

1-1 By: Parker S.B. No. 1780  
 1-2 (In the Senate - Filed March 7, 2023; March 20, 2023, read  
 1-3 first time and referred to Committee on Jurisprudence;  
 1-4 April 6, 2023, rereferred to Committee on State Affairs;  
 1-5 April 18, 2023, reported adversely, with favorable Committee  
 1-6 Substitute by the following vote: Yeas 9, Nays 1; April 18, 2023,  
 1-7 sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18			X	
1-19		X		
1-20	X			

1-21 COMMITTEE SUBSTITUTE FOR S.B. No. 1780 By: Hughes

1-22 A BILL TO BE ENTITLED  
 1-23 AN ACT

1-24 relating to online notarizations.  
 1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-26 SECTION 1. Section 406.101, Government Code, is amended by  
 1-27 adding Subdivisions (1-a), (13), and (14) and amending Subdivision  
 1-28 (11) to read as follows:  
 1-29 (1-a) "Document" means a tangible instrument or  
 1-30 electronic document.  
 1-31 (11) "Principal" means an individual:  
 1-32 (A) whose ~~electronic~~ signature is notarized in  
 1-33 an online notarization; or  
 1-34 (B) taking an oath or affirmation from the online  
 1-35 notary public but not in the capacity of a witness for the online  
 1-36 notarization.  
 1-37 (13) "Sign" means, with the present intent to  
 1-38 authenticate or adopt a record, to:  
 1-39 (A) execute or adopt a tangible symbol; or  
 1-40 (B) execute an electronic signature, as defined  
 1-41 by Section 322.002, Business & Commerce Code.  
 1-42 (14) "Signature" means a tangible symbol or electronic  
 1-43 signature that evidences the signing of a record executed or  
 1-44 adopted by a person with the intent to sign the document.  
 1-45 SECTION 2. Section 406.108, Government Code, is amended by  
 1-46 amending Subsection (a) and adding Subsection (d) to read as  
 1-47 follows:  
 1-48 (a) An online notary public shall keep a secure electronic  
 1-49 record of electronic documents notarized by the online notary  
 1-50 public. The electronic record must contain for each online  
 1-51 notarization:  
 1-52 (1) the date and time of the online notarization;  
 1-53 (2) the type of notarial act;  
 1-54 (3) the type, the title, or a description of the  
 1-55 ~~electronic~~ document or proceeding;  
 1-56 (4) the printed name and address of each principal  
 1-57 involved in the transaction or proceeding;  
 1-58 (5) evidence of identity of each principal involved in  
 1-59 the transaction or proceeding in the form of:  
 1-60 (A) a statement that the person is personally

2-1 known to the online notary public;

2-2 (B) a notation of the type of identification

2-3 document provided to the online notary public;

2-4 (C) a record of the identity verification made

2-5 under Section 406.110, if applicable; or

2-6 (D) the following:

2-7 (i) the printed name and address of each

2-8 credible witness swearing to or affirming the person's identity;

2-9 and

2-10 (ii) for each credible witness not

2-11 personally known to the online notary public, a description of the

2-12 type of identification documents provided to the online notary

2-13 public;

2-14 (6) a recording of any video and audio conference that

2-15 is the basis for satisfactory evidence of identity and a notation of

2-16 the type of identification presented as evidence; and

2-17 (7) the fee, if any, charged for the notarization.

2-18 (d) For documents that are tangible instruments, an online

2-19 notary public shall keep a record of the documents notarized by the

2-20 online notary public with a tangible symbol. The record for each

2-21 online notarization with a tangible symbol must contain the same

2-22 elements required by Subsection (a) for an electronic record.

2-23 SECTION 3. Section 406.109, Government Code, is amended by

2-24 adding Subsection (f) to read as follows:

2-25 (f) An online notary public shall authenticate all online

2-26 notarizations with the online notary public's:

2-27 (1) electronic seal, if the online notarization was

2-28 performed with respect to an electronic document; or

2-29 (2) seal of office as provided under Section 406.013,

2-30 if the online notarization was performed with respect to a tangible

2-31 document.

2-32 SECTION 4. The heading to Section 406.110, Government Code,

2-33 is amended to read as follows:

2-34 Sec. 406.110. ONLINE NOTARIZATION PROCEDURES GENERALLY.

