

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

SA  
ROS

Date: 4-11-22

(Filing No. H-983)

MAJORITY  
JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1503, L.D. 2023, "An Act To Implement the Recommendations of the Secretary of State Regarding Notarial Acts"

Amend the bill in Part A in section 4 in c. 39 in §1904 in subsection 3 by striking out all of paragraph C (page 3, lines 8 to 10 in L.D.).

Amend the bill in Part A in section 4 in c. 39 in §1910 in subsection 1 in paragraph B in the first line (page 5, line 15 in L.D.) by inserting after the following: "A" the following: 'justice.'

Amend the bill in Part A in section 4 in c. 39 in §1915 in subsection 13 by inserting at the end a new blocked paragraph to read:

'Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill in Part A in section 4 in c. 39 in §1915 in subsection 16 by striking out all of paragraph A (page 11, line 6 in L.D.).

Amend the bill in Part A in section 4 in c. 39 in §1915 in subsection 16 by relettering the paragraphs to read alphabetically.

Amend the bill in Part A in section 4 in c. 39 in §1915 by inserting after subsection 16 the following:

'17. Solemnization of marriage remotely prohibited. A notarial officer may not solemnize a marriage pursuant to Title 19-A, section 655 for a remotely located individual.'

Amend the bill in Part A in section 4 in c. 39 in §1923 in subsection 1 in the first and 2nd lines (page 16, lines 24 and 25 in L.D.) by striking out the following: "who does not currently" and inserting the following: 'who at the time of application does not'

Amend the bill in Part A in section 4 in c. 39 in §1925 in subsection 2 in the first line (page 17, line 28 in L.D.) by inserting after the following: "records" the following: 'remote notarization'

COMMITTEE AMENDMENT

ROS

1 Amend the bill in Part A in section 4 in c. 39 in §1925 in subsection 2 in the last line  
2 (page 17, line 30 in L.D.) by inserting after the following: "records" the following: 'or  
3 remotely'

4 Amend the bill in Part A in section 4 in c. 39 in §1926 in subsection 3 in the first line  
5 (page 18, line 1 in L.D.) by striking out the following: "terms" and inserting the following:  
6 'titles'

7 Amend the bill in Part A in section 4 in c. 39 in §1926 in subsection 3 in the last line  
8 (page 18, line 2 in L.D.) by striking out the following: "term" and inserting the following:  
9 'title'

10 Amend the bill in Part A in section 4 in c. 39 in §1928 by inserting after subsection 2  
11 the following:

12 3. Routine technical rules. Rules adopted pursuant to this section are routine  
13 technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

14 Amend the bill in Part A in section 4 in c. 39 by inserting after §1932 the following:

15 '§1933. Effective date  
16 This chapter takes effect July 1, 2023.'

17 Amend the bill in Part A by inserting after section 7 the following:

18 'Sec. A-8. Effective date. This Part takes effect July 1, 2023.'

19 Amend the bill in Part B in section 6 in §657 in the first indented paragraph in the 2nd  
20 line (page 21, line 33 in L.D.) by inserting after the following: "public" the following: ',  
21 lawyer admitted to the Maine Bar'

22 Amend the bill in Part B in section 6 in §657 in the first indented paragraph in the 4th  
23 line (page 21, line 35 in L.D.) by inserting after the following: "notary" the following:  
24 'lawyer.'

25 Amend the bill in Part B by inserting after section 7 the following:

26 'Sec. B-8. Effective date. This Part takes effect July 1, 2023.'

27 Amend the bill by striking out all of Part C and inserting the following:

28 **'PART C**

29 **Sec. C-1. 4 MRSA §961, first ¶**, as enacted by PL 2021, c. 337, §1, is amended to  
30 read:

31 This section is intended to continue the effect of Executive Order 37 FY 19/20 as  
32 amended by Executive Order 37-A FY 19/20 beyond the end of the state of emergency  
33 declared by the Governor pursuant to Title 37-B, section 742 until ~~January~~ July 1, 2023.

34 **Sec. C-2. 4 MRSA §961, sub-§2**, as enacted by PL 2021, c. 337, §1, is amended  
35 to read:

36 **2. Requirements.** Until ~~January~~ July 1, 2023, with the exceptions noted in subsection  
37 1, the enforcement of the laws of this State pertaining to notarization that require the  
38 physical presence of the person whose oath is being taken and who is signing a document,  
39 referred to in this section as "the signatory," at the same location as the notary public or

ROS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39

other person authorized to perform a notarial act, referred to in this section as "the notary," and any witness to the signing are suspended as long as the following conditions are met:

A. The notary is physically within the State while performing the notarial act and follows any additional guidance for remote notarization issued by the Secretary of State;

B. The act of notarization or witnessing required by law is completed remotely using 2-way audio-visual communication technology and:

(1) The 2-way audio-visual communication technology allows direct contemporaneous interaction between the signatory, the notary and any witness by sight and sound in real time. Prerecording is not permitted;

(2) The signatory is reasonably identified by the notary in one of the following ways:

(a) The signatory is personally known to the notary;

(b) The signatory presents a valid photo identification to the notary during the 2-way audio-visual communication; or

(c) The oath or affirmation is provided by a witness who:

