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REFERENCE TITLE: **notary public; requirements**

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2008

Introduced by
Representative Gillette

AN ACT

AMENDING TITLE 11, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-472; AMENDING SECTIONS 41-258, 41-259, 41-260, 41-261, 41-263, 41-266 AND 41-269, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-269.01, 41-269.02 AND 41-269.03; AMENDING SECTIONS 41-271, 41-314, 41-319 AND 41-323, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-334; AMENDING SECTIONS 41-619.51, 41-1758 AND 41-1758.01, ARIZONA REVISED STATUTES; RELATING TO LEGAL DOCUMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 11, chapter 3, article 3, Arizona Revised
3 Statutes, is amended by adding section 11-472, to read:

4 **11-472. Recording; deed; quitclaim deed; deed of trust;**
5 **identification; exceptions**

6 IF A DOCUMENT TO BE RECORDED IS A DEED, QUITCLAIM DEED OR DEED OF
7 TRUST OR ANY OTHER DOCUMENT THAT AFFECTS REAL PROPERTY, AN INDIVIDUAL
8 SHALL PROVIDE THE RECORDER WITH TWO VALID FORMS OF IDENTIFICATION, UNLESS
9 THE DOCUMENT TO BE RECORDED IS SUBMITTED BY ANY OF THE FOLLOWING:

10 1. AN ESCROW OFFICER.

11 2. A TITLE INSURANCE AGENT OR TITLE INSURER AS DEFINED IN SECTION
12 20-1562.

13 3. A STATE CHARTERED OR FEDERALLY CHARTERED BANK INSURED BY THE
14 FEDERAL DEPOSIT INSURANCE CORPORATION.

15 4. AN ACTIVE MEMBER OF THE STATE BAR OF ARIZONA.

16 5. AN AGENCY, BRANCH OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT.

17 6. A TRUSTED SUBMITTER AS DEFINED IN SECTION 11-461.

18 7. A GOVERNMENTAL ENTITY.

19 Sec. 2. Section 41-258, Arizona Revised Statutes, is amended to
20 read:

21 **41-258. Notarial act in this state**

22 A. Any of the following may perform a notarial act in this state:

23 1. A notary public of this state.

24 2. A judge, ~~OF A COURT OF RECORD~~.

25 3. A clerk or deputy clerk of a court of record of this state WHO
26 HAS A SEAL.

27 ~~3. An individual who is licensed to practice law in this state.~~

28 4. Any other individual who is authorized to perform the specific
29 act by the laws of this state.

30 B. The signature and title of an individual performing a notarial
31 act in this state are *prima facie* evidence that the signature is genuine
32 and that the individual holds the designated title.

33 C. The signature and title of a notarial officer listed in
34 subsection A, paragraph 1, 2 or 3 of this section conclusively establish
35 the authority of the notarial officer to perform the notarial act.

36 Sec. 3. Section 41-259, Arizona Revised Statutes, is amended to
37 read:

38 **41-259. Notarial act in another state**

39 A. A notarial act performed in another state has the same effect
40 under the laws of this state as if performed by a notarial officer of this
41 state, if the act performed in that state is performed by any of the
42 following:

43 1. A notary public of that state.

44 2. A judge, clerk or deputy clerk of a court ~~OF RECORD~~ of that
45 state.

1 3. Any other individual who is authorized by the laws of that state
2 to perform the notarial act.

3 B. The signature and title of an individual performing a notarial
4 act in another state are *prima facie* evidence that the signature is
5 genuine and that the individual holds the designated title.

6 C. The signature and title of a notarial officer described in
7 subsection A, paragraph 1 or 2 of this section conclusively establish the
8 authority of the notarial officer to perform the notarial act.

9 Sec. 4. Section 41-260, Arizona Revised Statutes, is amended to
10 read:

11 41-260. Notarial act under authority of federally recognized
12 Indian tribes

13 A. A notarial act performed under the authority and in the
14 jurisdiction of a federally recognized Indian tribe has the same effect as
15 if performed by a notarial officer of this state, if the act performed in
16 the jurisdiction of the tribe is performed by any of the following:

17 1. A notary public of the tribe.
18 2. A judge, clerk or deputy clerk of a court **OF RECORD** of the
19 tribe.

20 3. Any other individual who is authorized by the laws of the tribe
21 to perform the notarial act.

22 B. The signature and title of an individual performing a notarial
23 act under the authority of and in the jurisdiction of a federally
24 recognized Indian tribe are *prima facie* evidence that the signature is
25 genuine and that the individual holds the designated title.

26 C. The signature and title of a notarial officer described in
27 subsection A, paragraph 1 or 2 of this section conclusively establish the
28 authority of the notarial officer to perform the notarial act.

29 Sec. 5. Section 41-261, Arizona Revised Statutes, is amended to
30 read:

31 41-261. Notarial act under federal authority

32 A. A notarial act performed under federal law has the same effect
33 under the laws of this state as if performed by a notarial officer of this
34 state, if the act performed under federal law is performed by any of the
35 following:

36 1. A judge, clerk or deputy clerk of a court **OF RECORD**.
37 2. An individual who is in military service or performs duties
38 under the authority of military service and who is authorized to perform
39 notarial acts under federal law.

40 3. An individual who is designated a notarizing officer by the
41 United States department of state for performing notarial acts overseas.

42 4. Any other individual who is authorized by federal law to perform
43 the notarial act.

