

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of) NOTICE OF ADOPTION OF
Temporary Emergency Rule I) TEMPORARY EMERGENCY RULE
pertaining to Electronic Notary)
Stamps)

TO: All Concerned Persons

1. The Secretary of State is adopting Temporary Emergency Rule I for the following reasons:

A. On March 12, 2020, Governor Steve Bullock declared an emergency in the State of Montana regarding the COVID-19 pandemic in Executive Order 2-2020.

B. On March 13, 2020, President Donald J. Trump declared a national emergency due to the COVID-19 pandemic.

C. On March 14, 2020, Governor Steve Bullock extended the emergency in the State of Montana regarding the COVID-19 pandemic in Executive Order 3-2020.

D. The Secretary of State finds that under the emergency circumstances of the COVID-19 pandemic, there is an immediate peril to the public health, safety, and welfare requiring adoption of a rule upon fewer than 30 days' notice. As all Americans are being advised to practice social distancing, the circumstances of the COVID-19 pandemic may prevent in-person notarization.

E. There is a reasonable necessity to immediately adopt a temporary emergency rule pursuant to 2-4-303, MCA, to protect the public health, safety, and welfare because of the emergency conditions of the COVID-19 pandemic and to ensure the public has sufficient access to notarization in areas including, but not limited to, property, financial, and business services.

F. The Secretary of State is adopting the following emergency rule because of the sudden and unexpected need for remote online notarizations (RON) due to the COVID-19 crisis. Unprecedented demand has been placed on the approved providers of RON platforms to onboard qualified Montana notary applicants for technology-based notarial services as quickly as possible. Montana has unique requirements for the electronic notary seal/stamp that impose significant developmental time on the part of the platform providers. This will significantly delay the ability of the RON notary applicants to begin offering remote notary services to the people of Montana. RON is an excellent and appropriate way to provide legal and safe notarial services without endangering the health and safety of either the principal or the notary since the required personal appearance is achieved through communication technology as described in 1-5-602(2)(b), MCA.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State to advise us of the nature of the accommodation that you need. Please contact Austin James, telephone (406) 444-6197; fax (406) 444-3976; TDD/Montana Relay Service/etc. (406) 444-9068; or e-mail Austin.James@mt.gov.

3. The temporary emergency rule is effective April 8, 2020.

4. The text of the temporary emergency rule provides as follows:

NEW RULE I OFFICIAL STAMP (1) An electronic image of the official stamp of a notary public authorized to perform remote or remote online notarizations may be different in size, format, content, or border design as long as it is reasonably consistent with the official notary stamp requirements of ARM 44.15.107 and the Secretary of State's office has been notified of the discrepancy.

AUTH: 1-5-628, MCA
IMP: 1-5-616(2), MCA

5. The rationale for the temporary emergency rule is set forth in paragraph 1.

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 2 above or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Austin James
Austin James
Rule Reviewer
Attorney

/s/ Dana Corson
Dana Corson
Director
Office of Secretary of State

Dated April 8, 2020.