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.

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.

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

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.
• 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
CERTIFICATION OF ENROLLMENT

SENATE BILL 5641

Chapter 154, Laws of 2019

66th Legislature
2019 Regular Session

ELECTRONIC NOTARIAL ACTS

EFFECTIVE DATE: October 1, 2020

Passed by the Senate February 13, 2019
Yeas 47  Nays 0

KAREN KEISER
President of the Senate

Passed by the House April 12, 2019
Yeas 94  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SENATE BILL 5641 as passed by Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON
Secretary

Approved April 26, 2019 11:30 AM

FILED

April 29, 2019

JAY INSLEE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to electronic notarial acts by remotely located individuals; amending RCW 42.45.020, 42.45.040, 42.45.130, 42.45.140, 42.45.900, 9A.60.050, 65.08.030, and 65.08.070; adding a new section to chapter 42.45 RCW; prescribing penalties; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. A new section is added to chapter 42.45 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Communication technology" means an electronic device or process that:

(i) Allows an electronic records notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(ii) When necessary under and consistent with other applicable law, facilitates communication with a remotely located individual with a vision, hearing, or speech impairment.

(b) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.
(c) "Identity proofing" means a process or service by which a third person provides an electronic records notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(d) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(e) "Remotely located individual" means an individual who is not in the physical presence of the electronic records notary public who performs a notarial act under subsection (3) of this section.

(2) A remotely located individual complies with RCW 42.45.040 by using communication technology to appear before an electronic records notary public.

(3) An electronic records notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(a) The electronic records notary public:

   (i) Has personal knowledge under RCW 42.45.050(1) of the identity of the remotely located individual;

   (ii) Has satisfactory evidence of the identity of the remotely located individual by a verification on oath or affirmation of a credible witness appearing before and identified by the electronic records notary public under RCW 42.45.050(2); or

   (iii) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(b) The electronic records notary public is reasonably able to confirm that a record before the electronic records notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(c) The electronic records notary public, or a person acting on behalf of the electronic records notary public, creates an audio-visual recording of the performance of the notarial act; and

(d) For a remotely located individual located outside the United States:

   (i) The record:

      (A) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or
(B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(ii) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(4) If a notarial act is performed under this section, the certificate of notarial act required by RCW 42.45.130 and the short-form certificate provided in RCW 42.45.140 must indicate that the notarial act was performed using communication technology.

(5) A short-form certificate provided in RCW 42.45.140 for a notarial act subject to this section is sufficient if it:

(a) Complies with rules adopted under subsection (8)(a) of this section; or

(b) Is in the form provided by RCW 42.45.140 and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(6) An electronic records notary public, a guardian, conservator, or agent of an electronic records notary public, or a personal representative of a deceased electronic records notary public shall retain the audio-visual recording created under subsection (3)(c) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection (8)(d) of this section, the recording must be retained for a period of at least ten years after the recording is made.

(7) Before an electronic records notary public performs the electronic records notary public's initial notarial act under this section, the electronic records notary public must notify the director that the electronic records notary public will be performing notarial acts and identify the technologies the electronic records notary public intends to use. If the director has established standards under subsection (8) of this section and RCW 42.45.250 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

(8) In addition to adopting rules under RCW 42.45.250, the director may adopt rules under this section regarding performance of a notarial act. The rules may:
(a) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;
(b) Establish standards for communication technology and identity proofing;
(c) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and
(d) Establish standards and a period for the retention of an audio-visual recording created under subsection (3)(c) of this section.
(9) Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the director must consider:
(a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual adopted by national standard-setting organizations and the recommendations of the national association of secretaries of state;
(b) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and
(c) The views of governmental officials and entities and other interested persons.

Sec. 2. RCW 42.45.020 and 2017 c 281 s 4 are each amended to read as follows:
(1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.
(2)(a) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party, or in which any of the above have a direct beneficial interest.
(b) A notarial officer may not notarize the notarial officer's own signature.
(c) A notarial act performed in violation of this subsection (2) is voidable.
(3) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

Sec. 3. RCW 42.45.040 and 2017 c 281 s 6 are each amended to read as follows:
Except as provided in section 1 of this act, if a notarial act relates to a statement made in or a signature executed on a record,
the individual making the statement or executing the signature shall appear personally before the notarial officer.