1 B. The signature and title of an individual acting under federal
2 authority and performing a notarial act are *prima facie* evidence that the
3 signature is genuine and that the individual holds the designated title.

4 C. The signature and title of a notarial officer described in
5 subsection A, paragraph 1, 2 or 3 of this section conclusively establish
6 the authority of the notarial officer to perform the notarial act.

7 Sec. 6. Section 41-263, Arizona Revised Statutes, is amended to
8 read:

9 41-263. Notarial act performed for remotely located
10 individual; definitions

11 A. A remotely located individual may comply with section 41-254 by
12 using communication technology to appear before a notary public.

13 B. A notary public located in this state may perform a notarial act
14 using communication technology for a remotely located individual if:

15 1. The notary public has any of the following:

16 (a) Personal knowledge under section 41-255, subsection A of the
17 remotely located individual's identity.

18 (b) Satisfactory evidence of the identity of the **REMOTELY LOCATED**
19 individual by oath or affirmation from a credible witness appearing before
20 and identified by the notary public under section 41-255, subsection B or
21 this section.

22 (c) Satisfactory evidence of the identity of the remotely located
23 individual by using at least two different types of identity proofing.

24 2. The notary public is able reasonably to confirm that a record
25 before the notary public is the same record in which the remotely located
26 individual made a statement or on which the individual executed a
27 signature.

28 3. The notary public, or a person acting on behalf of the notary
29 public, creates an audiovisual recording of the performance of the
30 notarial act.

31 4. For a remotely located individual located outside the United
32 States, both of the following apply:

33 (a) The record either:

34 (i) Is to be filed with or relates to a matter before a public
35 official or court, governmental entity or other entity subject to the
36 jurisdiction of the United States.

37 (ii) Involves property located in the territorial jurisdiction of
38 the United States or involves a transaction substantially connected with
39 the United States.

40 (b) The notary public has no actual knowledge that the act of
41 making the statement or signing the record is prohibited by the foreign
42 state in which the remotely located individual is located.

43 C. If a notarial act is performed under this section, the
44 certificate of notarial act required by section 41-264 and the short form

1 certificate provided in section 41-265 must indicate **BOTH OF THE**
2 **FOLLOWING:**

3 1. That the notarial act was performed using communication
4 technology.

5 2. **THE NAME OF THE COMMUNICATION TECHNOLOGY USED TO PERFORM THE**
6 **NOTARIAL ACT.**

7 D. A short form certificate provided in section 41-265 for a
8 notarial act subject to this section is sufficient if either of the
9 following applies:

10 1. The form of certificate complies with rules adopted under
11 subsection G, paragraph 1 of this section.

12 2. The certificate is in the form provided in section 41-265 and
13 contains a statement substantially as follows: "This notarial act involved
14 the use of communication technology **AND WAS PERFORMED USING (_____).**"

15 E. A notary public, a guardian, conservator or agent of a notary
16 public or a personal representative of a deceased notary public shall
17 retain the audiovisual recording created under subsection B, paragraph 3
18 of this section or cause the recording to be retained by a repository
19 designated by or on behalf of the person required to retain the recording.
20 Unless a different period is required by rule adopted under subsection G,
21 paragraph 4 of this section, the recording must be retained for a period
22 of at least five years after the recording is made.

23 F. Before a notary public performs the notary public's initial
24 notarial act under this section, the notary public must notify the
25 secretary of state that the notary public will be performing notarial acts
26 with respect to remotely located individuals and identify the technologies
27 the notary public intends to use. If the secretary of state has
28 established standards under subsection G of this section and section
29 41-275 for approval of communication technology or identity proofing, the
30 communication technology and identity proofing must conform to the
31 standards.

32 G. In addition to adopting rules under section 41-275, on or before
33 July 1, 2022, the secretary of state shall adopt rules under this section
34 regarding performance of notarial acts for remotely located individuals.
35 The rules may:

36 1. Prescribe the means of performing a notarial act involving a
37 remotely located individual using communication technology.

38 2. Establish standards for communication technology and identity
39 proofing.

40 3. Establish requirements or procedures to approve providers of
41 communication technology and the process of identity proofing.

42 4. Establish standards and a period for the retention of an
43 audiovisual recording created under subsection B, paragraph 3 of this
44 section.

1 H. Before adopting, amending or repealing a rule governing
2 performance of a notarial act with respect to a remotely located
3 individual, the secretary of state must consider:

4 1. The most recent standards regarding the performance of a
5 notarial act with respect to a remotely located individual adopted by
6 national standard-setting organizations and the recommendations of the
7 national association of secretaries of state.

8 2. Standards, practices and customs of other jurisdictions that
9 have laws substantially similar to this section.

10 3. The views of governmental officials and entities and other
11 interested persons.

12 I. For the purposes of this section:

13 1. "Communication technology" means an electronic device or process
14 that:

15 (a) Allows a notary public and a remotely located individual to
16 communicate with each other simultaneously by sight and sound.

17 (b) When necessary and consistent with other applicable law,
18 facilitates communication with a remotely located individual who has a
19 vision, hearing or speech impairment.

20 2. "Foreign state" means a jurisdiction other than the United
21 States, a state or a federally recognized Indian tribe.

22 3. "Identity proofing" means a process or service by which a third
23 person provides a notary public with a means to verify the identity of a
24 remotely located individual by a review of personal information from
25 public or private data sources.

26 4. "Outside the United States" means a location outside the
27 geographic boundaries of the United States, Puerto Rico, the United States
28 Virgin Islands and any territory, insular possession or other location
29 subject to the jurisdiction of the United States.

