

STATE OF MICHIGAN
Electronic and Remote Notarial Acts
Michigan Law on Notarial Acts (MiLONA)

GENERAL INFORMATION GUIDE

Michigan significantly amended its laws concerning notarial acts in 2018. The goal of the amendments was to bring Michigan's laws in sync with other states that have authorized electronic and remote notarizations. To do this, the laws were amended to provide for definitions related to electronic and remote notarizations and authorize the Secretary of State with the assistance of the Department of Management and Budget to allow vendor systems and platforms to be used in Michigan to conduct electronic and remote notarizations. The State does not provide a system or platform for use.

Once approved, a vendor can then begin to work in Michigan and assist Michigan notary public (notaries) to conduct electronic and remote notarizations.

It is important to note that a notary public's duties and responsibilities have changed very little and only in a way that supports the new electronic and remote notarization technologies. The notary public remains the key point of integrity in our society and is responsible for knowing and understanding the laws as they are written and how to properly conduct the business of a notary public.

While the effect on the notary public's responsibilities has not changed, the method of how the notarial act can be performed has changed. With the addition of electronic and remote notarial acts, the law essentially adds new *statutes* to the notary public commission. A commissioned notary public can now be thought of as having three potential statuses and can perform the following types of notarizations:

1. Traditional/Pen and Paper Notarizations (applies to all commissioned notary publics)
2. Electronic Notarizations (sometimes referred to as an e-notary)
3. Remote Notarizations (sometimes referred to as a remote notary)

Traditional/pen and paper notarizations have not been affected by the changes. An electronic or e-notarization, the notarization uses digital signatures but must occur in the physical presence of the notary, like a traditional/pen and paper notarization.

In remote notarization, the person is not in the physical presence of the notary but is present through audio and visual equipment such as a webcam. Electronic signatures are used to complete this process as well.

To become eligible to conduct electronic or remote notarizations there are three essential steps that must be met:

1. Complete the process to become commissioned as a notary public in Michigan, if you are not currently commissioned as a Michigan notary public.
2. Select and purchase an electronic notarization system/platform from the Secretary of State's [Approved E-Notary and Remote Notary Public Vendors](#) list. A vendor must be on the list to be used in Michigan.

Note: You must work with the vendor to purchase the system/platform. This is not something that our office can assist you with.

3. Provide our office with the name, contact information and system/platform once purchased using the [Electronic and Remote Notary Request for Change form](#), you must also provide documentation from the vendor indicating you have signed up with them.

Once the Secretary of State has been notified of a commissioned notary public's approved vendor system/platform choice(s) and this vendor has been added to your profile, it is acceptable to perform the notarial acts electronically or remotely as appropriate. This means that **before** performing the first electronic or remote notarial act the information must be on file and processed in our office

The Michigan Department of State provides training on the requirements and duties of a notary public but cannot provide any assistance with choosing or using a vendor supplies electronic or remote notary system or platform. Contact the vendor for information on training and assistance.

QUESTIONS AND ANSWERS

What effect does the new law have on a notary public's responsibilities and commission?

The amendments to Michigan's Law on Notarial Acts affect how notarial acts can be performed rather than the notary public's responsibilities and commission. A notary public's duties and responsibilities have changed very little and only in a way that supports the new electronic and remote notarization technologies. The notary public remains the key point of integrity in our society and is responsible for knowing and

understanding the laws as they are written and how to properly conduct the business of a notary public.

While the effect on the notary public's responsibilities has not changed, the method of how the notarial act can be performed has changed. With the addition of electronic and remote notarial acts, the law essentially adds new *statuses* to the notary public commission. A commissioned notary public can now be thought of as having three potential statuses and can perform the following types of notarizations:

4. Traditional/Pen and paper Notarizations (applies to all commissioned notary publics)
5. Electronic Notarizations (sometimes referred to as an e-notary)
6. Remote Notarizations (sometimes referred to as a remote notary)

What is a traditional/pen and paper notarization?

A **traditional/pen and paper notarization** is conducted without the aid of electronic or remote notarization software. This is the way all notarizations took place prior to the implementation of electronic and remote notarization methods. The requirements for performing traditional/pen and paper notarizations have not changed.

What is an electronic or e-signature?

While the definition of an electronic or e-signature is quite broad as provided in the [Michigan Law on Notarial Acts](#) (MiLONA), for our purposes an e-signatures is a process that is attached to or logically associated with a digital representation of one's actual handwritten signature executed by the individual with the intent to sign the record.

What is an e-notarization?

An **e-notarization** is similar to a traditional/pen and paper notarization inasmuch as the signer appears before the notary, except in an electronic notarization the document being notarized is digital and the notary uses electronic signatures. An example of this is signing and initialing at the bank or doctor's office using a stylus and pad.

What is a remote notarization?

A **remote notarization** is conducted through audio and visual equipment; the signer is not in the physical presence of the notary public. The notarization itself is considered an e-notarization as the document being notarized is digital and the notary uses electronic signatures.

What is the difference between an e-notarization and a remote notarization?