Sec. 4. RCW 42.45.130 and 2017 c 281 s 15 are each amended to read as follows:

(1) A notarial act must be evidenced by a certificate. The certificate must:
   (a) Be executed contemporaneously with the performance of the notarial act;
   (b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the department;
   (c) Identify the jurisdiction in which the notarial act is performed;
   (d) Contain the title of office of the notarial officer;
   (e) Be written in English or in dual languages, one of which must be English; 
   (f) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission; and
   (g) If the notarial act is performed under section 1 of this act, indicate that the notarial act was performed using communication technology.

(2) Regarding notarial act certificates on a tangible record:
   (a) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate.
   (b) If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be affixed to or embossed on the certificate.

(3) Regarding notarial act certificates on an electronic record:
   (a) If a notarial act regarding an electronic record is performed by an electronic records notary public, an official stamp must be attached to or logically associated with the certificate.
   (b) If a notarial act regarding an electronic record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be attached to or logically associated with the certificate.
(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) through (3) of this section and:
   (a) Is in a short form set forth in RCW 42.45.140;
   (b) Is in a form otherwise permitted by the law of this state;
   (c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or
   (d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in RCW 42.45.030, 42.45.040, and 42.45.050 or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in RCW 42.45.030, 42.45.040, and 42.45.050.

(6) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(7) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the director has established standards pursuant to RCW 42.45.250 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

Sec. 5. RCW 42.45.140 and 2017 c 281 s 16 are each amended to read as follows:

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by RCW 42.45.130 (1) through (4) and section 1 of this act:

   (1) For an acknowledgment in an individual capacity:
   State of .......
   County of .......
   This record was acknowledged before me on (date) by (name(s) of individuals).
   
   ......................
   (Signature of notary public)
(Stamp)

(Title of office)

My commission expires:

..............

(date)

(2) For an acknowledgment in a representative capacity:

State of .......

County of .......

This record was acknowledged before me on (date) by (name(s) of individuals) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

..............

(Signature of notary public)

(Stamp)

(Title of office)

My commission expires:

..............

(date)

(3) For verification on oath or affirmation:

State of .......

County of .......

Signed and sworn to (or affirmed) before me on (date) by (name(s) of individuals making statement).

..............

(Signature of notary public)

(Stamp)

(Title of office)

My commission expires:

..............

p. 7
(4) For witnessing or attesting a signature:
   State of .......
   County of .......
   Signed or attested before me on (date) by (name(s) of individuals).

   ........................................
   (Signature of notary public)

   (Stamp)

   ........................................
   (Title of office)
   My commission expires:

   ........................................
   (date)

(5) For certifying or attesting a copy of a record:
   State of .......
   County of .......
   I certify that this is a true and correct copy of a record in the possession of .........

   Dated: ........................................

   ........................................
   (Signature of notary public)

   (Stamp)

   ........................................
   (Title of office)
   My commission expires:

   ........................................
   (date)

(6) For certifying the occurrence of an event or the performance of any act:
   State of .......
   County of .........
I certify that the event described in this document has occurred or been performed.

Dated: ........................................

........................................

(Signature of notary public)

(Stamp)

........................................

(Title of office)

My commission expires:

........................................

(date)

Sec. 6. RCW 42.45.900 and 2017 c 281 s 1 are each amended to read as follows:

This chapter may be known and cited as the 2018 revised uniform law on notarial acts.

Sec. 7. RCW 9A.60.050 and 2011 c 336 s 384 are each amended to read as follows:

(1) A person is guilty of false certification, if, being an officer authorized to take a proof or acknowledgment of an instrument which by law may be recorded, he or she knowingly certifies falsely that the execution of such instrument was acknowledged by any party thereto or that the execution thereof was proved.

