

rules - Objection to Proposed Notary Journal Rules

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Subject: Objection to Proposed Notary Journal Rules

I have been a notary working for law firms since 1999. I have reviewed the proposed rules regarding notary journals, and find them ridiculously oppressive and pointless, for reasons outlined below, and I respectfully object to their implementation.

I have notarized for residential real estate closings before, and just the sheer number of documents being notarized could fill a substantial number of pages, and take a great deal more time than performing the notarial act itself; documenting such events would be overly burdensome. Further, for notaries working in a high volume setting, such as a law office, will undoubtedly find the sheer number of entries to become detrimental to their workflow. The number of bound journals to be maintained long term in an office that does a high volume of in-person closings would also be burdensome. Likewise, attorneys who are also notaries will balk at the bite out of their billable hours such documentation would require, since the charge for performing notary services is statutorily capped.

Overburdening Notaries with bureaucratic nonsense will only dissuade Notary renewals, continued service, and applications from potential Notaries, which will make the service less available to the public and be a deterrent to commerce and the normal conduct of business.

Notary Journals of the type proposed will not deter fraud, crime, or any other improper conduct. If someone is going to forge the name of another and has falsified identification in order to do so, for whatever purpose, also forging the name in a journal will not cause them to pause. After all, it is not their name.

Further, if the primary purpose of the notary journal is to prevent forging of the notary certificate, prevent notarization in violation of the requirements, or to somehow further validate principal/notary identity, a better method would be to have a database housed by the Secretary of State to which Notaries upload (via phone app or webform in the event a scan is used) a copy of the pages with the signatures and certificate(s) (but no further image of the document), the IDs used if not personally known (and perhaps the ID for the Notary also?), the title of the document and number of pages. That would provide the Secretary's office with far better information to validate the identity of principals, witnesses, etc., detect/corroborate identity theft/fraud, and maintain a database available for efficient verification of whether a page was legitimately signed/notarized. It could be possible, though likely not popular, to require the entire document to be uploaded to the Secretary's database, but then it becomes too time consuming again, especially on a phone app.

Housing the database of signatures/certificates/IDs with the Secretary's office would more readily provide access to law enforcement and prosecutors of fraud, including identity fraud/theft, in that the ID could be verified with whichever authority issued it, and possibly to provide alerts if someone is using the identify of a deceased/incompetent person. Such things are less efficiently identified if the information maintained does not include a copy of the ID used and does not get uploaded "real time" to the Secretary's office. The database

information could also be searched and results provided upon presentation of Subpoena or Court Order.

I note that the current certificate forms do not require inclusion of the title of the document being notarized, nor the number of pages. So, in the case of separate signature/notary pages, such could be appended to any document (or pages inserted or deleted) without the knowledge/consent of the principal. Efforts to prevent such simply perpetrated fraud would be a better use of the committee's time.

The only downside of the Secretary maintaining a database is internet access. In rural areas, cell service can be spotty or non-existent, in which case the entry could be buffered by the app and held until internet access becomes available. Likewise, some folks do not have internet access and/or smart phones/computers, so either that would need to become a requirement for notaries, or another alternative, such as paper entries mailed or faxed to the Secretary for entry into the database. Still more efficient than a tangible journal documenting the same information. Or the state could just mandate that internet access be made available to every household in the state, gratis for households with low or threshold income, but we all know how likely that is to happen.

I sincerely hope that the proposed rules be considered in the light of notaries who work in environments in which they perform a high volume of notarizations, and be discussed with law enforcement as to whether journals as outlined in the proposed rules would be effective/efficient on their side for the purposes identified. Having that information spread across hundreds or thousands paper journals and perhaps a dozen or more electronic service providers is very 20th century thinking, and non-productive. If the DMV can renew your license and registration online, notary journals can be kept in a database under the control of the Secretary of State.

As written, I believe the only effect the proposed rules will have is a wave of Notaries refusing to perform services and letting their commissions lapse, or resigning immediately, rather than commit to pointless bureaucratic nonsense. And, especially in rural areas where beliefs may prevent 'putting your name in a book' (my grandparents would not have done so, quoting a passage from Revelations; they also believed Social Security Numbers were a tool of Satan and also quoted Revelations), requiring folks to do so in order to have a document notarized could be an infringement on their beliefs. Notarial act requirements should not further marginalize folks with religious beliefs that may be infringed upon by such requirements just so they can conduct business within the state.

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