



# AMERICAN SOCIETY OF NOTARIES

**MEMORANDUM – July 11, 2016**

**TO:** Leslie Reynolds, Executive Director - NASS  
**FROM:** Kathleen Butler, Executive Director – ASN  
**RE:** Thoughts for Consideration by the NASS Remote Notarization Task Force

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I appreciate the opportunity to participate as a Private Sector Advisor to the NASS Remote Notarization Task Force. On behalf of American Society of Notaries,<sup>1</sup> I offer the following comments.

**A. Why American Society of Notaries, today, does not oppose remote notarization:**

1. **Like electronic notarization that requires physical presence, remote notarization retains the notary’s valuable role in electronic transactions.** We are concerned that notarial acts are being dismissed as unnecessary by some who believe a technology process can provide the same assurances. ASN’s goal is to keep the assurances of a notarial act central to electronic transactions well into the future. Our non-opposition stance is consistent with this goal.
2. **ASN believes the public’s general perception of “presence” includes online presence.** The public’s overwhelming adoption of social media as a platform for personal interaction supports this belief. As such, we believe that reliance on notaries public could diminish unless the concept of “presence” accommodates both physical presence and remote presence achieved through technological means that are subject to sensible requirements and limitations.
3. **ASN traditionally supports a state’s statutory and regulatory policy choices.** Two states, Virginia and Montana, have now authorized remote notarization and allow personal presence of the signer before the notary to be achieved through remote methods. We accept these states’ policy decisions, and have a duty to understand them in order to help affected notaries officiate compliantly and competently. Both states’ enactments of remote notarization still require all the fundamentals of a notarial act including personal presence, signer identification, a completed notarial certificate, and the notary’s record of the notarial act.

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<sup>1</sup> American Society of Notaries, founded in 1965, serves notaries public nationwide. We are dedicated to providing notaries with education, professional service and technical support; promoting high ethical standards; and increasing public awareness of a notary public’s value. We support the Notary Public Administrators Section of NASS (NPA Section) as a non-governmental member. We are highly engaged in the activities of the NPA Section, having participated in key work projects and appearing regularly as seminar presenter at the NPA Annual Summer Meeting. ASN also provides administrative support for the NPA Section’s web site, [www.npa-section.com](http://www.npa-section.com).

4. **Remote notarization responds to access-to-notary issues suffered by certain populations.** Many U.S. states have geographically scattered populations. Remote notarization can serve a signer's need when circumstances otherwise would create a hardship or prevent a notarial act from occurring.
5. **Remote notarization, as presently enacted, offers an option to notarizations that require physical presence.** ASN supports requiring the physical presence of a signer before the notary for performance of paper-based and electronic notarial acts. Neither Virginia's nor Montana's remote notarization enactments replace physical presence notarizations. These remote notarization enactments provide an *option*. As stated above, this option can serve a signer's need when circumstances otherwise would create a hardship or prevent a notarial act from occurring.
6. **Some remote notarization technology features can enhance the assurances provided by a traditional notarial act.** Such remote notarization technology features include use of multi-factor authentication methods (using more than one method to verify the identity of a signer); and creation of an audio/video recording of the entire notarial transaction that is retained as a notarial record (powerfully supplementing the notary's memory of a notarial act and traditional journal entry).

#### **B. Recognition and Acceptance of Remote Notarizations**

It is ASN's opinion that a remote notarial act performed under the laws of a state that authorizes non-physical personal presence should be recognized on par with a properly performed, physical-presence notarial act. Differences in how personal presence of the signer is achieved should not negatively impact interstate recognition.

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