(2) A person is guilty of false certification, if, being a notarial officer making a certification authorized by RCW 42.45.020(3), he or she knowingly certifies falsely that a tangible copy of an electronic record is an accurate copy of the electronic record.

(3) False certification is a gross misdemeanor.

Sec. 8. RCW 65.08.030 and 1953 c 115 s 1 are each amended to read as follows:

(1) An instrument in writing purporting to convey or encumber real estate or any interest therein, which has been recorded in the auditor's office of the county in which the real estate is situated, although the instrument may not have been executed and acknowledged
in accordance with the law in force at the time of its execution, shall impart the same notice to third persons, from the date of recording, as if the instrument had been executed, acknowledged, and recorded, in accordance with the laws regulating the execution, acknowledgment, and recording of the instrument then in force.

(2) A tangible copy of an electronic record purporting to convey or encumber real estate or any interest therein, which has been recorded in the auditor's office of the county in which the real estate is situated, although the tangible copy may not have been certified by a notarial officer in accordance with RCW 42.45.020(3), imparts the same notice to third persons, from the date of recording, as if the tangible copy had been so certified.

Sec. 9. RCW 65.08.070 and 2012 c 117 s 208 are each amended to read as follows:

(1) A conveyance of real property, when acknowledged by the person executing the same (the acknowledgment being certified as required by law), may be recorded in the office of the recording officer of the county where the property is situated. Every such conveyance not so recorded is void as against any subsequent purchaser or mortgagee in good faith and for a valuable consideration from the same vendor, his or her heirs or devisees, of the same real property or any portion thereof whose conveyance is first duly recorded. An instrument is deemed recorded the minute it is filed for record.

(2) A recording officer as defined in RCW 65.08.060(4) may accept for recording under this section a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record under RCW 42.45.020(3).

NEW SECTION. Sec. 10. This act takes effect October 1, 2020.

Passed by the Senate February 13, 2019.
Passed by the House April 12, 2019.
Approved by the Governor April 26, 2019.
Filed in Office of Secretary of State April 29, 2019.

--- END ---
Sanjay Walvekar

From: Kremer, Lisa <LKremer@gth-law.com>
Sent: Wednesday, March 18, 2020 1:07 PM
To: Sanjay Walvekar
Subject: FW: Input Requested: electronic notarization discussion

Hi Sanjay,

I spent a couple of hours looking into this yesterday. It appears to me that changing the implementation date would allow us to use online notarization services in other states, like notarize.com. That would be very helpful in enabling us to continue helping clients who are anxious about their personal documents, while also observing public health best practices.

My guess is we are a long ways from having people licensed in Washington to do remote notarization, because there will need to be new WACs and the notaries will need training on the procedure and endorsement on their licenses. But moving up the implementation date would be valuable because it would allow us to access notaries that are licensed in other states that already have their procedures up and running under their state laws. We could start using remote notarization immediately.

This would be immensely helpful in my estate planning and probate practice. We have clients who are more anxious than ever about getting their plans done, but of course visiting them in person is against public health guidelines. Remote notarization will really help with POAs, deeds and community property agreements. And, to some extent, with Wills.

Thanks,
Lisa Kremer

Lisa Kremer
Attorney at Law

Gordon Thomas Honeywell LLP
Tacoma Office
1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
T 253 620 6429
F 253 620 6565
lkremer@gth-law.com
http://www.gth-law.com

NOTICE: The information contained in this e-mail communication is confidential and may be protected by the attorney/client or work product privileges. If you are not the intended recipient or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use the information. Also, please indicate to the sender that you have received this email in error and delete the copy you received. Thank you.

From: Paris Eriksen <parise@wsba.org>
Sent: Wednesday, March 18, 2020 12:36 PM
To: WSBA Section Leaders <section-leaders@list.wsba.org>
Cc: Sanjay Walvekar <Sanjayw@wsba.org>
Subject: [section-leaders] Input Requested: electronic notarization discussion

Section Leaders,
The **BOG Legislative Committee** is meeting this Monday, March 23 (12-12:30pm) to discuss whether the WSBA Board of Governors should formally asking Gov. Inslee to change the implementation date of **SB 5641**, on electronic notarization.

