OF ELECTRONIC NOTARIZATIONS, RECORDS, OR
14 SIGNATURES.

15 (C) THE NEED TO PREVENT FRAUD OR MISTAKE IN THE PERFORMANCE OF
16 ELECTRONIC NOTARIZATIONS.

17 (D) THE ABILITY TO ADEQUATELY INVESTIGATE AND AUTHENTICATE A
18 NOTARIAL ACT PERFORMED ELECTRONICALLY WITH THAT ELECTRONIC
19 NOTARIZATION SYSTEM.

20 (E) THE MOST RECENT STANDARDS REGARDING ELECTRONIC
21 NOTARIZATIONS OR RECORDS PROMULGATED BY NATIONAL BODIES, INCLUDING,
22 BUT NOT LIMITED TO, THE NATIONAL ASSOCIATION OF SECRETARIES OF
23 STATE.

24 (F) THE STANDARDS, PRACTICES, AND CUSTOMS OF OTHER
25 JURISDICTIONS THAT ALLOW ELECTRONIC NOTARIAL ACTS.

26 (3) IF AN ELECTRONIC NOTARIZATION SYSTEM FOR THE PERFORMANCE
27 OF ELECTRONIC NOTARIZATIONS IS APPROVED OR CERTIFIED BY A

1 GOVERNMENT-SPONSORED ENTERPRISE, AS THAT TERM IS DEFINED IN 2 USC
2 622(8), THE SECRETARY AND THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT,
3 AND BUDGET SHALL APPROVE THE SYSTEM FOR USE IN THIS STATE IF
4 VERIFIABLE PROOF OF THAT APPROVAL OR CERTIFICATION IS PROVIDED TO
5 THE SECRETARY AND DEPARTMENT, UNLESS THE USE OF THE ELECTRONIC
6 NOTARIZATION SYSTEM IS AFFIRMATIVELY DISALLOWED BY THE SECRETARY.

7 Sec. 26b. (1) ~~Beginning~~ BY March 30, 2019, the secretary and
8 the department of technology, management, and budget shall review
9 and may approve remote electronic notarization platforms for the
10 performance of notarial acts in this state. A notary public shall
11 not use a remote electronic notarization platform that is not
12 approved under this section.

13 (2) Subject to subsection (3), in developing criteria for the
14 approval of any remote electronic notarization platform for use in
15 this state, the secretary of state and the department of
16 technology, management, and budget shall consider, at a minimum,
17 all of the following:

18 (a) The need to ensure that any change to or tampering with an
19 electronic record containing the information required under this
20 act is evident.

21 (b) The need to ensure integrity in the creation, transmittal,
22 storage, or authentication of remote electronic notarizations,
23 records, or signatures.

24 (c) The need to prevent fraud or mistake in the performance of
25 remote electronic notarizations.

26 (d) The ability to adequately investigate and authenticate a
27 notarial act performed remotely with that remote electronic

1 notarization platform.

2 (e) The most recent standards regarding remote electronic
3 notarization promulgated by national bodies, including, but not
4 limited to, the National Association of Secretaries of State.

5 (f) The standards, practices, and customs of other
6 jurisdictions that allow remote electronic notarial acts.

7 (3) If a remote electronic notarization platform for the
8 performance of remote electronic notarizations is approved or
9 certified by a government-sponsored enterprise, as that term is
10 defined in 2 USC 622(8), the secretary of state and the department
11 of technology, management, and budget shall approve the platform
12 for use in this state if verifiable proof of that approval or
13 certification is provided to the secretary and department, unless
14 use of the remote electronic notarization platform is affirmatively
15 disallowed by the secretary.

16 (4) The secretary and the department of technology,
17 management, and budget shall review their standards for approving
18 remote electronic notarization platforms for use in this state, and
19 whether the number of approved remote electronic notarization
20 platforms are sufficient, at least every 4 years.

21 (5) A notary public may perform a notarial act using a remote
22 electronic notarization platform if either of the following is met:

23 (a) The notary public makes all applicable determinations
24 under section 25 according to personal knowledge or satisfactory
25 evidence, performance of the notarial act complies with section 27,
26 and the notary public does not violate section 31 in the
27 performance of the notarial act.

1 (b) The notary public, through use of the remote electronic
2 notarization platform, personal knowledge, or satisfactory
3 evidence, is able to identify the record before the notary public
4 as the same record presented by the individual for notarization.

5 (6) The notary public shall not record by audio or visual
6 means a notarial act performed using a remote electronic
7 notarization platform, unless the notary public discloses to the
8 person that requested the notarial act that an audio or visual
9 recording is being made and how the recording will be preserved,
10 and the person consents or has previously consented to the
11 recording. A notary public may refuse to conduct a notarial act
12 using a remote electronic notarization platform if the person that
13 requested the notarial act objects to an audio or visual recording
14 of the notarial act.

15 (7) If a notary public performs notarial acts using a remote
16 electronic notarization platform, the notary public shall maintain
17 a journal that records, at a minimum, each of those notarial acts.
18 A notary public shall maintain only 1 journal for the recording of
19 notarial acts and must keep the journal either as a tangible,
20 permanent bound register or in a tamper-evident, permanent
21 electronic format. A notary public shall retain the journal for at
22 least 10 years after the performance of the last notarial act
23 recorded in it. If a notary public is not reappointed, or his or
24 her commission is revoked, the former notary public shall inform
25 the secretary of state where the journal is kept or, if directed by
26 the secretary, shall forward the journal to the secretary or a
27 repository designated by the secretary.