30 5. "Remotely located individual" means an individual who is not in
31 the physical presence of the notary public who performs a notarial act
32 under subsection B of this section.

33 Sec. 7. Section 41-266, Arizona Revised Statutes, is amended to
34 read:

35 41-266. Official stamp

36 A. The official stamp of a notary public must:

37 1. Include the words "notary public", the name of the county in
38 which the notary public is commissioned, the notary public's name as it
39 appears on the notary public's commission, the commission expiration date
40 and other information required by the secretary of state. **FOR A REMOTE OR**
ELECTRONIC NOTARIZATION, THE OFFICIAL STAMP SHALL CONTAIN THE COMMISSION
THAT IS SPECIFIC TO THE REMOTE OR ELECTRONIC NOTARY.

43 2. Be capable of being copied together with the record to which it
44 is affixed or attached or with which it is logically associated. **IF A**
NOTARIAL OFFICER ATTACHES A NOTARIAL CERTIFICATE TO A DOCUMENT ON A

1 SEPARATE SHEET OF PAPER, THE ATTACHMENT SHALL CONTAIN A DESCRIPTION OF THE
2 DOCUMENT AND INCLUDE ALL OF THE FOLLOWING:

3 (a) THE TITLE OF OR THE TYPE OF DOCUMENT.
4 (b) THE DATE.
5 (c) THE NUMBER OF PAGES OF THE DOCUMENT.
6 (d) ANY ADDITIONAL INDIVIDUALS WHO SIGNED THE DOCUMENT OTHER THAN
7 THOSE ON THE NOTARIAL CERTIFICATE.

8 B. A notary public's official stamp may be any shape. The physical
9 image of an official stamp created by a physical stamping device must be
10 not more than one and one-half inches high and two and one-half inches
11 wide and it must include an image of the great seal of the state of
12 Arizona. The electronic image of an official stamp created by an
13 electronic stamping device must be legible when reproduced together with
14 the record with which it is logically associated.

15 C. A notary public may not affix or attach the notary public's
16 official stamp over the notary public's signature or over any other
17 signature on the record that is the subject of the notarial act.

18 D. The official stamp of a notary public is an official seal of
19 office for the purposes of the laws of this state.

20 Sec. 8. Section 41-269, Arizona Revised Statutes, is amended to
21 read:

22 41-269. Commission as notary public; confidential
23 information; qualifications; assurance; no immunity
24 or benefit

25 A. An individual qualified under subsection B of this section may
26 apply to the secretary of state for a commission as a notary public. The
27 applicant shall comply with and provide the information required by rules
28 established by the secretary of state and pay any application fee. Except
29 for the applicant's name and business address, all information provided on
30 the application is confidential and may not be disclosed to any person
31 other than the applicant, the applicant's guardian or personal
32 representative or an employee or officer of the federal, state or local
33 government who is acting in an official capacity. The secretary of state
34 shall use the information provided on the application only for carrying
35 out the purposes of this article. THE SECRETARY OF STATE MAY REQUEST ANY
36 REASONABLY NECESSARY INFORMATION FROM AN APPLICANT, INCLUDING ANY OF THE
37 FOLLOWING:

38 1. PRIOR CRIMINAL RECORDS.
39 2. A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION
40 41-1758.03.
41 3. AN AFFIDAVIT EXPLAINING WHETHER THE APPLICANT HAS:
42 (a) BEEN CONVICTED OF A FELONY OR A MISDEMEANOR.
43 (b) HAD ANY BUSINESS OR PROFESSIONAL LICENSE DENIED, SUSPENDED OR
44 REVOKED OR HAD ANY OTHER DISCIPLINARY ACTION TAKEN OR ADMINISTRATIVE ORDER

1 ENTERED AGAINST THE APPLICANT BY ANY REGULATORY AGENCY IN THIS STATE OR IN
2 ANY OTHER STATE.

3 (c) HAD ANY ADVERSE DECISION OR JUDGMENT ENTERED AGAINST THE
4 APPLICANT ARISING OUT OF THE CONDUCT OF ANY BUSINESS IN OR INVOLVING A
5 TRANSACTION IN REAL ESTATE, CEMETERY PROPERTY, TIMESHARE INTERVALS OR
6 MEMBERSHIP CAMPING CAMPGROUNDS OR CONTRACTS INVOLVING FRAUD, DISHONESTY OR
7 MORAL TURPITUDE.

8 B. An applicant for a commission as a notary public must:

9 1. Be at least eighteen years of age.

10 2. Be a citizen or permanent legal resident of the United States.

11 3. Be a resident of this state for income tax purposes and claim
12 the individual's residence in this state as the individual's primary
13 residence on state and federal tax returns.

14 4. Be able to read, write and understand English.

15 5. Not be disqualified to receive a commission under section
16 41-271.

17 6. Have passed the examination described in section 41-270 if
18 required by the secretary of state.

19 7. Keep as a reference a manual that is approved by the secretary
20 of state and that describes the duties, authority and ethical
21 responsibilities of a notary public.

22 C. Before a commission as a notary public is issued, an applicant
23 for the commission shall execute an oath of office and submit it to the
24 secretary of state.

