

## **BILL ANALYSIS**

Senate Research Center

S.B. 693  
By: West  
Criminal Justice  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Deed theft occurs when a person takes the title to a home without the homeowner's knowledge or consent. Usually, signatures of the true owners are forged to either "sell" the property to unknowing buyers or borrow against the property from unknowing lenders. Often, the true owners do not discover that a fraudulent deed or lien has been filed until they go to sell or refinance their property.

To produce a document that appears to be valid, the bad actor either conspires with a notary, tricks a notary with a fake ID, or fraudulently reproduces the deal and signature of a notary.

S.B. 693 creates a requirement that the secretary of state (SOS) create a continuing education program for notaries public, and that such education be a requirement to become commissioned as a notary public. The bill requires the same course as continuing education for current notaries public when they renew their commission.

Further, S.B. 693 creates a criminal offense for notarizing a document when a person is not personally present before the notary. This offense is a Class A Misdemeanor unless the document being notarized involves the transfer of real property, in which the offense becomes a state jail felony. The bill further creates an affirmative defense to prosecution for notaries who were presented apparently valid proof of identification by a person who personally appeared before the notary and turned out to be committing identity fraud that could not be detected at the time of notarization.

The bill also sets specific requirements which must be present for online notarization. The bill further requires SOS to adopt necessary rules for continuing education, and stipulates that SOS may not require a notary public to complete more than two hours of continuing education for reappointment. All courses offered by SOS be statutorily required to be offered to notaries public at a reasonable price. The bill also prohibits the use of private vendors for continuing education, and requires that the secretary of state promulgate and manage all training.

S.B. 693 amends current law relating to notaries public, creates a criminal offense, and authorizes a fee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the secretary of state in SECTION 6 (Section 406.023, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 406.006, Government Code, to provide that an individual qualifies as a notary public by meeting certain requirements, including successfully completing the education requirements established under Section 406.023 (Administration and Enforcement), and to make nonsubstantive changes.

SECTION 2. Amends Section 406.009(d), Government Code, to redefine "good cause."

SECTION 3. Amends Subchapter A, Chapter 406, Government Code, by adding Section 406.0091, as follows:

Sec. 406.0091. OFFENSE OF NOTARIZATION FOR PERSON NOT PERSONALLY APPEARING. (a) Provides that a person commits an offense if, as a notary public, the person performs any notarization with knowledge that the signer, grantor, maker, or principal for whom the notarization is performed did not personally appear before the notary public at the time the notarization is executed.

(b) Provides that an offense under this section is a Class A misdemeanor, except that it is a state jail felony if the document being notarized involves the transfer of real property or any interest in real property.

(c) Provides that it is an affirmative defense to prosecution under Subsection (a) that the person who personally appeared before the notary public knowingly presented an apparently valid proof of identification identifying the person as the signer, grantor, maker, or principal for whom the notarization was purported to be performed, regardless of the identity of the person.

(d) Provides that, for the purposes of this section, a person personally appears before a notary public if:

(1) for a notarization other than an online notarization, the person physically appears before the notary public at the time of the notarization in a manner that permits the notary public and the person to see, hear, communicate with, and provide proof of identification to each other; and

(2) for an online notarization, the person appears at the time of the notarization by an interactive two-way video and audio conference technology that meets the standards adopted for online notarization under Section 406.104 (Standards For Online Notarization).

SECTION 4. Amends Section 406.011, Government Code, by adding Subsection (c) to require a notary public who has applied for reappointment to successfully complete the continuing education requirements established under Section 406.023 before being reappointed.

SECTION 5. Amends Section 406.014, Government Code, by adding Subsection (g) to require a notary public to retain the records required by Subsection (a) (relating to requiring the secretary of state (SOS) by rule to develop and maintain standards for online notarization) until the 10th anniversary of the date of notarization.

SECTION 6. Amends Section 406.023, Government Code, by adding Subsection (d), as follows:

(d) Requires SOS to adopt rules necessary to establish education requirements for appointment and continuing education requirements for reappointment as a notary public. Provides that the rules are:

(1) prohibited from requiring a person to complete more than two hours of education for appointment or two hours of continuing education for reappointment;

(2) required to require that SOS establish and offer education and continuing education courses and allow SOS to charge a reasonable fee;

(3) required to require that the education and continuing education course hours required for appointment or reappointment as a notary public be authorized to only be completed through a course established and offered by SOS; and

(4) prohibited from requiring a person appointed as a notary public before September 1, 2025, to complete education requirements required for initial appointment as a notary public on or after that date.

SECTION 7. Requires SOS, not later than January 1, 2026, to adopt rules necessary to implement the change in law made by this Act.

SECTION 8. Makes application of this Act prospective to January 1, 2026.

SECTION 9. Effective date: September 1, 2025.