

HOUSE BILL NO. 5759

February 16, 2022, Introduced by Rep. Lightner and referred to the Committee on Judiciary.

A bill to amend 2003 PA 238, entitled "Michigan law on notarial acts," by amending sections 3, 5, 26, 26a, 26b, and 27 (MCL 55.263, 55.265, 55.286, 55.286a, 55.286b, and 55.287), sections 3, 26, and 26b as amended by 2020 PA 249 and sections 5 and 27 as amended and section 26a as added by 2018 PA 360, and by adding section 26e; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

1 (a) "Acknowledgment" means a declaration by an individual in
2 the presence of a notary public that he or she has signed a record
3 for the purposes stated in the record and, if the record is signed
4 in a representative capacity, that he or she signed the record with
5 the proper authority and signed it as the act of the person
6 identified in the record.

7 (b) "Cancellation" means the nullification of a notary public
8 commission due to an error or defect or because the notary public
9 is no longer entitled to the commission.

10 (c) **"Communication technology" means an electronic device or**
11 **process that does 1 or both of the following:**

12 (i) **Allows a notary public and a remotely located individual,**
13 **including an individual for whom the notarial act is being**
14 **performed or a witness to the notarial act or to a legal**
15 **transaction covered under section 26e, to communicate with each**
16 **other simultaneously by sight and sound, and allows the notary**
17 **public to record and store an audio or visual recording of the**
18 **notarial act as required under section 26b.**

19 (ii) **If necessary, and consistent with other applicable law,**
20 **facilitates communication between a notary public and a remotely**
21 **located individual who has a vision, hearing, or speech impairment.**

22 (d) ~~(e)~~—"Credential analysis" means a process or service by
23 which a third party affirms the validity of an identity document
24 described ~~in~~ **under** section 25(6)(c) through a review of public and
25 proprietary data sources conducted remotely.

26 (e) ~~(d)~~—"Department" means the department of state.

27 (f) ~~(e)~~—"Electronic" means relating to technology that has
28 electrical, digital, magnetic, wireless, optical, electromagnetic,
29 or similar capabilities.

1 **(g)** ~~(f)~~—"Electronic notarization system" means a set or system
2 of applications, programs, hardware, software, or technologies
3 designed to enable a notary public to perform electronic
4 notarizations.

5 **(h)** ~~(g)~~—"Electronic signature" means an electronic sound,
6 symbol, or process attached to or logically associated with a
7 record and executed or adopted by an individual with the intent to
8 sign the record.

9 **(i) "Financial institution" means any of the following**
10 **entities:**

11 **(i) A federal or state chartered bank, credit union, savings**
12 **bank, or savings and loan institution.**

13 **(ii) An entity of the federally chartered farm credit system.**

14 **(iii) A subsidiary of an entity described in subparagraph (i) or**
15 **(ii) that is wholly owned by that entity.**

16 **(iv) A credit union service organization owned in whole or in**
17 **part by 1 or more federal or state chartered credit unions.**

18 **(j) "Financial services provider" means a financial**
19 **institution, licensed mortgage lender, licensed real estate broker,**
20 **or title insurance company.**

21 **(k)** ~~(h)~~—"Identity proofing" means a process or service by
22 which a third party provides a notary public with a reasonable
23 means to verify the identity of an individual through a review of
24 personal information from public or proprietary data sources
25 conducted remotely.

26 **(l)** ~~(i)~~—"Information" includes data, text, images, sounds,
27 codes, computer programs, software, and databases.

28 **(m)** ~~(j)~~—"In a representative capacity" means any of the
29 following:

1 (i) For and on behalf of a corporation, limited liability
 2 company, partnership, trust, association, or other legal entity as
 3 an authorized officer, manager, agent, partner, trustee, or other
 4 representative of the entity.

5 (ii) As a public officer, personal representative, guardian, or
 6 other representative in the capacity recited in the record.

7 (iii) As an attorney in fact for a principal.