25 D. Before issuance of a commission as a notary public, the
26 applicant for a commission shall submit to the secretary of state an
27 assurance in the form of a surety bond in the amount of \$5,000. The
28 assurance must be issued by a surety or other entity licensed or
29 authorized to do business in this state. The assurance must cover acts
30 performed during the term of the notary public's commission and must be in
31 the form prescribed by the secretary of state. If a notary public
32 violates any law with respect to notaries public in this state, the surety
33 or issuing entity is liable under the assurance. The surety or issuing
34 entity shall give thirty days' notice to the secretary of state before
35 canceling the assurance. The surety or issuing entity shall notify the
36 secretary of state not later than thirty days after making a payment to a
37 claimant under the assurance. A notary public may perform notarial acts
38 in this state only during the period that a valid assurance is on file
39 with the secretary of state. An employer may not cancel the assurance of
40 any notary public who is an employee and who leaves such employment.

41 E. On compliance with this section, the secretary of state shall
42 issue a commission as a notary public to an applicant for a term of four
43 years.

1 F. A commission to act as a notary public authorizes the notary
2 public to perform notarial acts. The commission does not provide the
3 notary public any immunity or benefit conferred by the laws of this state
4 on public officials or employees.

5 G. A notary public is a public officer commissioned by this state
6 and all of the following apply without regard to whether the notary
7 public's employer or any other person has paid the fees and costs for the
8 commissioning of the notary public, including costs for a stamping device
9 or journal:

10 1. A notary public's stamping device, ~~AND~~ commission and any
11 journal that contains only public record entries remain the property of
12 the notary public.

13 2. A notary public may perform notarial acts outside the workplace
14 of the notary's employer except during those times normally designated as
15 the notary public's hours of duty for that employer. All fees received by
16 a notary public for notarial services provided while not on duty remain
17 the property of the notary public.

18 3. An employer of a notary public may not limit the notary public's
19 services to customers or other persons designated by the employer.

20 H. This state or any political subdivision of this state may pay
21 the fees and costs for the commissioning of a notary public who is an
22 employee of this state or any political subdivision of this state and who
23 performs notarial acts in the course of the notary public's employment or
24 for the convenience of public employees.

25 Sec. 9. Title 41, chapter 2, article 1, Arizona Revised Statutes,
26 is amended by adding sections 41-269.01, 41-269.02 and 41-269.03, to read:

27 41-269.01. Electronic filing: acceptance

28 A. UNLESS OTHERWISE PROHIBITED BY LAW, ANY DOCUMENT THAT IS
29 REQUIRED TO BE FILED PURSUANT TO THIS ARTICLE MAY BE FILED IN AN
30 ELECTRONIC FORMAT THAT IS APPROVED BY THE SECRETARY OF STATE.

31 B. ANY DOCUMENT THAT IS FILED IN ACCORDANCE WITH THIS ARTICLE IS
32 DEEMED TO COMPLY WITH ALL OF THE FOLLOWING:

33 1. THE FILING REQUIREMENTS OF THIS ARTICLE.

34 2. THE REQUIREMENT THAT A FILING BE SUBMITTED WITH A WRITTEN
35 SIGNATURE.

36 3. ANY REQUIREMENT THAT THE FILING BE FILED UNDER PENALTY OF
37 PERJURY.

38 C. THE SECRETARY OF STATE MAY ADOPT RULES THAT REQUIRE ANY PERSON
39 WHO SUBMITS A DOCUMENT FOR FILING PURSUANT TO THIS SECTION SHALL ALSO
40 SUBMIT A TANGIBLE COPY OF THE DOCUMENT AS A PREREQUISITE TO THE DOCUMENT
41 BEING DEEMED FILED.

42 D. EXCEPT AS PROVIDED IN THIS SECTION, ALL CIVIL AND CRIMINAL
43 STATUTES APPLICABLE TO THE FILING OF PAPER DOCUMENTS APPLY TO ALL
44 DOCUMENTS FILED PURSUANT TO THIS SECTION.

41-269.02. Notary applicants: fingerprint clearance cards

A. BEFORE RECEIVING AND HOLDING A COMMISSION ISSUED PURSUANT TO THIS CHAPTER, EACH APPLICANT SHALL OBTAIN A VALID FINGERPRINT CLEARANCE CARD THAT IS ISSUED PURSUANT TO SECTION 41-1758.03.

B. THE APPLICANT IS RESPONSIBLE FOR PROVIDING THE SECRETARY OF STATE WITH A VALID FINGERPRINT CLEARANCE CARD.

C. THE SECRETARY OF STATE MAY NOT ISSUE A COMMISSION TO AN ORIGINAL APPLICANT BEFORE RECEIVING A VALID FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION. THE SECRETARY OF STATE SHALL SUSPEND THE COMMISSION IF THE FINGERPRINT CLEARANCE CARD IS DETERMINED TO BE INVALID OR IS SUSPENDED AND AN APPLICANT WHO WAS ISSUED A NOTARY COMMISSION FAILS TO SUBMIT A VALID FINGERPRINT CLEARANCE CARD WITHIN TEN DAYS AFTER BEING NOTIFIED BY THE DEPARTMENT OF PUBLIC SAFETY.

D. THIS SECTION DOES NOT AFFECT THE SECRETARY OF STATE'S AUTHORITY TO OTHERWISE ISSUE, DENY, CANCEL, TERMINATE, SUSPEND OR REVOKE A COMMISSION.