(i) Is in the physical presence of either the notary or the signatory; or

(ii) Is able to communicate with the notary and the signatory simultaneously by sight and sound through 2-way audio-visual communication technology at the time of the notarization, if the witness has personal knowledge of the signatory and has been reasonably identified by the notary under division (a) or (b);

(3) The signatory attests to being physically located in the State and affirmatively states the name of the county in which the signatory is located at the time of execution during the 2-way audio-visual communication;

(4) The notary and any witness attest to being physically located in the State during the 2-way audio-visual communication;

(5) For wills and powers of attorney, the notary or at least one witness is an attorney licensed to practice law in the State;

(6) Before any documents are signed, the notary is able to view by 2-way audio-visual communication technology the entire space in which the signatory and any witness is located, and any person who is present in those spaces states the person's name while in clear view of the notary;

(7) The signatory affirmatively states on the 2-way audio-visual communication which document the signatory is signing, and the notary is provided with a copy of the document prior to the signing;

(8) Each page of the document being witnessed is shown to the notary and any witness on the 2-way audio-visual communication in a means clearly legible to the notary and initialed by the signatory in the presence of the notary and any witness;

# COMMITTEE AMENDMENT

ROS

1 (9) The act of signing and of initialing pursuant to subparagraph (8) is captured  
2 sufficiently close to the 2-way audio-visual communication technology for the  
3 notary to observe;

4 (10) The signatory transmits by fax or other electronic means, which may include  
5 transmitting a photograph of every page by cellular telephone, a legible copy of  
6 the entire signed document directly to the notary and any witness immediately after  
7 signing the document or, if that is not possible, no later than 24 hours after the  
8 signatory's signing of the document;

9 (11) The signatory sends the original signed document directly to the witness  
10 within 96 hours after the signatory's execution of the document or to the notary if  
11 no witness is involved;

12 (12) Within 96 hours after receiving the original signed document from the  
13 signatory, the witness signs it and sends it to the 2nd witness, if any, or to the notary  
14 if no other witness is involved. Within 96 hours after receiving the original signed  
15 document signed by the first witness, the 2nd witness signs it and sends it to the  
16 notary. The official date and time of each witness's signature is the date and time  
17 when the witness witnesses the signatory's signature using the 2-way audio-visual  
18 communication technology; and

19 (13) Upon review of the original signed document and satisfactory comparison  
20 with the faxed or other electronic document provided on the date of signing, the  
21 notary notarizes the original document within 96 hours after receiving the original  
22 signed document; the official date and time of the notarization is the date and time  
23 when the notary witnessed the signature using the 2-way audio-visual  
24 communication technology. The notary shall add the following language below  
25 the notary and witness signature lines on the original signed document: "Notarized  
26 (and/or witnessed) remotely, in accordance with the Maine Revised Statutes, Title  
27 4, section 961."

28 Any witness required or permitted to properly execute any original document  
29 according to law may similarly witness the signing of the document by the signatory  
30 using 2-way audio-visual communication technology and may sign as a witness to the  
31 document upon receipt of the original document; and

32 C. A recording of the 2-way audio-visual communication is made and preserved by  
33 the notary for a period of at least 5 years from the date of the notarial act. The notary  
34 shall provide a copy of the recording to the signatory and the Secretary of State upon  
35 request.'

36 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
37 number to read consecutively.

**SUMMARY**

38  
39 This amendment removes mention of solemnizing marriage in the conflict of interest  
40 provision as the bill does not include solemnizing marriage as a notarial act. The Maine  
41 Revised Statutes, Title 19-A, section 655 identifies who has authority to solemnize a  
42 marriage.

43 This amendment clarifies that marriages may not be solemnized remotely.

**COMMITTEE AMENDMENT**

ROS

1 This amendment clarifies that a state court justice, in addition to a judge, may also  
2 perform a notarial act.

3 This amendment provides that rules adopted by the Secretary of State concerning  
4 remote notarization are routine technical rules, as are rules implementing the entire chapter  
5 enacted in the bill.

6 This amendment clarifies that the electronic database the Secretary of State maintains  
7 must indicate whether a notary public will be performing notarial acts remotely.

8 This amendment clarifies that a notary public who is not an attorney may not use the  
9 title "notario" or "notario publico."

10 This amendment adds a statutory effective date to the chapter enacted in the bill.

11 This amendment includes lawyers admitted to the Maine Bar in the provision of law  
12 that addresses the consequences of lack of jurisdiction or authority.

13 Title 4, section 961 provides for the continuation of the temporary modification of  
14 certain in-person notarization and acknowledgment requirements established in executive  
15 orders in 2020, but only until January 1, 2023. This amendment extends the effect of  
16 section 961 until July 1, 2023.

17 **FISCAL NOTE REQUIRED**  
18 (See attached)



# 130th MAINE LEGISLATURE

LD 2023

LR 2632(02)

**An Act To Implement the Recommendations of the Secretary of State Regarding Notarial Acts**

**Fiscal Note for Bill as Amended by Committee Amendment**

**Committee: Judiciary**

**Fiscal Note Required: Yes**

*A (H-983)*

---

## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Department of Secretary of State associated with rulemaking and complying with other provisions of this bill can be absorbed within existing budgeted resources.