8 (iv) In any other capacity as an authorized representative of
 9 another person.

10 (n) ~~(k)~~ "In the presence of" means ~~either~~ **1 or both** of the
 11 following:

12 (i) In the same physical location with and close enough to see,
 13 hear, communicate with, and exchange tangible identification
 14 credentials with another individual.

15 (ii) Interacting with another individual by means of ~~audio and~~
 16 ~~visual~~ communication technology that is part of a remote electronic
 17 notarization platform approved under section 26b or ~~2-way real-time~~
 18 ~~audiovisual~~ **communication** technology that meets the requirements
 19 under section ~~26e~~ **26e**.

20 Sec. 5. As used in this act:

21 (a) "Jurat" means a certification by a notary public that a
 22 signer, whose identity is personally known to the notary public or
 23 proven on the basis of satisfactory evidence, has made in the
 24 presence of the notary public a voluntary signature and taken an
 25 oath or affirmation vouching for the truthfulness of the signed
 26 record.

27 (b) "Lineal ancestor" means an individual who is in the direct
 28 line of ascent including, but not limited to, a parent or
 29 grandparent.

1 (c) "Lineal descendant" means an individual who is in the
2 direct line of descent including, but not limited to, a child or
3 grandchild.

4 (d) "Notarial act" means any of the following:

5 (i) An act, whether performed with respect to a tangible or
6 electronic record, that a notary public commissioned in this state
7 is authorized to perform including, but not limited to, taking an
8 acknowledgment, administering an oath or affirmation, taking a
9 verification upon oath or affirmation, or witnessing or attesting a
10 signature performed in compliance with this act.

11 (ii) An act described in subparagraph (i) that is performed in
12 another jurisdiction and meets the requirements of section 25a.

13 (e) "Notify" means to communicate or send a message by a
14 recognized mail, delivery service, or electronic means.

15 (f) "Official misconduct" means 1 or more of the following:

16 (i) The exercise of power or the performance of a duty that is
17 unauthorized, unlawful, abusive, negligent, reckless, or injurious.

18 (ii) The charging of a fee that exceeds the maximum amount
19 authorized by law.

20 (g) "Person" means an individual or a corporation, business
21 trust, statutory trust, estate, partnership, trust, limited
22 liability company, association, joint venture, public corporation,
23 government or governmental subdivision, agency, or instrumentality,
24 or any other legal or commercial entity.

25 (h) "Record" means information that is inscribed on a tangible
26 medium or that is stored in an electronic or other medium and is
27 retrievable in perceivable form.

28 (i) "Remote electronic notarization platform" means
29 **communication technology or** any combination of **communication**

1 **technology and other** technology that enables a notary public to
 2 perform a notarial act remotely ; ~~that allows the notary public to~~
 3 ~~communicate by sight and sound with the individual for whom he or~~
 4 ~~she is performing the notarial act, and witnesses, if applicable,~~
 5 ~~by means of audio and visual communication;~~ and that includes
 6 features to conduct credential analysis and identity proofing.

7 (j) "Revocation" means the termination of a notary public's
 8 commission to perform notarial acts.

9 Sec. 26. (1) ~~Except as otherwise provided in section 26c, a~~
 10 **Subject to section 26a, a** notary public may select 1 or more
 11 ~~tamper-evident~~ electronic notarization systems to perform notarial
 12 acts electronically. A person may not require a notary public to
 13 perform a notarial act electronically with an electronic
 14 notarization system that the notary public has not selected.