There are a few differences, but the main difference is how the documents are notarized and signed.

In e-notarization, the notarization uses digital signatures but must occur in the physical presence of the notary, similarly to a traditional/pen and paper notarization.

In remote notarization, the person is not in the physical presence of the notary but is present through audio and visual equipment such as a webcam. Electronic signatures are used to complete this process as well.

How do I become eligible to conduct electronic and/or remote notarizations?

The process for eligibility to conduct electronic or remote notarizations is the same. There are three essential elements that must be met:

4. Complete the process to become commissioned as a notary public in Michigan.
5. Select and purchase an electronic notarization system/platform from the Secretary of State's [Approved E-Notary and Remote Notary Public Vendors](#) list. A vendor must be on the list to be used in Michigan.

Note: You must work with the vendor to purchase the system/platform. This is not something that our office can assist you with.

6. Provide our office with the name, contact information and system/platform once purchase using the [Electronic and Remote Notary Request for Change form](#), you must also provide documentation from the vendor indicating you have signed up with them.

Once the Secretary of State has been notified of a commissioned notary public's approved vendor system/platform choice(s) and this vendor has been added to your profile, it is acceptable to perform the notarial acts electronically or remotely as appropriate. This means that **before** performing the first electronic or remote notarial act the information must be on file and processed office.

Does the State provide an electronic or remote notary system/platform for use?

No. The new law requires that vendors be selected and approved but does not require nor authorize the State to develop a system/platform on its own.

I am currently a commissioned notary public, is there a separate application process to become eligible to conduct electronic and remote notarizations?

No, As a new or renewing applicant, simply complete [Electronic and Remote Notary Request for Change form](#), include the remote electronic notarization vendor and system/platform information in the designated section of the form, and documentation you have signed up with this vendor.

Once the Secretary of State has been notified and has updated the official record and this vendor has been added to your profile, one can begin to perform the notarial acts electronically or remotely as appropriate. This means that **before** performing the first electronic or remote notarial act the information must be on file and processed in our office.

Can I perform a notarial act electronically or remotely before I submit updated information to the Secretary of State?

No. Before performing the first electronic or remote notarial act the selected vendor and system/platform information must be on file and processed in our office. Performing a notarization prior to ensuring this step has taken place invalidates the notarization. This is true even though you are a commissioned Notary Public and authorized to perform traditional/pen and paper notarizations.

Can I perform a notarial act over the phone, by fax or email?

No. On their own, these technologies are not considered an electronic or remote notarization platform/system. Electronic and remote notarization can only be performed using an approved vendor system/platform.

How is my electronic or remote notary commission different from my traditional/pen and paper commission?

There is no difference in the commission. In fact, it is the same commission. A traditional/pen and paper commission is not changed in any way except that the new electronic and/or remote notary statuses are noted in our records. The vendor information is simply added to a current or new commission. A notary public can continue to notarize documents by hand and supplement the notarizations performed by adding the option for customers to use the electronic and/or remote options. In all cases traditional/pen and paper, electronic, and remote, the notary public is responsible for making sure that the notarization is completed and accurate according to Michigan legal requirements.

Can I use a different name/signature for my electronic notary or remote notary public status?

No. Since the commission is simply being supplemented with the additional information, the name and signature must be the same name/signature used for traditional/pen and paper notary public commission and acts.

Can I perform all 3 types of notarizations: traditional/pen and paper, electronic, and remote?

Yes, as long as the application process for all three is completed. (This includes purchasing the system/platform from an approved vendor). Any commissioned Michigan notary public can perform traditional/pen and paper notarial acts. Following the process for adding an electronic or remote notary vendor allows for the performance of those additional types of notarizations.

Am I required to become eligible to conduct electronic and remote notarizations?

No. These statuses are optional.

What types of notarial acts can I perform?

The same types apply to all three statues (traditional/pen and paper, electronic, and remote):

- (1) taking acknowledgments,
- (2) administering oaths and affirmations, and
- (3) witnessing or attesting to a signature.

Do I need to purchase another bond?

Since we do not issue the bond, we recommend that you contact the Surety Bond company to verify that no change is needed to your bond.

Are there additional fees required by the Secretary of State to become eligible to conduct electronic or remote notarizations?

No, there is no additional fee. The initial notary public fee covers these enhancements.

How do I add, change, or remove an electronic notarization system/platform vendor information?

To add, change, or remove an electronic or remote notarization vendor information, simply complete and submit to the Secretary of State.

Can I charge an additional fee to perform electronic or remote notarizations?

No. The fee remains up to \$10.00 per notarial act regardless of the method; traditional/pen and paper, electronic, or remote.

Does adding or deleting an electronic or remote status affect my commission expiration?

No, since the commission is only amended or changed with the statuses noted, the commission expiration is not affected. However, if a notary public commission is suspended, canceled, or revoked, the electronic or remote notary public status is also suspended, canceled or revoked.

What training options are available?

The vendors of the electronic and remote notarization systems/platforms will provide training and other pertinent information and requirements for using their systems/platforms. The Secretary of State has no role in this training.