41-269.03. Misrepresentation of commission; cease and desist; attorney general

THE SECRETARY OF STATE MAY ISSUE A CEASE AND DESIST ORDER AGAINST A PERSON WHO THE SECRETARY OF STATE HAS REASON TO BELIEVE IS ACTING AS A NOTARY PUBLIC WITHOUT A CURRENT COMMISSION AND MAY REFER THE MATTER TO THE ATTORNEY GENERAL TO CONDUCT A CRIMINAL INVESTIGATION.

Sec. 10. Section 41-271, Arizona Revised Statutes, is amended to read:

41-271. Grounds to deny, refuse to renew, revoke, suspend or condition commission of notary public

A. The secretary of state may deny, refuse to renew, revoke, suspend or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the competence or reliability to act as a notary public, including any of the following:

1. Failure to comply with this article.

2. A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary of state.

3. A conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty or deceit. A conviction after a plea of no contest is deemed to be a conviction for the purposes of this paragraph.

4. A finding against or admission of liability by the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit.

5. Failure by the notary public to discharge any duty required of a notary public, whether by this article, rules of the secretary of state or federal or state law.

1 6. Use of false or misleading advertising or representation by the
2 notary public that the notary has a duty, right or privilege that the
3 notary does not have.

4 7. Violation by the notary public of a rule of the secretary of
5 state regarding a notary public.

6 8. Denial, refusal to renew, revocation, suspension or conditioning
7 of a notary public commission in **THIS STATE OR** another state.

8 9. Failure of the notary public to maintain an assurance as
9 provided in section 41-269, subsection D.

10 10. Charging more than the fees authorized by this article or rule.

11 11. The return for insufficient funds or for any other reason for
12 nonpayment of a check issued for the assurance filing fees or application
13 fees to the secretary of state.

14 12. Failure to respond to any request for information or to comply
15 with any investigation initiated by the secretary of state or the attorney
16 general.

17 13. ~~The prior revocation of a notary public commission in this
18 state.~~

19 B. If the secretary of state denies, refuses to renew, revokes,
20 suspends or imposes conditions on a commission as a notary public, the
21 applicant or notary public is entitled to timely notice and a hearing in
22 accordance with chapter 6, article 10 of this title. The denial of an
23 application or revocation or suspension of a commission is an appealable
24 agency action. If an applicant appeals the denial of an application, the
25 applicant may not submit a new application for consideration while the
26 appeal is pending. If an individual's commission as a notary public in
27 this state is revoked, the individual may not submit a new application for
28 commission for one year after the date of revocation.

29 C. The authority of the secretary of state to deny, refuse to
30 renew, suspend, revoke or impose conditions on a commission as a notary
31 public does not prevent a person from seeking and obtaining other criminal
32 or civil remedies provided by law.

33 Sec. 11. Section 41-314, Arizona Revised Statutes, is amended to
34 read:

35 41-314. Notary bond fund; purpose; exemption

36 A. The notary bond fund is established consisting of monies
37 received pursuant to ~~section~~ **SECTIONS 41-178 AND 41-334.**

38 B. The secretary of state shall administer the fund and spend
39 monies in the fund in order to defray the cost of the secretary of state's
40 office assuming the responsibilities associated with the processing and
41 administration of notary bonds.

42 C. On notice from the secretary of state, the state treasurer shall
43 invest and divest monies in the fund as provided by section 35-313, and
44 monies earned from investment shall be credited to the fund.

1 D. Monies in the fund are continuously appropriated and exempt from
2 the provisions of section 35-190 relating to lapsing of appropriations.

3 Sec. 12. Section 41-319, Arizona Revised Statutes, is amended to
4 read:

5 41-319. Journal

6 A. A notary public shall keep a paper journal to chronicle all
7 notarial acts performed regarding tangible records. A notary public shall
8 keep either a paper journal or one or more electronic journals to
9 chronicle all notarial acts performed regarding electronic records.
10 Except as prescribed by subsection E of this section, a notary public
11 shall keep only one paper journal at a time. The notary public shall
12 record all notarial acts in chronological order. The notary public shall
13 furnish, when requested, a certified copy of any public record in the
14 notary public's journal. Records of notarial acts that violate the
15 attorney-client privilege or that are confidential pursuant to federal or
16 state law are not a public record. Each journal entry shall include at
17 least:

18 1. The date of the notarial act.

19 2. A description of the document and type of notarial act.

20 3. The printed full name and address of each individual for whom a
21 notarial act is performed.

22 4. If a paper journal is used, the signature of each individual for
23 whom a notarial act is performed.

24 5. The type of satisfactory evidence of identity presented to the
25 notary public by each individual for whom a notarial act is performed, or
26 a notation that the notary public's personal knowledge of the individual
27 was used as satisfactory evidence of identity.

28 6. A description of the identification card or document, if any,
29 including its date of issuance or expiration.

30 7. The fee, if any, charged for the notarial act.

31 8. EXCEPT FOR NOTARIAL ACTS PERFORMED FOR REMOTELY LOCATED
32 INDIVIDUALS UNDER SECTION 41-263, THE NOTARY PUBLIC'S LEGIBLE THUMBPRINT.

33 9. EXCEPT FOR NOTARIAL ACTS PERFORMED FOR REMOTELY LOCATED
34 INDIVIDUALS UNDER SECTION 41-263, IF THE NOTARY PUBLIC IS NOTARIZING A
35 QUITCLAIM DEED OR WARRANTY DEED, THE LEGIBLE THUMBPRINT OF THE NOTARY
36 PUBLIC AND THE INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED.