15 (2) **Subject to section 26b, a notary public may select 1 or**
 16 **more remote electronic notarization platforms to perform notarial**
 17 **acts for or involving remotely located individuals. A person may**
 18 **not require a notary public to perform a notarial act remotely with**
 19 **a remote electronic notarization platform that the notary public**
 20 **has not selected.**

21 (3) **A notary public may perform a notarial act using**
 22 **communication technology as provided under section 26e.**

23 (4) ~~(2) Before~~ **Except for a notarial act described under**
 24 **subsection (3), before** a notary public performs the notary public's
 25 initial notarial act electronically **or remotely**, the notary public
 26 ~~shall~~ **must** notify the secretary that the notary public will ~~be~~
 27 ~~performing~~ **perform** notarial acts electronically **or remotely** and
 28 identify ~~the~~ **an** electronic notarization system **or remote electronic**
 29 **notarization platform approved by the secretary and the department**

1 **of technology, management, and budget under section 26a or 26b**
 2 **respectively that** the notary public intends to use for electronic
 3 **or remote** notarizations. ~~If the secretary and the department of~~
 4 ~~technology, management, and budget have approved the use of 1 or~~
 5 ~~more electronic notarization systems under section 26a, the notary~~
 6 ~~public must select the system he or she intends to use from the~~
 7 ~~approved electronic notarization systems. The~~

8 **(5) The secretary may disallow the use of 1 or both of the**
 9 **following:**

10 **(a) ~~an~~An** electronic notarization system ~~if the electronic~~
 11 ~~notarization system that~~ does not satisfy the ~~criteria~~**standards**
 12 described in section 26a.

13 **(b) A remote electronic notarization platform that does not**
 14 **satisfy the standards described in section 26b.**

15 Sec. 26a. (1) By March 30, 2019, the secretary and the
 16 department of technology, management, and budget shall review and
 17 approve at least 1 electronic notarization system for the
 18 performance of electronic notarizations in this state. The
 19 secretary and the department of technology, management, and budget
 20 may approve multiple electronic notarization systems ~~, and may~~
 21 ~~grant approval of~~**approve** additional electronic notarization
 22 systems on an ongoing basis. ~~The secretary and the department of~~
 23 ~~technology, management, and budget shall review the criteria for~~
 24 ~~approval of electronic notarization systems, and whether currently~~
 25 ~~approved electronic notarization systems remain sufficient for the~~
 26 ~~electronic performance of notarial acts, at least every 4 years.~~

27 **(2) A provider or user of an electronic notarization system or**
 28 **a notary public may submit a request to the secretary and the**
 29 **department of technology, management, and budget to approve an**

1 electronic notarization system.

2 (3) Except as otherwise provided under section 26e, a notary
3 public shall not use an electronic notarization system that is not
4 approved by the secretary and the department of technology,
5 management, and budget under this section.

6 (4) ~~(2)~~—Subject to subsection ~~(3)~~, ~~(5)~~, in considering whether
7 to approve an electronic notarization system for use in this state
8 under subsection (1), the secretary and the department of
9 technology, management, and budget shall **create standards for**
10 **electronic notarization systems. In creating the standards, the**
11 **secretary and the department of technology, management, and budget**
12 **shall** consider, at a minimum, **all of** the following **factors**:

13 (a) The need to ensure that any change to or tampering with an
14 electronic record containing the information required under this
15 act is evident.

16 (b) The need to ensure integrity in the creation, transmittal,
17 storage, or authentication of electronic notarizations, records, or
18 signatures.

19 (c) The need to prevent fraud or mistake in the performance of
20 electronic notarizations.

21 (d) The ability to adequately investigate and authenticate a
22 notarial act performed electronically with that electronic
23 notarization system.

24 (e) The most recent standards regarding electronic
25 notarizations or records promulgated by national bodies, including,
26 but not limited to, the National Association of Secretaries of
27 State.

28 (f) The standards, practices, and customs of other
29 jurisdictions that allow electronic notarial acts.

1 (5) ~~(3) If~~ Except as otherwise provided in subsection (6), the
2 secretary and department of technology, management, and budget
3 shall approve the use of an electronic notarization system ~~for the~~
4 ~~performance of electronic notarizations if the system~~ is approved
5 or certified by ~~a~~ either of the following and verifiable proof of
6 the approval or certification is provided to the secretary and
7 department of technology, management, and budget:

8 (a) A government-sponsored enterprise, as that term is defined
9 in 2 USC ~~622(8)~~, ~~the secretary and the department of technology,~~
10 ~~management, and budget shall approve the system for use in this~~
11 ~~state if verifiable proof of that approval or certification is~~
12 ~~provided to the secretary and department, unless 622.~~

13 (b) Another state in the United States.

