

243 (1) A remote notary who receives a remote notary certification under Section 46-1-3.5  
 244 may perform a remote notarization if the remote notary is physically located in this state.

245 (2) A remote notary that performs a remote notarization for an individual that is not  
 246 personally known to the remote notary shall, at the time the remote notary performs the remote  
 247 notarization, establish satisfactory evidence of identity for the individual by:

248 (a) communicating with the individual using an electronic device or process that:

249 (i) allows the individual and remote notary to communicate with one another  
 250 simultaneously by sight and sound; and

251 (ii) complies with rules made under Section 46-1-3.7; and

252 (b) requiring the individual to transmit to the remote notary an image of a form of  
 253 identification described in Subsection 46-1-2(17)(a)(i)(A) or passport described in Subsection  
 254 46-1-2(17)(a)(i)(B) that is of sufficient quality for the remote notary to establish satisfactory  
 255 evidence of identity.

256 (3) ~~H~~→ (a) ←~~H~~ A remote notary shall create an audio and video recording of the  
 256a performance of

257 each remote notarization and store the recording in accordance with Sections 46-1-14 and  
 258 46-1-15.

258a ~~H~~→ (b) A remote notary shall take reasonable steps, consistent with industry standards, to  
 258b ensure that any non-public data transmitted or stored in connection with a remote notarization  
 258c performed by the remote notary is secure from unauthorized interception or disclosure. ←~~H~~

259 (4) Notwithstanding any other provision of law, a remote notarization lawfully  
 260 performed under this chapter satisfies any provision of state law that requires an individual to  
 261 personally appear before, or be in the presence of, a notary at the time the notary performs a  
 262 notarial act.

263 Section 5. Section **46-1-3.7** is enacted to read:

264 **46-1-3.7. Rulemaking authority for remote notarization.**

265 (1) The director of elections in the Office of the Lieutenant Governor may make rules  
 266 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding  
 267 standards for and types of:

268 (a) electronic software and hardware that a remote notary may use to:

269 (i) perform a remote notarization; and

270 (ii) keep an electronic journal under Section 46-1-13;

271 (b) public and proprietary data sources that a remote notary may use to establish  
 272 satisfactory evidence of identity under Subsection 46-1-2(17)(b);

273 (c) dynamic knowledge-based authentication or biometric data analysis that a remote

553 notary shall:

554 (i) destroy the notary's official seal and certificate; and

555 (ii) if the notary is a remote notary, destroy any coding, disk, certificate, card, software,  
556 or password that enables the remote notary to affix the remote notary's electronic signature or  
557 electronic seal to a notarial certificate.

558 (b) A former remote notary shall certify to the lieutenant governor in writing that the  
559 former remote notary has complied with Subsection (9)(a)(ii) within 10 days after the day on  
560 which the notary resigns or the notary's commission expires or is revoked.

561 (10) (a) A person who, without authorization, knowingly obtains, conceals, damages,  
562 or destroys the certificate, disk, coding, card, program, software, or hardware enabling a remote  
563 notary to affix an official electronic signature or electronic seal to an electronic record is guilty  
564 of a class ~~H~~→ [A] B ←~~H~~ misdemeanor.

565 (b) A remote notary shall immediately notify the lieutenant governor if the notary  
566 becomes aware that the notary's electronic signature, electronic seal, electronic journal, or  
567 information from the journal has been lost, stolen, or used unlawfully.

568 Section 15. Section **46-1-17** is amended to read:

569 **46-1-17. Obtaining official seal.**

570 (1) A [~~vendor~~] person may not provide [~~a notarial seal, either inking or embossing, to a~~  
571 ~~person~~] an official seal to an individual claiming to be a notary, unless the [~~person presents a~~  
572 ~~photocopy of the person's~~] individual presents a copy of the individual's notarial commission,  
573 attached to a notarized declaration substantially as follows:

574 Application for [~~Notary~~] Notary's Official Seal

575 I, \_\_\_\_\_ (name of [~~person~~] individual requesting seal), declare that I am  
576 a notary public duly commissioned by the state of Utah with a commission starting date of  
577 \_\_\_\_\_, a commission expiration date of \_\_\_\_\_, and a commission number of  
578 \_\_\_\_\_. As evidence, I attach to this [~~paper a photocopy~~] statement a copy of my  
579 commission.

580 (2) (a) Except as provided in Subsection (2)(b), an individual may not create, obtain, or  
581 possess an electronic seal unless the individual is a remote notary.

582 (b) A person is not guilty of a violation of Subsection (2)(a) if the person is a business  
583 that creates, obtains, or possesses an electronic seal for the sole purpose of providing the

584 electronic seal to a certified remote notary.

585 [~~2~~] (3) A [~~vendor~~] person who provides [~~a notarial~~], creates, obtains, or possesses an  
586 official seal in violation of this section is guilty of a class ~~H~~→ [f] B [~~A~~] ←~~H~~ misdemeanor.

587 Section 16. Section **46-1-18** is amended to read:

588 **46-1-18. Liability.**

589 (1) A notary may be liable to any person for any damage to that person proximately  
590 caused by the notary's misconduct in performing a notarization.

591 (2) (a) A surety for a notary's bond may be liable to any person for damages  
592 proximately caused to that person by the notary's misconduct in performing a notarization, but  
593 the surety's liability may not exceed the penalty of the bond or of any remaining bond funds  
594 that have not been expended to other claimants.

595 (b) Regardless of the number of claimants under Subsection (2)(a), a surety's total  
596 liability may not exceed the penalty of the bond.

597 (3) It is a class ~~H~~→ [f] B [~~A~~] ←~~H~~ misdemeanor, if not otherwise a criminal offense  
597a under this code,  
598 for:

599 (a) a notary to violate a provision of this chapter; or

600 (b) ~~H~~→ [~~the employer of a notary~~] a notary's employer ←~~H~~ to solicit the notary to violate a  
600a provision of this chapter.

601 Section 17. Section **46-1-21** is amended to read:

602 **46-1-21. Resignation.**

603 (1) A notary who resigns a notarial commission shall provide to the lieutenant  
604 governor a notice indicating the effective date of resignation.

605 (2) A notary who ceases to reside in this state or who becomes unable to read and write  
606 as provided in Section 46-1-3 shall resign the commission.

607 (3) A notary who resigns shall destroy the official seal and certificate in accordance  
608 with Subsection 46-1-16(9).

609 Section 18. Section **53-10-108** is amended to read:

610 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**  
611 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**  
612 **-- Missing children records -- Penalty for misuse of records.**

613 (1) As used in this section:

614 (a) "FBI Rap Back System" means the rap back system maintained by the Federal