37 B. If a notary public has personal knowledge of the identity of a
38 signer, the notary public shall retain a paper or electronic copy of the
39 notarized documents for each notarial act in lieu of making a journal
40 entry or the notary public shall make a journal entry pursuant to the
41 requirements of subsection A, paragraphs 1, 2, 3, 4, 5 and 7 of this
42 section.

43 C. Except for notarial acts performed for remotely located
44 individuals under section 41-263, if a notary public performs more than
45 one notarization for an individual within a six month period, the notary

1 public shall have the individual provide satisfactory evidence of identity
2 as required under section 41-255 the first time the notary performs the
3 notarization for the individual but may not require satisfactory evidence
4 of identity or the individual to sign the journal for subsequent
5 notarizations performed for the individual during the six month period.

6 D. If a notary public performs more than one notarization of the
7 same type for a signer either on similar records or within the same record
8 and at the same time, the notary public may group the records together and
9 make one journal entry for the transaction.

10 E. If one or more entries in a notary public's journal are not
11 public records, the notary public shall keep one journal that contains
12 entries that are not public records and one journal that contains entries
13 that are public records. If a notary public keeps only one journal, that
14 journal is presumed to be a public record. A notary public's journal that
15 contains entries that are not public records is the property of the
16 employer of that notary public and shall be retained by that employer if
17 the notary public leaves that employment. A notary public's journal that
18 contains only public records is the property of the notary public without
19 regard to whether the notary public's employer purchased the journal or
20 provided the fees for the commissioning of the notary public.

21 F. Except as provided in subsections A and E of this section, the
22 notary public's journal is a public record that may be viewed by or copied
23 for any member of the public, but only on presentation to the notary
24 public of a written request that details the month and year of the
25 notarial act, the name of the individual whose signature was notarized and
26 the type of record or transaction.

27 Sec. 13. Section 41-323, Arizona Revised Statutes, is amended to
28 read:

29 41-323. Change of address; lost, stolen or compromised
30 journal or seal; civil penalty; presumption;
31 exception

32 A. Within thirty days after the change of a notary public's **EMAIL**,
33 mailing, business or residential address, the notary public shall deliver
34 to the secretary of state, by certified mail or other means providing a
35 receipt, a signed notice of the change that provides both the old and new
36 addresses.

37 B. Within ten days after the loss, theft or compromise of an
38 official journal or stamping device, the notary public shall deliver to
39 the secretary of state, by certified mail or other means providing a
40 receipt, a signed notice of the loss, theft or compromise. The notary
41 also shall inform the appropriate law enforcement agency in the case of
42 theft.

43 C. If a notary public fails to comply with subsection A or B of
44 this section, the notary public has failed to fully and faithfully
45 discharge the duties of a notary public. If the notary public failed to

1 comply with subsection A of this section, the secretary of state may
2 impose a civil penalty of \$25 against the notary. If the notary public
3 failed to comply with subsection B of this section, the secretary of state
4 shall impose a civil penalty of \$1,000 against the notary. The notary
5 public shall pay any civil penalty imposed by the secretary of state
6 pursuant to this subsection before the renewal of the notary's commission.
7 Failure to pay a penalty may be referred to the attorney general for
8 collection.

9 D. In a judicial proceeding where the identity of a party to a
10 notarized instrument is in question, the official journal of the notary
11 public is lost, stolen or compromised and the notary complied with this
12 section, a presumption shall be given to the validity of the identity of
13 the party who signed the instrument. If it is determined that the
14 official journal never existed or that the notary public failed to comply
15 with this section, no presumption shall apply that the identity of the
16 party who signed the notarized instrument in question is valid.

17 E. In an action in which the validity of a notarized document is at
18 issue and it is determined that the notary public did not comply with this
19 section, the court shall provide notice of such findings to the secretary
20 of state and the county attorney for the county in which the violation
21 occurred.

22 Sec. 14. Title 41, chapter 2, article 2, Arizona Revised Statutes,
23 is amended by adding section 41-334, to read:

24 **41-334. Deposit: notary bond fund**

25 FOR EVERY ORIGINAL NOTARY APPLICATION FILED PURSUANT TO THIS
26 CHAPTER, THE SECRETARY OF STATE SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
27 AND 35-147, \$6 OF EVERY APPLICATION AND BOND FILING FEE IN THE NOTARY BOND
28 FUND ESTABLISHED BY SECTION 41-314.

29 Sec. 15. Section 41-619.51, Arizona Revised Statutes, is amended to
30 read:

31 **41-619.51. Definitions**

32 In this article, unless the context otherwise requires:

33 1. "Agency" means the supreme court, the department of economic
34 security, the department of child safety, the department of education, the
35 department of health services, the department of juvenile corrections, the
36 department of emergency and military affairs, the department of public
37 safety, the department of transportation, the state real estate
38 department, the department of insurance and financial institutions, the
39 Arizona game and fish department, the Arizona department of agriculture,
40 the board of examiners of nursing care institution administrators and
41 assisted living facility managers, the state board of dental examiners,
42 the Arizona state board of pharmacy, the board of physical therapy, the
43 state board of psychologist examiners, the board of athletic training, the
44 board of occupational therapy examiners, the state board of podiatry
45 examiners, the acupuncture board of examiners, the state board of

1 technical registration, ~~or~~ the board of massage therapy, ~~or~~ the Arizona
2 department of housing OR THE SECRETARY OF STATE'S OFFICE.

3 2. "Board" means the board of fingerprinting.