14 (6) The secretary and department of technology, management,
15 and budget may deny the use of ~~the~~ an electronic notarization
16 system ~~is~~ described in subsection (5) if either 1 of the following
17 applies:

18 (a) The system is affirmatively disallowed by the secretary
19 under section 26.

20 (b) The secretary and department of technology, management,
21 and budget determine that the system does not meet the applicable
22 standards of this state after a review of the system.

23 (7) At least 1 time every 4 years, the secretary and the
24 department of technology, management, and budget shall review the
25 standards for approval of electronic notarization systems, and
26 determine whether currently approved electronic notarization
27 systems remain sufficient for the electronic performance of
28 notarial acts.

29 Sec. 26b. (1) By March 30, 2019, the secretary and the

1 department of technology, management, and budget shall review and
 2 may approve **at least 1** remote electronic notarization ~~platforms~~
 3 **platform** for the performance of notarial acts in this state. ~~Except~~
 4 ~~as otherwise provided in section 26e, a notary public shall not use~~
 5 ~~a remote electronic notarization platform that is not approved~~
 6 ~~under this section.~~ **The secretary and the department of technology,**
 7 **management, and budget may approve multiple remote electronic**
 8 **notarization platforms and may approve additional remote electronic**
 9 **notarization platforms on an ongoing basis.**

10 (2) A provider or user of a remote electronic notarization
 11 platform or a notary public may submit a request to the secretary
 12 and the department of technology, management, and budget to approve
 13 a remote electronic notarization platform.

14 (3) Except as otherwise provided under section 26e, a notary
 15 public shall not use a remote electronic notarization platform that
 16 is not approved by the secretary and the department of technology,
 17 management, and budget under this section.

18 (4) ~~(2)~~ Subject to subsection ~~(3)~~, ~~(5)~~, in ~~developing criteria~~
 19 ~~for the approval of any~~ **considering whether to approve a** remote
 20 electronic notarization platform for use in this state, the
 21 secretary ~~of state~~ and the department of technology, management,
 22 and budget shall **create standards for remote electronic**
 23 **notarization platforms. In creating the standards, the secretary**
 24 **and the department of technology, management, and budget shall**
 25 consider, at a minimum, all of the following **factors:**

26 (a) The need to ensure that any change to or tampering with an
 27 electronic record containing the information required under this
 28 act is evident.

29 (b) The need to ensure integrity in the creation, transmittal,

1 storage, or authentication of remote electronic notarizations,
2 records, or signatures.

3 (c) The need to prevent fraud or mistake in the performance of
4 remote electronic notarizations.

5 (d) The ability to adequately investigate and authenticate a
6 notarial act performed remotely with that remote electronic
7 notarization platform.

8 (e) The most recent standards regarding remote electronic
9 notarization promulgated by national bodies, including, but not
10 limited to, the National Association of Secretaries of State.

11 (f) The standards, practices, and customs of other
12 jurisdictions that allow remote electronic notarial acts.

13 (5) ~~(3) If~~ **Except as otherwise provided in subsection (6), the**
14 **secretary and department of technology, management, and budget**
15 **shall approve the use of** a remote electronic notarization platform
16 ~~for the performance of remote electronic notarizations if the~~
17 **system** is approved or certified by ~~a~~ **either of the following and**
18 **verifiable proof of the approval or certification is provided to**
19 **the secretary and the department of technology, management, and**
20 **budget:**

21 (a) **A** government-sponsored enterprise, as that term is defined
22 in 2 USC 622(8), ~~the secretary of state and the department of~~
23 ~~technology, management, and budget shall approve the platform for~~
24 ~~use in this state if verifiable proof of that approval or~~
25 ~~certification is provided to the secretary and department, unless~~
26 **622.**