If you, or anyone else you know, would like to provide input on this discussion, please contact Sanjay Walvekar, our Outreach and Legislative Affairs Manager, at [Sanjayw@wsba.org](mailto:Sanjayw@wsba.org). He can provide information for you to call into the discussion, or you can send your input in writing and he will share it with the Committee.

Cheers,

Paris

Paris A. Eriksen | Member Services & Engagement Manager  
Washington State Bar Association | ☎️ 206.239.2116 | [parise@wsba.org](mailto:parise@wsba.org)  
1325 Fourth Avenue #600 | Seattle, WA 98101-2539 | [www.wsba.org](http://www.wsba.org)  
The WSBA is committed to full access and participation by persons with disabilities. If you have questions about accessibility or require accommodation please contact [parise@wsba.org](mailto:parise@wsba.org)

*Consistent with recommendations from the City of Seattle and the King County Department of Public Health, some WSBA employees will be working remotely to slow the spread of COVID-19. We expect minimal interruption in services. Please note that contacting staff via email instead of telephone may result in a faster response time. We hope that by taking these steps we can help to slow the spread of the virus in our community and protect those that are most vulnerable as well as those that can’t stay home. Thank you for your patience and understanding.*

---

You are currently subscribed to section-leaders as: [lkremer@gth-law.com](mailto:lkremer@gth-law.com). If you wish to unsubscribe, please contact the [WSBA List Administrator](mailto:).
Sanjay- New York has acted (in Mass, it’s still just a proposal made by lawyers, i think).

Karen

Sent from my iPad

Governor Cuomo, by Executive Order No. 202.7, will allow “notarial acts” required under New York law to be performed using “audio-video technology” (while not mentioned in the Order, presumably, Skype, Zoom or other similar technology).

The Order requires the following:

- if not personally known to the notary, the person “seeking notarial services” must present valid photo ID during the conference--and not before or after the conference;

- the video conference must allow for “direct interaction between the person and the notary (the Order explicitly refers to “no pre-recorded videos of the person signing);

- the person must affirmatively represent that he or she is physically situated in New York State; and

- the person must transmit by fax or electronic means a “legible copy” of the signed document directly to the notary “on the same date it was signed;”

The Order contemplates that a notary may repeat the notarization of the original signed document (as of the date of the execution) if the notary receives the original signed document together with the electronically notarized copy within 30 days after the date of execution (presumably, the use of “together” does not change the requirement that the copy be sent as of the date of notarization).
The Order is in force from March 19 through April 18.

---

**Martin W. O'Toole**  
**Harter Secrest & Emery LLP**, Attorneys and Counselors  
1600 Bausch & Lomb Place, Rochester, NY 14604-2711  
**Firm** 585.232.6500  **Direct** 585.231.1103  **Fax** 585.232.2152  
motoole@hselaw.com  vCard  Bio  
www.hselaw.com

This e-mail message is from a law firm and may contain information that is privileged or confidential. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this electronic mail transmission in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail at motoole@hselaw.com or by calling 585.231.1103, so that our address record can be corrected.

---

**From:** ACTEC Practice List <actec-prac@ACTEC.ORG>  
**On Behalf Of** Rothstein, Andrew D.  
**Sent:** Thursday, March 19, 2020 9:12 PM  
**To:** actec-prac@ACTEC.ORG  
**Subject:** Re: [actec-prac] Executive Orders Suspending Will Execution Requirements

**CAUTION: External email. Beware of links and attachments.**

---

I understand that that there is an ad hoc group of attorneys in Massachusetts that is proposing that the governor issue an executive order regarding certain requirements for notarization and witnessing of wills. It’s not clear to me whether the governor’s office has anything to do with the proposal at this point.