4 3. "Central registry exception" means notification to the
5 department of economic security, the department of child safety or the
6 department of health services, as appropriate, pursuant to section
7 41-619.57 that the person is not disqualified because of a central
8 registry check conducted pursuant to section 8-804.

9 4. "Expedited review" means an examination, in accordance with
10 board rule, of the documents an applicant submits by the board or its
11 hearing officer without the applicant being present.

12 5. "Good cause exception" means the issuance of a fingerprint
13 clearance card to an employee pursuant to section 41-619.55.

14 6. "Person" means a person who is required to be fingerprinted
15 pursuant to this article or who is subject to a central registry check and
16 any of the following:

- 17 (a) Section 3-314.
- 18 (b) Section 8-105.
- 19 (c) Section 8-322.
- 20 (d) Section 8-463.
- 21 (e) Section 8-509.
- 22 (f) Section 8-802.
- 23 (g) Section 8-804.
- 24 (h) Section 15-183.
- 25 (i) Section 15-503.
- 26 (j) Section 15-512.
- 27 (k) Section 15-534.
- 28 (l) Section 15-763.01.
- 29 (m) Section 15-782.02.
- 30 (n) Section 15-1330.
- 31 (o) Section 15-1881.
- 32 (p) Section 17-215.
- 33 (q) Section 28-3228.
- 34 (r) Section 28-3413.
- 35 (s) Section 32-122.02.
- 36 (t) Section 32-122.05.
- 37 (u) Section 32-122.06.
- 38 (v) Section 32-823.
- 39 (w) Section 32-1232.
- 40 (x) Section 32-1276.01.
- 41 (y) Section 32-1284.
- 42 (z) Section 32-1297.01.
- 43 (aa) Section 32-1904.
- 44 (bb) Section 32-1941.
- 45 (cc) Section 32-1982.

1 (dd) Section 32-2022.
2 (ee) Section 32-2063.
3 (ff) Section 32-2108.01.
4 (gg) Section 32-2123.
5 (hh) Section 32-2371.
6 (ii) Section 32-3430.
7 (jj) Section 32-3620.
8 (kk) Section 32-3668.
9 (ll) Section 32-3669.
10 (mm) Section 32-3922.
11 (nn) Section 32-3924.
12 (pp) Section 32-4128.
13 (oo) Section 32-4222.
14 (qq) Section 36-113.
15 (rr) Section 36-207.
16 (ss) Section 36-411.
17 (tt) Section 36-425.03.
18 (uu) Section 36-446.04.
19 (vv) Section 36-594.01.
20 (ww) Section 36-594.02.
21 (xx) Section 36-766.01.
22 (yy) Section 36-882.
23 (zz) Section 36-883.02.
24 (aaa) Section 36-897.01.
25 (bbb) Section 36-897.03.
26 (ccc) Section 36-3008.
27 (ddd) SECTION 41-269.02.
28 (ddd) (eee) Section 41-619.53.
29 (eee) (fff) Section 41-1964.
30 (fff) (ggg) Section 41-1967.01.
31 (ggg) (hhh) Section 41-1968.
32 (hhh) (iii) Section 41-1969.
33 (iii) (jjj) Section 41-2814.
34 (jjj) (kkk) Section 41-4025.
35 (kkk) (lll) Section 46-141, subsection A or B.
36 (lll) (mmm) Section 46-321.
37 Sec. 16. Section 41-1758, Arizona Revised Statutes, is amended to
38 read:
39 **41-1758. Definitions**
40 In this article, unless the context otherwise requires:
41 1. "Agency" means the supreme court, the department of economic
42 security, the department of child safety, the department of education, the
43 department of health services, the department of juvenile corrections, the
44 department of emergency and military affairs, the department of public
45 safety, the department of transportation, the state real estate

1 department, the department of insurance and financial institutions, the
2 board of fingerprinting, the Arizona game and fish department, the Arizona
3 department of agriculture, the board of examiners of nursing care
4 institution administrators and assisted living facility managers, the
5 state board of dental examiners, the Arizona state board of pharmacy, the
6 board of physical therapy, the state board of psychologist examiners, the
7 board of athletic training, the board of occupational therapy examiners,
8 the state board of podiatry examiners, the acupuncture board of examiners,
9 the state board of technical registration, the board of massage therapy,
10 ~~or~~ the Arizona department of housing **OR THE SECRETARY OF STATE'S OFFICE**.

11 2. "Division" means the fingerprinting division in the department
12 of public safety.

13 3. "Electronic or internet-based fingerprinting services" means a
14 secure system for digitizing applicant fingerprints and transmitting the
15 applicant data and fingerprints of a person or entity submitting
16 fingerprints to the department of public safety for any authorized purpose
17 under this title. For the purposes of this paragraph, "secure system"
18 means a system that complies with the information technology security
19 policy approved by the department of public safety.

20 4. "Good cause exception" means the issuance of a fingerprint
21 clearance card to an applicant pursuant to section 41-619.55.

22 5. "Person" means a person who is required to be fingerprinted
23 pursuant to any of the following:

- 24 (a) Section 3-314.
- 25 (b) Section 8-105.
- 26 (c) Section 8-322.
- 27 (d) Section 8-463.
- 28 (e) Section 8-509.
- 29 (f) Section 8-802.
- 30 (g) Section 15-183.
- 31 (h) Section 15-503.
- 32 (i) Section 15-512.
- 33 (j) Section 15-534.
- 34 (k) Section 15-763.01.
- 35 (l) Section 15-782.02.
- 36 (m) Section 15-1330.
- 37 (n) Section 15-1881.
- 38 (o) Section 17-215.
- 39 (p) Section 28-3228.
- 40 (q) Section 28-3413.
- 41 (r) Section 32-122.02.
- 42 (s) Section 32-122.05.
- 43 (t) Section 32-122.06.
- 44 (u) Section 32-823.
- 45 (v) Section 32-1232.

