

**JOURNAL OF NOTARY PUBLIC ACTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Peter C. Knudson**

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**LONG TITLE**

**General Description:**

This bill modifies the Notaries Public Reform Act to address notary journals.

**Highlighted Provisions:**

This bill:

- ▶ requires a notary to keep a journal;
- ▶ eliminates the requirement that notary journals be public records;
- ▶ provides an exception related to the Department of Public Safety;
- ▶ eliminates the provision related to keeping an electronic journal;
- ▶ addresses inspection of a journal; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**46-1-13**, as repealed and reenacted by Chapter 287, Laws of Utah 1998

**46-1-14**, as last amended by Chapter 312, Laws of Utah 2000

**46-1-15**, as repealed and reenacted by Chapter 287, Laws of Utah 1998

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*Be it enacted by the Legislature of the state of Utah:*



Section 1. Section **46-1-13** is amended to read:

**46-1-13. Journal shall be kept.**

(1) A notary ~~[may]~~ shall:

(a) keep[;] a journal meeting the requirements of Subsection (2);

(b) maintain[;] and protect [as a public record,] the journal described in Subsection (1)(a) in accordance with Section 46-1-15; and

(c) provide for lawful inspection [a chronological, permanently bound official journal of notarial acts, containing numbered pages.] of the journal described in Subsection (1)(a) in accordance with Section 46-1-15.

(2) A journal that a notary is required to keep under Subsection (1) shall:

(a) be the notary's official journal of the information described in Section 46-1-14;

(b) record notarial acts in chronological order;

(c) be permanently bound; and

(d) contain numbered pages.

Section 2. Section **46-1-14** is amended to read:

**46-1-14. Entries in journal.**

(1) For every notarial act, the notary ~~[may]~~ shall record in the journal at the time of notarization the following information including:

(a) the date and time of day of the notarial act;

(b) the type of notarial act;

(c) a description of the document or proceeding;

(d) the signature and printed name and address of each person for whom a notarial act is performed;

(e) the evidence of identity of each person for whom a notarial act is performed, in the form of ~~[either]~~:

(i) a statement that the person is "personally known" to the notary; ~~[or]~~

(ii) a description of:

(A) the identification document[;its];

(B) the issuing agency[;its] of the identification document;

(C) the serial or identification number[;] of the identification document; and [its]

(D) the date of issuance or expiration of the identification document; [and] or

(iii) the signature and printed name and address of a credible witness swearing or affirming to the person's identity; and

(f) the fee, if any, charged for the notarial act.

(2) A notary may record in the journal the circumstances in refusing to perform or complete a notarial act.

(3) ~~[If a notarization is performed electronically, the notary may keep an electronic journal in which to record the information described in Subsections (1) and (2).]~~ All electronic notarizations shall be evidenced by a digital signature.

(4) Notwithstanding the other provisions of this section and Sections 46-1-13 and 46-1-15, a notary is not required to enter in a journal the information described in Subsection (1) or (2) for a notarial act if:

(a) (i) the notary is an employee of the Department of Public Safety; or

(ii) the document notarized by the notarial act is used in the ordinary course of services performed by the Department of Public Safety; and

(b) the Department of Public Safety maintains a copy of the document that is notarized for the time period prescribed by law.

Section 3. Section **46-1-15** is amended to read:

**46-1-15. Safekeeping and custody of journal -- Inspection of journal.**

~~[If a notary maintains a journal, the]~~ (1) A notary shall:

~~[(1)]~~ (a) safeguard the notary's official journal and all other notarial records ~~[as valuable public documents and may not destroy the documents; and];~~

~~[(2)]~~ (b) keep the notary's official journal in the exclusive custody of the notary~~[-not to]; and~~

(c) allow inspection of the notary's official journal without restriction:

(i) by a law enforcement officer in the course of an official investigation;

(ii) if subpoenaed by a court order; or

(iii) at the direction of the lieutenant governor.

(2) A notary may not destroy the notary's official journal or any other notarial records.

(3) A notary's official journal may not:

(a) be used by any other notary; or

(b) be surrendered to an employer upon termination of employment.

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**Legislative Review Note**  
**as of 1-8-04 12:55 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**