1 (8) A notary public shall make an entry in a journal
2 maintained under subsection (7) contemporaneously with performance
3 of the notarial act, and the entry must include, at a minimum, all
4 of the following:

5 (a) The date, time, and nature of the notarial act.

6 (b) A description of the record, if any.

7 (c) The full name and address of each individual for whom the
8 notarial act is performed.

9 (d) If the identity of the individual for whom the notarial
10 act is performed is based on personal knowledge, a statement to
11 that effect. If the identity of the individual for whom the
12 notarial act is performed is based on satisfactory evidence, a
13 brief description of the method of identification and the
14 identification credential presented, if any, including the date of
15 issuance and expiration for the credential.

16 (e) The fee charged, if any, by the notary public.

17 (9) An entry made in a journal maintained by a notary public
18 under subsection (7) must also reference, but shall not itself
19 contain, any audio or visual recording of a notarial act performed
20 using a remote electronic notarization platform. Subject to
21 subsection (1), a notary public must retain an audio or visual
22 recording of a notarial act for at least 10 years after the
23 performance of the notarial act.

24 (10) A notary public may designate a custodian to do any of
25 the following:

26 (a) Maintain the journal required under subsection (7) on his
27 or her behalf.

1 (b) Retain an audio or visual recording of a notarial act
2 under subsection (9) on his or her behalf. If an audio or visual
3 recording of a notarial act is transferred to a custodian to hold
4 on behalf of the notary public, the journal entry must identify the
5 custodian with sufficient information to locate and contact that
6 custodian.

7 (11) A notarial act performed using a remote electronic
8 notarization platform under this section that otherwise satisfies
9 the requirements of this act is presumed to satisfy any requirement
10 under this act that a notarial act be performed in the presence of
11 a notary public.

12 ~~———— (12) As used in this section:~~

13 ~~———— (a) "Credential analysis" means a process or service by which~~
14 ~~a third party affirms the validity of an identity document~~
15 ~~described in section 25(6) (c) through a review of public and~~
16 ~~proprietary data sources conducted remotely.~~

17 ~~———— (b) "Identity proofing" means a process or service by which a~~
18 ~~third party provides a notary public with a reasonable means to~~
19 ~~verify the identity of an individual through a review of personal~~
20 ~~information from public or proprietary data sources conducted~~
21 ~~remotely.~~

22 ~~———— (c) "Remote electronic notarization platform" means any~~
23 ~~combination of technology that enables a notary to perform a~~
24 ~~notarial act remotely; that allows the notary public to communicate~~
25 ~~by sight and sound with the individual for whom he or she is~~
26 ~~performing the notarial act, and witnesses, if applicable, by means~~
27 ~~of audio and visual communication; and that includes features to~~

1 ~~conduct credential analysis and identity proofing.~~

2 Sec. 27. (1) A notary public shall place his or her signature
3 on every record upon which he or she performs a notarial act. The
4 notary public shall sign his or her name exactly as his or her name
5 appears on his or her application for commission as a notary
6 public.

7 (2) On each record that a notary public performs a notarial
8 act and immediately near the notary public's signature, as is
9 practical, the notary public shall print, type, stamp, or otherwise
10 imprint mechanically or electronically sufficiently clear and
11 legible to be read by the secretary and in a manner capable of
12 photographic reproduction all of the following in this format or in
13 a similar format that conveys all of the same information:

14 (a) The name of the notary public exactly as it appears on his
15 or her application for commission as a notary public.

16 (b) The statement: "Notary public, State of Michigan, County
17 of _____."

18 (c) The statement: "My commission expires _____."

19 (d) If performing a notarial act in a county other than the
20 county of commission, the statement: "Acting in the County of
21 _____."

22 (e) The date the notarial act was performed.

23 (f) If applicable, whether the notarial act was performed
24 ~~electronically~~ **USING AN ELECTRONIC NOTARIZATION SYSTEM UNDER**
25 **SECTION 26A** or performed using a remote electronic notarization
26 platform under section 26b.

27 (3) A notary public may use a stamp, seal, or electronic

1 process that contains all of the information required by ~~by~~ **UNDER**
2 subsection (2). However, **THE NOTARY PUBLIC SHALL NOT USE** the stamp,
3 seal, or electronic process ~~shall not be used~~ in a manner that
4 renders anything illegible on the record being notarized. ~~An~~ **A**
5 **NOTARY PUBLIC SHALL NOT USE AN** embosser alone or **USE** any other
6 method that cannot be reproduced. ~~shall not be used.~~

7 (4) The illegibility of the statements required ~~in~~ **UNDER**
8 subsection (2) does not affect the validity of the transaction or
9 record that was notarized.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.

12 Enacting section 2. This amendatory act does not take effect
13 unless all of the following bills of the 99th Legislature are
14 enacted into law:

- 15 (a) Senate Bill No. 996.
16 (b) Senate Bill No. 997.
17 (c) Senate Bill No. 998.