27 (b) **Another state of the United States.**

28 (6) **The secretary and department of technology, management,**
29 **and budget may deny the use of the** ~~a~~ remote electronic notarization

1 platform **described in subsection (5) if either 1 of the following**
2 **applies:**

3 (a) **The platform** is affirmatively disallowed by the secretary
4 **under section 26.**

5 (b) **The secretary and department of technology, management,**
6 **and budget determine that the platform does not meet the applicable**
7 **standards of this state after a review of the platform.**

8 (7) ~~(4) The~~ **At least 1 time every 4 years, the** secretary and
9 the department of technology, management, and budget shall review
10 ~~their~~ **the** standards for approving remote electronic notarization
11 platforms for use in this state ~~,~~ and whether the number of
12 approved remote electronic notarization platforms ~~are~~ **is**
13 sufficient. ~~, at least every 4 years.~~

14 (8) ~~(5) A~~ notary public may perform a notarial act using a
15 remote electronic notarization platform if ~~either~~ **1 or both** of the
16 following ~~is~~ **are** met:

17 (a) The notary public makes all applicable determinations
18 under section 25 according to personal knowledge or satisfactory
19 evidence, performance of the notarial act complies with section 27,
20 and the notary public does not violate section 31 in the
21 performance of the notarial act.

22 (b) The notary public, through use of the remote electronic
23 notarization platform, personal knowledge, or satisfactory
24 evidence, is able to identify the record before the notary public
25 as the same record presented by the individual for notarization.

26 (9) ~~(6) The~~ notary public shall not record by audio or visual
27 means a notarial act performed using a remote electronic
28 notarization platform, unless the notary public discloses to the
29 person that requested the notarial act that an audio or visual

1 recording is being made and how the recording will be preserved,
 2 and the person consents or has previously consented to the
 3 recording. A notary public may refuse to conduct a notarial act
 4 using a remote electronic notarization platform if the person that
 5 requested the notarial act objects to an audio or visual recording
 6 of the notarial act.

7 **(10)** ~~(7)~~—If a notary public performs notarial acts using a
 8 remote electronic notarization platform, the notary public shall
 9 maintain a journal that records, at a minimum, each of those
 10 notarial acts. A notary public shall maintain only 1 journal for
 11 the recording of notarial acts and must keep the journal either as
 12 a tangible, permanent bound register or in a tamper-evident,
 13 permanent electronic format. A notary public shall retain the
 14 journal for ~~at least~~ **not less than** 10 years after the performance
 15 of the last notarial act recorded in it. If a notary public is not
 16 reappointed ~~,~~ or **if** his or her commission is revoked, the former
 17 notary public shall inform the secretary ~~of state~~ where the journal
 18 is kept or, if directed by the secretary, shall forward the journal
 19 to the secretary or a repository designated by the secretary.

20 **(11)** ~~(8)~~—A notary public shall make an entry in a journal
 21 maintained under subsection ~~(7)~~ **(10)** contemporaneously with
 22 performance of the notarial act, and the entry must include, at a
 23 minimum, all of the following **information**:

- 24 (a) The date, time, and nature of the notarial act.
 25 (b) A description of the record, if any.
 26 (c) The full name and address of each individual for whom the
 27 notarial act is performed.
 28 (d) If the identity of the individual for whom the notarial
 29 act is performed is based on personal knowledge, a statement to

1 that effect. If the identity of the individual for whom the
 2 notarial act is performed is based on satisfactory evidence, a
 3 brief description of the method of identification and the
 4 identification credential presented, if any, including the date of
 5 issuance and expiration for the credential.

6 (e) The fee charged, if any, by the notary public.