1 (w) Section 32-1276.01.
2 (x) Section 32-1284.
3 (y) Section 32-1297.01.
4 (z) Section 32-1904.
5 (aa) Section 32-1941.
6 (bb) Section 32-1982.
7 (cc) Section 32-2022.
8 (dd) Section 32-2063.
9 (ee) Section 32-2108.01.
10 (ff) Section 32-2123.
11 (gg) Section 32-2371.
12 (hh) Section 32-3430.
13 (ii) Section 32-3620.
14 (jj) Section 32-3668.
15 (kk) Section 32-3669.
16 (ll) Section 32-3922.
17 (mm) Section 32-3924.
18 (nn) Section 32-4128.
19 (oo) Section 32-4222.
20 (pp) Section 36-113.
21 (qq) Section 36-207.
22 (rr) Section 36-411.
23 (ss) Section 36-425.03.
24 (tt) Section 36-446.04.
25 (uu) Section 36-594.01.
26 (vv) Section 36-594.02.
27 (ww) Section 36-766.01.
28 (xx) Section 36-882.
29 (yy) Section 36-883.02.
30 (zz) Section 36-897.01.
31 (aaa) Section 36-897.03.
32 (bbb) Section 36-3008.
33 (ccc) SECTION 41-269.02.
34 (ddd) Section 41-619.52.
35 (eee) Section 41-619.53.
36 (fff) Section 41-1964.
37 (ggg) Section 41-1967.01.
38 (hhh) Section 41-1968.
39 (iii) Section 41-1969.
40 (jjj) Section 41-2814.
41 (kkk) Section 41-4025.
42 (lll) Section 46-141, subsection A or B.
43 (mmm) Section 46-321.
44 6. "Rap back services" has the same meaning prescribed in section
45 41-1750.

1 7. "Vulnerable adult" has the same meaning prescribed in section
2 13-3623.

3 Sec. 17. Section 41-1758.01, Arizona Revised Statutes, is amended
4 to read:

5 41-1758.01. Fingerprinting division; powers and duties

6 A. The fingerprinting division is established in the department of
7 public safety and shall:

8 1. Conduct fingerprint background checks for persons and applicants
9 who are seeking licenses from state agencies, employment with licensees,
10 contract providers and state agencies or employment or educational
11 opportunities with agencies that require fingerprint background checks
12 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,
13 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215,
14 28-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-823, 32-1232,
15 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-1982, 32-2022,
16 32-2063, 32-2108.01, 32-2123, 32-2371, 32-3430, 32-3620, 32-3668, 32-3669,
17 32-3922, 32-3924, 32-4128, 32-4222, 36-113, 36-207, 36-411, 36-425.03,
18 36-446.04, 36-594.01, 36-594.02, 36-766.01, 36-882, 36-883.02, 36-897.01,
19 36-897.03, 36-3008, **41-269.02**, 41-619.52, 41-619.53, 41-1964, 41-1967.01,
20 41-1968, 41-1969, 41-2814, **AND** 41-4025, section 46-141, subsection A or B
21 and section 46-321.

22 2. Issue fingerprint clearance cards. On issuance, a fingerprint
23 clearance card becomes the personal property of the cardholder and the
24 cardholder shall retain possession of the fingerprint clearance card.

25 3. On submission of an application for a fingerprint clearance
26 card, collect the fees established by the board of fingerprinting pursuant
27 to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147,
28 the monies collected in the board of fingerprinting fund.

29 4. Inform in writing each person who submits fingerprints for a
30 fingerprint background check of the right to petition the board of
31 fingerprinting for a good cause exception pursuant to section 41-1758.03,
32 41-1758.04 or 41-1758.07.

33 5. If after conducting a state and federal criminal history records
34 check the division determines that it is not authorized to issue a
35 fingerprint clearance card to a person, inform the person in writing that
36 the division is not authorized to issue a fingerprint clearance card. The
37 notice shall include the criminal history information on which the denial
38 was based. This criminal history information is subject to dissemination
39 restrictions pursuant to section 41-1750 and Public Law 92-544.

40 6. Notify the person in writing if the division suspends, revokes
41 or places a driving restriction notation on a fingerprint clearance card
42 pursuant to section 41-1758.04. The notice shall include the criminal
43 history information on which the suspension, revocation or placement of
44 the driving restriction notation was based. This criminal history

1 information is subject to dissemination restrictions pursuant to section
2 41-1750 and Public Law 92-544.

3 7. Administer and enforce this article.

4 B. The fingerprinting division may contract for electronic or
5 internet-based fingerprinting services through an entity or entities for
6 the acquisition and transmission of applicant fingerprint and data
7 submissions to the department, including identity verified fingerprints
8 pursuant to section 15-106. The entity or entities contracted by the
9 department of public safety may charge the applicant a fee for services
10 provided pursuant to this article. The entity or entities contracted by
11 the department of public safety shall comply with:

12 1. All information privacy and security measures and submission
13 standards established by the department of public safety.

14 2. The information technology security policy approved by the
15 department of public safety.