

By: Anchía

H.B. No. 3704

A BILL TO BE ENTITLED

AN ACT

relating to notaries public; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 406.006, Government Code, is amended to read as follows:

Sec. 406.006. QUALIFICATION. An individual qualifies by:

- (1) properly completing the application form;
- (2) executing the statement;
- (3) providing the bond, if required;
- (4) paying the required filing fees; ~~and~~
- (5) meeting the eligibility requirements; and
- (6) successfully completing the education requirements established under Section 406.023.

SECTION 2. Section 406.009(d), Government Code, is amended to read as follows:

(d) In this section, "good cause" includes:

- (1) a false statement knowingly made in an application;
- (2) the failure to comply with Section 406.017;
- (3) a final conviction for a violation of a law concerning the regulation of the conduct of notaries public in this or another state;
- (4) the imposition on the notary public of an administrative, criminal, or civil penalty for a violation of a law

or rule prescribing the duties of a notary public; ~~[or]~~

(5) performing any notarization when the person for whom the notarization is performed did not personally appear before the notary at the time the notarization is executed; or

(6) failure to maintain records under Section 406.014.

SECTION 3. Subchapter A, Chapter 406, Government Code, is amended by adding Section 406.0091 to read as follows:

Sec. 406.0091. OFFENSE OF NOTARIZATION FOR PERSON NOT PERSONALLY APPEARING. (a) 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) 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.

(c) 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) For 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

1 notary public and the person to see, hear, communicate with, and
2 provide proof of identification to each other; and

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

7 SECTION 4. Section 406.011, Government Code, is amended by
8 adding Subsection (c) to read as follows:

9 (c) A notary public who has applied for reappointment must
10 successfully complete the continuing education requirements
11 established under Section 406.023 before being reappointed.

12 SECTION 5. Section 406.014, Government Code, is amended by
13 adding Subsection (g) to read as follows:

14 (g) A notary public shall retain the records required by
15 Subsection (a) until the 10th anniversary of the date of
16 notarization.

17 SECTION 6. Section 406.023, Government Code, is amended by
18 adding Subsection (d) to read as follows:

19 (d) The secretary of state shall adopt rules necessary to
20 establish education requirements for appointment as a notary public
21 and continuing education requirements for reappointment. The rules
22 may not require a person to complete more than two hours of
23 education for appointment or two hours of continuing education for
24 reappointment as a notary public. The rules may not require a
25 person appointed as a notary public before September 1, 2025, to
26 complete education requirements required for initial appointment
27 as a notary public on or after that date.

1 SECTION 7. Not later than January 1, 2026, the secretary of
2 state shall adopt rules necessary to implement the change in law
3 made by this Act.

4 SECTION 8. The change in law made by this Act applies only
5 to an application for a notary public appointment or reappointment
6 submitted on or after January 1, 2026. An application submitted
7 before January 1, 2026, is governed by the law as it existed
8 immediately before the effective date of this Act, and that law is
9 continued in effect for that purpose.

10 SECTION 9. This Act takes effect September 1, 2025.