7 **(12)** ~~(9)~~—An entry made in a journal maintained by a notary
 8 public under subsection ~~(7)~~—**(10)** must also reference ~~,~~ but ~~shall~~
 9 not ~~itself~~—contain ~~,~~ any audio or visual recording of a notarial
 10 act performed using a remote electronic notarization platform.
 11 Subject to subsection (1), a notary public ~~must~~—**shall** retain an
 12 audio or visual recording of a notarial act for ~~at least~~—**not less**
 13 **than** 10 years after the performance of the notarial act.

14 **(13)** ~~(10)~~—A notary public may designate a custodian to do any
 15 of the following **tasks**:

16 (a) Maintain the journal required under subsection ~~(7)~~—**(10)** on
 17 his or her behalf.

18 (b) Retain an audio or visual recording of a notarial act
 19 under subsection ~~(9)~~—**(12)** on his or her behalf. If an audio or
 20 visual recording of a notarial act is transferred to a custodian to
 21 hold on behalf of the notary public, the journal entry must
 22 identify the custodian with sufficient information to locate and
 23 contact that custodian.

24 **(14)** ~~(11)~~—A notarial act performed using a remote electronic
 25 notarization platform under this section that otherwise satisfies
 26 the requirements of this act is presumed to satisfy any requirement
 27 under this act that a notarial act be performed in the **physical**
 28 presence of a notary public.

29 **Sec. 26e. (1) Notwithstanding any other provision of this act,**

1 a notary public described in subsection (4) (a) or (b) may use
2 communication technology other than an electronic notarization
3 system or remote electronic notarization platform to perform
4 notarial acts electronically if all of the following requirements
5 are met:

6 (a) The communication technology allows direct interaction
7 between the individual seeking the notary public's services, any
8 witnesses, and the notary public, so that each can communicate
9 simultaneously by sight and sound through an electronic device or
10 process at the time of the notarization.

11 (b) The communication technology is capable of creating an
12 audio and visual recording of the complete notarial act and the
13 recording is made and retained as a notarial record in accordance
14 with section 26b(10) to (12).

15 (c) The individual seeking the notary public's services and
16 any required witnesses, if not personally known to the notary
17 public, present satisfactory evidence of identity to the notary
18 public during the video conference, and do not merely transmit it
19 before or after the transaction, to satisfy the requirements of
20 this act and any other applicable law.

21 (d) Subject to subdivision (e), the individual seeking the
22 notary public's services affirmatively represents that the
23 individual is physically situated in this state or is physically
24 located outside the geographic boundaries of this state and that 1
25 of the following applies:

26 (i) The record is intended for filing with or relates to a
27 matter before a court, governmental entity, public official, or
28 other entity subject to the jurisdiction of this state.

29 (ii) The record involves property located in the territorial

1 jurisdiction of this state or a transaction substantially connected
2 to this state.

3 (e) If an individual is physically located outside of the
4 geographic boundaries of this state, the notary public has no
5 actual knowledge that the individual's act of making the statement
6 or signing the record is prohibited by the laws of the jurisdiction
7 in which the individual is physically located.

8 (f) The individual seeking the notary public's services, any
9 required witnesses, and the notary public are able to affix their
10 signatures to the record in a manner that renders any subsequent
11 change or modification of the remote online notarial act to be
12 tamper evident.

13 (g) The individual seeking the notary public's services or the
14 individual's designee transmits by facsimile, mail, or electronic
15 means a legible copy of the entire signed record directly to the
16 notary public not later than 2 business days after the date it was
17 signed. This requirement applies regardless of the manner in which
18 the record is signed.

19 (h) Upon receiving a legible copy of the record with all of
20 the necessary signatures, the notary public notarizes the record in
21 accordance with section 27 and transmits the notarized record back
22 to the individual seeking the notary public's services.

23 (i) A record notarized under this section may be witnessed
24 through the use of communication technology if at least 1 witness
25 to the signing of the document is a notary public described under
26 subsection (4) (a) or (b).

27 (2) The official date and time of the notarization performed
28 under this section is the date and time when the notary public
29 witnesses the signature via communication technology as required

1 under this section.