For those of you who are interested, below I cut and pasted a version of the draft text that was circulated to some members of the Massachusetts trusts and estates bar today.
WHEREAS, I have issued a proclamation declaring that a state of emergency exists within the Commonwealth due to the outbreak of COVID-19;

WHEREAS, there are extreme risks of person-to-person transmission of COVID-19 and one of the critical steps required to mitigate the spread of COVID-19 is to all exposure to other persons;

WHEREAS, the elderly and disabled populations of the Commonwealth are the most vulnerable to serious harm to their health and finances because of COVID-19. Due to the current state of emergency and other protective measures put in place to address COVID-19, these vulnerable populations are deprived of the ability to obtain services and complete essential legal documents necessary to protect themselves and their loved ones;

WHEREAS, Massachusetts law currently requires a last will and testament to be witnessed by two persons who are physically present in the same room as the testator, and Massachusetts law currently requires notaries public to witness signings in person;

WHEREAS, policies in place at skilled nursing facilities, assisted living facilities and other residential facilities are now preventing witnesses and notary publics from meeting in person with elderly and disabled residents;

WHEREAS, the requirement of in-person witnessing was established for the protection of Massachusetts residents, but it now may prevent our most vulnerable populations from receiving legal services in their times of greatest need;

WHEREAS, licensed attorneys in the Commonwealth of Massachusetts have fiduciary obligations to clients and ethical obligations to the courts and they are bound to uphold the law;
WHEREAS, videoconferencing technology and electronic signature technology have improved significantly, diminishing the risks of remote witnessing;

WHEREAS, in consultation with the Probate and Family Courts, the Land Court, and the Board of Bar Overseers, I have determined that it is necessary and expedient to meet the state of emergency by allowing notaries public who are also attorneys licensed by the Commonwealth of Massachusetts to notarize signatures including Acknowledgements, Affirmations, and Jurats virtually through videoconferencing programs and using electronic signature technology, and to confirm the signatures of witnesses who participate virtually through videoconferencing as though they were physically present at the signing, so long as each person participating in the signing is physically located in Massachusetts at the time of signing;

WHEREAS, if several persons sign a document simultaneously in different locations, they must necessarily sign separate signature pages and therefore all documents executed in this manner must be executed in counterparts;

NOW THEREFORE I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, do hereby order as follows:

Section 1. Notwithstanding any general or special law to the contrary, notaries public who are also attorneys licensed by the Commonwealth of Massachusetts may notarize signatures including Acknowledgements, Affirmations, and Jurats virtually through videoconferencing programs.

Section 2. Notwithstanding any general or special law to the contrary, notaries public who are also attorneys licensed by the Commonwealth of Massachusetts may notarize signatures including Acknowledgements, Affirmations, and Jurats virtually through videoconferencing programs using electronic signature technology.

Section 3. Notwithstanding any general or special law to the contrary, any person who witnesses a document through videoconference technology may be considered an “in person” witness, provided that the presence and identity of such witness are validated at the time of the signing by an attorney licensed by the Commonwealth of Massachusetts.
Section 4. Notwithstanding any general or special law to the contrary, absent an express prohibition in a
document against signing in counterparts, all legal documents, including deeds, last wills and
testaments, durable powers of attorney, and health care proxies, may be signed in counterpart.

Section 5. Authority granted pursuant to this Order shall automatically expire when the state of
emergency is terminated, or at such other time as I may direct in a subsequent Executive Order.

From: ACTEC Practice List <actec-prac@ACTEC.ORG> on behalf of Amy K. Kanyuk
<akanyuk@MCKAN.COM>
Sent: Thursday, March 19, 2020 5:51:37 PM
To: actec-prac@ACTEC.ORG <actec-prac@ACTEC.ORG>
Subject: Re: [actec-prac] Executive Orders Suspending Will Execution Requirements

Note - the draft executive order in Mass. is for remote notarization, but, as far as I know, doesn't
address the execution requirements for a will.

Amy K. Kanyuk, Esq.
7 Hills Avenue
Concord, New Hampshire 03301
(603) 228-9900
akanyuk@mckan.com
www.mckan.com

---

You are currently subscribed to elder-law-section as: Eleent@wsba.org.

To receive the Daily Digest format, send an email to: digest-elder-law-section@list.wsba.org.

If you wish to unsubscribe, please contact the WSBA List Administrator.

---