

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 985 (Delegate Platt)
Health and Government Operations

Task Force to Study Notary Laws and Remote and Electronic Notarization

This bill establishes the Task Force to Study Notary Laws and Remote and Electronic Notarization staffed by the Office of the Secretary of State (SOS). The task force must (1) study the practices of remote notarization and electronic notarization in other jurisdictions and (2) make recommendations regarding the feasibility of authorizing remote notarization or electronic notarization in the State. Task force members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations. The task force must report its findings and recommendations to the Governor, SOS, and the General Assembly by December 1, 2018. **The bill takes effect July 1, 2018, and terminates June 30, 2019.**

Fiscal Summary

State Effect: SOS advises that it anticipates a substantial operational impact on its office to serve on and provide staff for the task force. Although the Department of Legislative Services concurs that the bill increases the workload for SOS, any expense reimbursements for task force members and staffing costs for SOS are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Notaries, Generally

A notary public must (1) be at least age 18; (2) be of good moral character and integrity; (3) live or work in Maryland; and (4) be a resident of the senatorial district in which he or she is appointed or, if living outside the state, be a resident of a state that allows Maryland residents working in that state to serve as notaries. The term of a notary is four years.

A notary public must provide a public notarial seal or stamp with which the notary will authenticate the notary's acts, instruments, and attestations. The seal or stamp must include the name, surname, and office of the notary and the notary's place of residence, which must be designated by the county of the notary's residence or, if the notary is a resident of Baltimore City, Baltimore City.

Commercial Transactions

The Maryland Uniform Electronic Transactions Act (MUETA) gives legal effect to an electronic record or signature provided the procedures in the Act are adhered to. Under MUETA, a contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation, and if a law requires a record to be in writing, an electronic record satisfies the law. Similarly, if a law requires a signature, an electronic signature satisfies the law.

Federal Law

In June 2000, the U.S. Congress passed the federal Electronic Signatures in Global and National Commerce Act, which states that if a statute, regulation, or other rule of law requires a signature or record relating to a transaction to be notarized, acknowledged, verified, or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable statute, regulation, or rule of law, is attached to or logically associated with the signature or record.

Several states have laws authorizing notarizations of electronic documents using an electronic notary seal. However, in most of these states, the signer is still required to appear in person for a notary to notarize a document. On July 1, 2012, Virginia became the first state in the country to authorize remote, online notarization, which allows an electronic notary to perform a notarization without being in the physical presence of the signer.

According to the National Notary Association, as of August 2017, four states in addition to Virginia (Montana, Nevada, Ohio, and Texas) allow remote electronic notarization.

Additional Information

Prior Introductions: None.

Cross File: SB 280 (Senators Norman and Feldman) - Judicial Proceedings.

Information Source(s): Secretary of State; National Notary Association; Electronic Signatures in Global and National Commerce Act; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2018
md/mcr

Analysis by: Michelle Davis

Direct Inquiries to:
(410) 946-5510
(301) 970-5510