

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3339-01  
Bill No.: SB 578  
Subject: County Officials; Mortgages and Deeds; Notary Public; Property, Real and Personal; Secretary of State  
Type: Original  
Date: February 4, 2020

Bill Summary: This proposal provides processes for the recorder of deeds to record electronic documents and procedures for remote online notarization.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0	\$0 or (Less than \$100,000)	\$0 or (Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0 or (Less than \$100,000)</b>	<b>\$0 or (Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could require additional resources.

**Oversight** notes that in response to similar legislation SB 409 from 2019, SOS stated this proposal will provide them with the ability to offer online notarization if it becomes effective, but does not plan to implement this service at the current time. Oversight assumes if the SOS does decide in the future to offer online notary services there will be an unknown technology costs associated with maintaining a system for electronic documents and online notarization. Therefore, Oversight will reflect a zero or costs of under \$100,000 to general revenue on this fiscal note.

Officials from the **Office of State Courts Administrator, Office of the State Public Defender, Office of Prosecution Services, Department of Commerce & Insurance, Joint Committee on Administrative Rules, Department of Public Safety-Missouri State Highway Patrol, and Department of Transportation** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from **Cape Girardeau County** and **Mississippi County Recorder of Deeds** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes that the above agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

ASSUMPTION (continued)

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other county clerks and recorder of deeds were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021	FY 2022	FY 2023
<b>GENERAL REVENUE</b>			
<u>Cost - SOS</u>			
Implementing and maintaining online notarization	<u>\$0</u>	<u>\$0 or (Less than \$100,000)</u>	<u>\$0 or (Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$0</u></b>	<b><u>\$0 or (Less than \$100,000)</u></b>	<b><u>\$0 or (Less than \$100,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2021	FY 2022	FY 2023
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act provides processes for the recorder of deeds to record electronic documents and procedures for remote online notarization.

If a document is required by law to be an original, on paper, or in writing for the purpose of recording, the document may be in electronic form. Furthermore, a requirement of notarization for a document or signature is satisfied if the electronic signature of the authorized person is attached to or logically associated with the document or signature. This act also allows satisfaction of the document requirements if a paper copy of an electronic document bearing an electronic signature along with all other required information is certified by a notary. The form

FISCAL DESCRIPTION (continued)

and requirements of such certification are provided for in this act. The notary shall confirm that the electronic document contains an electronic signature that is capable of independent verification, shall personally print or supervise the printing of the document, and shall not make any changes to the document.

A document conveying real property, recorded by a clerk, and not certified by a notary according to the act shall put third persons on notice of the conveyance and is effective as if the document had been certified. The act does not apply to the recording of certain plats, maps, or surveys of real property. For the purposes of proving or acknowledging a written instrument affecting real property by an officer, a person may appear before the officer by physical presence or by means of communication technology, as defined in the act.

Within a year of the enactment of this act, the Secretary of State shall adopt rules regarding the facilitation and standards of remote online notarizations, including credential analysis and identity proofing. In order to perform remote online notarizations, a notary public shall register with the Secretary and fulfill certain requirements as described within the act. A remote online notary public may perform notarial acts using communication technology for certain remotely located individuals.

The notary shall keep a secure electronic journal containing certain information of each notarial act and shall create an audio and video recording of the performance of the notarial act. Both the journal and recording shall be backed-up, protected from unauthorized use, and maintained for at least ten years after the act. The Secretary of State shall establish standards for the retention of the recording, procedures for preservation of the recording and journal in case the notary's commission or authority is terminated, and standards for third party repositories for the retention of the recording.

A remote online notary public shall not allow another person to use the electronic record, signature, or seal. A remote online notary public shall immediately notify appropriate law enforcement agencies and the Secretary of State of any theft, vandalism, or unauthorized use of his or her electronic record, signature, or seal.

The notary public can only perform remote online notarizations while he or she is physically located within the state. The notary public shall verify the identity of a person creating an electronic signature at the time the signature is taken and shall take reasonable steps to ensure the security of the two-way video and audio communication. The electronic notarial certificate for the remote online notarization shall state that notarization is a remote online notarization. The remote online notary or employer of the notary may charge a fee for notarization as long as that

FISCAL DESCRIPTION (continued)

fee is disclosed prior to providing the notarization.

Unless the remote online notary public reregisters within three months following termination, a notary whose registration has terminated is required to destroy those items that enable the electronic affixation of the electronic signature or seal and certify the compliance of such to the Secretary of State.

The effective date of this act is July 1, 2021.

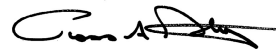
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State  
Office of State Courts Administrator  
Office of the State Public Defender  
Office of Prosecution Services  
Department of Commerce & Insurance  
Joint Committee on Administrative Rules  
Department of Transportation  
Department of Public Safety-Missouri State Highway Patrol  
Cape Girardeau County Recorder of Deeds  
Mississippi County Recorder of Deeds



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February 4, 2020



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