2-35 SECTION 5. Sections 406.110(b) and (d), Government Code,

2-36 are amended to read as follows:

2-37 (b) In performing an online notarization, an online notary

2-38 public shall verify the identity of a person signing a document

2-39 [creating an electronic signature] at the time of the online

2-40 notarization [that the signature is taken] by using two-way video

2-41 and audio conference technology that meets the requirements of this

2-42 subchapter and rules adopted under this subchapter. Identity shall

2-43 [may] be verified by:

2-44 (1) the online notary public's personal knowledge of

2-45 the person signing a document [creating the electronic signature];

2-46 or

2-47 (2) each of the following:

2-48 (A) remote presentation by the person signing a

2-49 document [creating the electronic signature] of a

2-50 government-issued identification credential, including a passport

2-51 or driver's license, that contains the signature and a photograph

2-52 of the person;

2-53 (B) credential analysis of the credential

2-54 described by Paragraph (A); and

2-55 (C) identity proofing of the person described by

2-56 Paragraph (A).

2-57 (d) The [electronic] notarial certificate for an online

2-58 notarization must include a notation that the notarization is an

2-59 online notarization and must indicate if the signature was a

2-60 tangible symbol or an electronic signature.

2-61 SECTION 6. Subchapter C, Chapter 406, Government Code, is

2-62 amended by adding Sections 406.1103 and 406.1107 to read as

2-63 follows:

2-64 Sec. 406.1103. ONLINE NOTARIZATION PROCEDURES FOR TANGIBLE

2-65 DOCUMENTS. (a) In performing an online notarization in which the

2-66 principal signs with a tangible symbol and not an electronic

2-67 signature, an online notary public shall reasonably confirm that a

2-68 document before the online notary public is the same document in

2-69 which the principal made a statement or on which the principal

3-1 executed a signature.  
3-2 (b) An online notary public satisfies the requirement of  
3-3 Subsection (a) to take an acknowledgment of a signature on a  
3-4 tangible document if:

3-5 (1) during a video and audio recording described by  
3-6 Section 406.108(a)(6):

3-7 (A) the acknowledgment is displayed to and  
3-8 identified by the principal; and

3-9 (B) the principal signs the document and a  
3-10 declaration in substantially the following form that is a part of or  
3-11 securely attached to the document:

3-12 "I declare under penalty of perjury that the  
3-13 document of which this declaration is a part or to which it is  
3-14 attached is the same document on which (name of online notary  
3-15 public), an online notary public, performed an online notarization  
3-16 and before whom I appeared by means of two-way video and audio  
3-17 conference technology on (date).

3-18 (Signature of principal)

3-19 (Printed name of principal)";

3-20 (2) the principal sends the document and declaration  
3-21 to the online notary public not later than the third day after the  
3-22 date the online notarization was performed; and

3-23 (3) the online notary public:

3-24 (A) in the video and audio recording under  
3-25 Subdivision (1), records the principal signing the document and  
3-26 declaration;

3-27 (B) receives the document and declaration sent by  
3-28 the principal under Subdivision (2) not later than the 10th day  
3-29 after the date the online notarization was performed; and

3-30 (C) after receipt of the document and declaration  
3-31 from the principal, executes a notarial certificate that includes a  
3-32 statement in substantially the following form:

3-33 "I, (name of online notary public),  
3-34 witnessed, by means of video and audio conference technology, (name  
3-35 of principal) sign the attached document and declaration on  
3-36 (date)."

3-37 (c) An online notarization performed in compliance with  
3-38 Subsection (b) complies with any requirement regarding the  
3-39 execution of a notarial certificate and is effective on the date the  
3-40 principal signed the declaration under Subsection (b)(1)(B).

3-41 (d) A notarial certificate executed in the form described by  
3-42 Subsection (b)(3)(C) may be relied on as conclusive evidence of  
3-43 compliance with Subsections (b)(2) and (b)(3)(B).

3-44 (e) Subsection (b) does not preclude use of another  
3-45 procedure to satisfy Subsection (a) for an online notarization  
3-46 performed with respect to a tangible document.

3-47 Sec. 406.1107. ONLINE NOTARIZATION PROCEDURES FOR OATHS OR  
3-48 AFFIRMATIONS. An online notary public may administer an oath or  
3-49 affirmation to a principal as an online notarization if, except as  
3-50 otherwise provided by other law of this state, the online notary  
3-51 public:

3-52 (1) identifies the principal under Section  
3-53 406.110(b);

3-54 (2) creates or causes the creation under Section  
3-55 406.108 of a video and audio recording of the principal taking the  
3-56 oath or affirmation; and

3-57 (3) retains or causes the retention under Section  
3-58 406.108 of the recording.

3-59 SECTION 7. This Act takes effect January 1, 2024.

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