However, the Secretary of State provides free comprehensive notary public training on the duties, responsibilities, and role of a notary public. This includes information on traditional/pen and paper, electronic, and remote notarization duties.

Will I have a separate commission card/certificate for electronic or remote statuses?

No. The single commission card/certificate is issued for a notary public commission. The statuses are simply on record with our office.

How do I find an electronic notary public system/platform vendor?

The Secretary of State publishes a list of [Approved E-Notary and Remote Notary Public Vendors](#) on the website.

Can I purchase an electronic or remote notarization system/platform that is not on the Secretary of State’s approved vendor list?

No. The vendor and system/platform must be selected from the approved list.

What costs are involved?

The electronic notarization system/platform vendor will provide costs and fees to purchase their system/platform.

How is an electronic signature affixed to a document?

Signatures are attached to the document through the use of a digital certificate also known as a digital signature. The digital signature is attached to the document in a way that is tamper evident (is easily apparent if changes are made to the document).

Do I have to verify the identity of the signee(s)?

Yes, through satisfactory evidence which meets one or more of the conditions below:

- (1) personally known to the notary public;
- (2) identified upon the oath or affirmation of a credible witness personally known by the notary public and who personally knows the individual; and/or
- (3) identified on the basis of a current license, identification card, or record issued by a federal or state government that contains the individual’s photograph and signature.
 - The system/platform purchased will also provide an identity proofing and credential analysis process to confirm the identity of the signee(s).

Does my electronic notarization need to contain all the components of a notary public’s notarization?

Yes. An electronic or remote notarization must contain all the components of a complete notarization as set forth in the [Michigan Law on Notarial Acts](#) (MiLONA); including language to identify the notarial act as being performed electronically or remotely, if applicable.

Can I cancel or change my e-notary public or remote notary public commission status?

Yes. These statuses can be canceled or updated at any time by providing notice of cancellation to the Secretary of State using [Electronic and Remote Notary Request for Change form](#) to remove, add, or change the vendor approved platform/system information.

Do I have to maintain a journal or keep records of my electronic notarizations?

Maybe. When conducting **remote notarizations**, a journal **MUST** be created as the notarizations occur and the details are fresh in the memory of the notary public. A notary public must maintain only a single journal and must keep the journal as either a tangible, permanent bound register or in a tamper-evident, permanent electronic format. The journal must contain:

- (a) The date, time, and nature of the notarial act.
- (b) A description of the record, if any.
- (c) The full name and address of each individual for whom the notarial act is performed.
- (d) The identification method:
 - If the identity of the individual for whom the notarial act is performed is based on personal knowledge, a statement to that effect.
 - If the identity of the individual for whom the notarial act is performed is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration for the credential.
- (e) The fee charged, if any, by the notary public.
- (f) A reference only to any audio or visual recording of the remote notarial act.

The journal must be kept for at least 10 years after the date of the last act recorded in it. The Secretary of State must be notified of the location of the journal once a notary public is no longer commissioned. In addition, a notary public must retain an audio or visual recording of a notarial act for at least 10 years after the performance of the notarial act. More information can be found in Section 26b of the [Michigan Law on Notarial Acts](#) (MiLONA).

Note: A journal is not required for electronic notarial acts. However, if a journal or records are kept, they must be maintained for five years from the date of the last electronic notarial act.

When must the signee(s) be in my presence?

When performing either a traditional/pen and paper or electronic notarization, the signee(s) must be in your presence physically. When performing a remote notarization, the signee is allowed to be away from your physical presence.

When can I charge travel fees?

Travel fees can be charged when travel is required. When performing either a traditional/pen and paper or electronic notarization a travel fee that is agreed upon in advance by all parties can be charged. When performing a remote notarization and no travel is involved, a travel fee cannot be charged.

When can I refuse to perform a notarial act?

The law provides wide discretion for a notary public to refuse to perform a notarial act regardless of how it is performed; traditional/pen and paper, electronic, or remote. The refusal must not be based on any type of discrimination. If a notary has reason to believe an individual's identification has been tampered with or is fraudulent, or if the individual's body language appears suspicious (e.g. rushing to complete the notarization, fidgety, distracting, etc.) the notary has the basis and right to refuse.

When performing a remote notarial act, must I disclose the use of audio and visual recordings?

Yes. A remote notary public is required to disclose that that an audio and visual recording of the notarial act will be made, how the recording will be preserved, and record the person's consent or previous consent to the recording.

What if the person does not consent to the audio and visual recording of the remote electronic notarial act?

If the person objects to an audio or visual recording of the notarial act, a notary may refuse to perform a notarial act using a remote electronic notarization platform since the notarial act must be recorded and preserved.

Can I remotely notarize documents without the signee(s) in my physical presence?

Yes. While using a remote notarization system/platform a notary public must adhere to all the requirements as set forth in the [Michigan Law on Notarial Acts](#) (MiLONA), as amended. The notary public must physically be in Michigan; however, the signee(s) may be geographically located in any state or country but must be visually in the presence of the notary public using audio and visual technologies.