

HB 2590 -- NOTARIES PUBLIC

SPONSOR: Gregory

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Government Efficiency by a vote of 7 to 0. Voted "Do Pass" by the Rules- Legislative Oversight Committee by a vote of 9 to 1.

This bill repeals the current law regulating notaries public and replaces it with a new chapter.

APPLICATION AND COMMISSION OF NOTARIES PUBLIC

In order to be commissioned as a notary, a person must be at least 18 years old, reside or have a regular place of work or business in Missouri, be a legal resident of the United States, read and write English, pass an examination, and submit an application with the Secretary of State. The secretary is given discretion to deny any application for specified reasons limited by the bill. Once the secretary has granted an application for a notary commission, the commission shall be presented to the appropriate county clerk and the applicant shall take an oath of office and present a \$10,000 bond within 60 days of the commission being issued.

Notary commissions last for a period of four years, or until the commission is revoked by the secretary or resigned by the person holding the commission. A notary commission issued to a person prior to the effective date of this bill shall not be invalidated, provided that once such commissions expire this bill shall apply to the application for any new commission (Sections 486.605 to 486.635, RSMo).

PERSONS PERMITTED TO PERFORM NOTARIAL ACTS

The following persons are permitted to perform notarial acts within this state:

- (1) A notary;
- (2) A judge, clerk, or deputy clerk of any court of Missouri; or
- (3) Any other person authorized by Missouri law to perform a specific notarial act (Section 486.775).

NOTARIAL ACTS AND FEES

The bill provides that a notary can perform any of the following notarial acts:

- (1) Acknowledgments;
- (2) Oaths and affirmation;
- (3) Jurats;
- (4) Signature witnessing;
- (5) Copy certifications; and
- (6) Any other act authorized by the laws of Missouri.

The bill further restricts the manner in which a notarial act may be performed. Additionally, for every notarial act involving a document, a notary shall properly complete a notarial certificate with specified information.

The maximum fees that can be charged for performing a notarial act are as follows:

- (1) For an acknowledgment, \$5 per signature;
- (2) For a jurat, \$5 per signature;
- (3) For a signature witnessing, \$5 per signature; and
- (4) For a certified copy, \$1 per page certified with a minimum total charge of \$3.

The bill permits a notary to charge a travel fee. A notary may not discriminate in the charging of fees based on the attributes of the principal.

The bill has specific requirements for electronic notarial acts and for any notarized document sent to another state or nation (Sections 486.640 to 486.695, Sections 486.740 to 486.770, and Sections 486.900 to 486.1015).

#### NOTARY JOURNAL

Notaries are required to keep a chronological journal of notarial acts. The bill stipulates the information that is required to be recorded in the journal. Any person may inspect and request a copy of an entry in a notary's journal under certain circumstances. Furthermore, the journal may be examined and copied without restriction by a law enforcement officer in the course of an official investigation, subpoenaed by court order, or surrendered at the direction of the secretary (Sections 486.700 to 486.720).

## OFFICIAL NOTARY SEAL

This bill specifies that a notary is required to use an official seal when notarizing a paper document and what information must be present on and adjacent to the seal. At the expiration of the notary commission or upon resignation of the commission, the seal must be destroyed. If the notary commission has been revoked, the seal shall be delivered to the secretary for disposal. Failure to do so could result in a fine of \$500, at the discretion of the secretary.

The bill requires vendors and manufacturers to register with the secretary prior to selling or manufacturing notary seals. Furthermore, prior to providing a notary seal to a purchaser claiming to be a notary, the vendor or manufacturer shall require such person to present a notary commission. A vendor or manufacturer failing to comply with these requirements shall be subject to a fine of \$1,000 for each violation. For multiple violations, a vendor's permission to sell or manufacture notary seals may be withdrawn by the secretary (Sections 486.725 to 486.735).

## CIVIL LIABILITY

A notary shall be liable to any person for all damages proximately caused that person by the notary's negligence, intentional violation of law, or official misconduct in relation to a notarization.

A surety for a notary's bond shall be liable to any person for damages proximately caused that person by the notary's negligence, intentional violation of law, or official misconduct in relation to a notarization during the bond term, but this liability shall not exceed the dollar amount of the bond or of any remaining bond funds that have not been disbursed to other claimants.

An employer of a notary shall be liable to any person for all damages proximately caused that person by the notary's negligence, intentional violation of law, or official misconduct in performing a notarization during the course of employment, if the employer directed, expected, encouraged, approved, or tolerated the notary's negligence, violation of law, or official misconduct either in the particular transaction or, impliedly, by the employer's previous action in at least one similar transaction involving any notary employed by the employer (Section 486.805).

## CRIMINAL LIABILITY

A notary shall be guilty of a misdemeanor for knowingly committing

any of the following:

- (1) Failing to require the presence of a principal at the time of a notarial act;
- (3) Failing to identify a principal through personal knowledge or satisfactory evidence; or
- (4) Executing a false notarial certificate.

Any person who is not a notary and who knowingly acts as or otherwise impersonates a notary shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$500 or imprisonment for not more than six months, or both.

Any person who knowingly obtains, conceals, defaces, or destroys the seal, journal, or official records of a notary or who knowingly solicits, coerces, or in any way influences a notary to commit official misconduct shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$500.

This bill permits the Secretary to revoke and suspend a notary commission. The Secretary is required to revoke a notary commission if the notary fails to maintain a residence or a regular place of work or business in this state or if the notary fails to maintain status as a legal resident of the United States (Sections 486.825 and 486.830).

This bill has an effective date of January 1, 2019.

This bill is the same as SB 1023 (2018).

**PROPOSERS:** Supporters say that this bill provides a better approach to notary services and will improve those services.

Testifying for the bill were Representative Gregory; Michael Chodos, Notarize, Inc; and Scott R. Clark, Secretary of State's Office.

**OPPOSERS:** There was no opposition voiced to the committee.