2 (3) Notwithstanding any other law or regulation of this state,
3 absent an express prohibition in a record against signing the
4 record in counterparts, a record signed under this act may be
5 signed in counterparts.

6 (4) A notary public may perform a notarial act using
7 communication technology under this section if the notary public is
8 1 of the following:

9 (a) An attorney licensed to practice law in this state, or a
10 notary public acting in the course of his or her employment with,
11 and at the direction and under the supervision of, an attorney
12 licensed to practice law in this state. As used in this
13 subdivision, "attorney" does not include an attorney who is also an
14 employee or authorized agent of a financial services provider.

15 (b) An employee or authorized agent of a financial services
16 provider in the course of his or her employment or agency for that
17 financial services provider if all of the following conditions are
18 met:

19 (i) The director of the department of insurance and financial
20 services determines that the use of communication technology is
21 necessary to allow the employee or authorized agent to execute or
22 record a document with a county register of deeds during a
23 statewide state of emergency or public health order declared by the
24 President of the United States or governor of this state.

25 (ii) The director of the department of insurance and financial
26 services promulgates emergency rules to implement his or her
27 determination under subparagraph (i) pursuant to the administrative
28 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

29 (5) If a record is notarized electronically under this

1 section, all of the following apply:

2 (a) The record does not need to be notarized under any other
3 provision of this act.

4 (b) Compliance with this section is presumed. A person
5 challenging a record notarized under this section may overcome the
6 presumption by establishing that the notary public or the
7 individual seeking the notary public's services intentionally
8 failed to comply with a requirement described in this section.

9 (6) Nothing in this section prohibits or restricts a person
10 from using an electronic notarization system or a remote electronic
11 notarization platform otherwise approved for use to notarize a
12 record under this act.

13 Sec. 27. (1) A notary public shall place his or her signature
14 on every record upon which he or she performs a notarial act. The
15 notary public shall sign his or her name exactly as his or her name
16 appears on his or her application for commission as a notary
17 public.

18 (2) On each record that a notary public performs a notarial
19 act and immediately near the notary public's signature, as is
20 practical, the notary public shall print, type, stamp, or otherwise
21 imprint mechanically or electronically sufficiently clear and
22 legible to be read by the secretary and in a manner capable of
23 photographic reproduction all of the following **information** in this
24 format or in a similar format that conveys all of the same
25 information:

26 (a) The name of the notary public exactly as it appears on his
27 or her application for commission as a notary public.

28 (b) The statement: "Notary public, State of Michigan, County
29 of _____."

1 (c) The statement: "My commission expires _____."

2 (d) If performing a notarial act in a county other than the
3 county of commission, the statement: "Acting in the County of
4 _____."

5 (e) The date the notarial act was performed.

6 (f) If applicable, whether the notarial act was performed
7 using ~~an~~ **1 of the following:**

8 **(i) An** electronic notarization system under section 26a. ~~or~~
9 ~~performed using a~~

10 **(ii) A** remote electronic notarization platform under section
11 26b.

12 **(iii) Communication technology under section 26e.**

13 **(g) If applicable, the specific electronic notarization**
14 **system, remote notarization platform, or communication technology**
15 **used to perform the notarial act.**

16 (3) A notary public may use a stamp, seal, or electronic
17 process that contains all of the information required under
18 subsection (2). ~~However, the~~ **If the notary public uses an**
19 **electronic process, the text size must not be less than 10-point**
20 **font. The** notary public shall not use the stamp, seal, or
21 electronic process in a manner that renders anything illegible on
22 the record being notarized. A notary public shall not use an
23 embosser alone or use any other method that cannot be reproduced.

24 (4) The illegibility of the statements required under
25 subsection (2) **or failure to use 10-point font under subsection (3)**
26 **does not affect the validity of the transaction or record that was**
27 **notarized.**

28 Enacting section 1. Section 26d of the Michigan law on
29 notarial acts, 2003 PA 238, MCL 55.286d, is repealed retroactively

1 effective July 1, 2021.