

First Regular Session 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 539

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AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 3-6-4.5-7, AS AMENDED BY P.L.128-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. As required by 52 U.S.C. 21112, a complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under ~~IC 33-42-4~~. **IC 33-42-9.**

SECTION 2. IC 3-6-5.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. A complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under ~~IC 33-42-4~~. **IC 33-42-9.**

SECTION 3. IC 3-8-7-8, AS AMENDED BY P.L.169-2015, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) This section applies to a state convention conducted by a political party described by IC 3-8-4-1.

(b) The state chairman and state secretary of the political party holding the state convention shall certify each candidate nominated at the convention to the secretary of state not later than noon July 15 before the general election.

(c) The certificate must be in writing and state the following:

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- (1) The name of each candidate nominated as:
  - (A) the candidate wants the candidate's name to appear on the ballot; and
  - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
- (2) Each candidate's residence address.
- (3) Whether each candidate nominated by the convention has complied with IC 3-9-1-5 by filing a campaign finance statement of organization.
- (4) The following statements:
  - (A) A statement that the candidate has attached either of the following to the certificate:
    - (i) A copy of a statement of economic interests, file stamped by the office required to receive the statement of economic interests.
    - (ii) A receipt or photocopy of a receipt showing that a statement of economic interests has been filed.

This requirement does not apply to a candidate for a federal office.

(B) A statement that the candidate understands that if the candidate is elected to the office, the candidate may be required to obtain and file an individual surety bond before serving in the office. This requirement does not apply to a candidate for a federal office or legislative office.

(C) A statement that the candidate understands that if the candidate is elected to the office, the candidate may be required to successfully complete training or have attained certification related to service in an elected office. This requirement does not apply to a candidate for a federal office, state office, or legislative office.

(D) A statement that the candidate:

- (i) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and
- (ii) agrees to comply with the provisions of IC 3-9.

This requirement does not apply to a candidate for a federal office.

The candidate must separately initial each of the statements required by this subdivision.

(d) The election division shall prescribe the form of the certificate of nomination for the offices. The election division shall provide that the form of the certificate of nomination include the following



information:

- (1) The dates for filing campaign finance reports under IC 3-9.
- (2) The penalties for late filing of campaign finance reports under IC 3-9.

(e) A certificate of nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the certificate of nomination. If there is a difference between the name on the candidate's certificate of nomination and the name on the candidate's voter registration record, the officer with whom the certificate of nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's certificate of nomination.

(f) The certificate of nomination must be signed by the state chairman and state secretary of the political party holding the convention, and set forth the name and residence of the chairman and secretary. The chairman and secretary shall acknowledge the certificate before an individual authorized to administer oaths under ~~IC 33-42-4-1~~. **IC 33-42-9**. The signed acknowledgment must be included in the certificate of nomination executed under this section.

SECTION 4. IC 3-8-7-10, AS AMENDED BY P.L.76-2014, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. (a) This section applies to a county, city, or town convention conducted by a political party described by IC 3-8-4-1.

(b) A certificate of nomination by convention or primary election must satisfy all of the following:

- (1) Be in writing.
- (2) Contain all of the following information for each person nominated:
  - (A) The name of each person nominated as:
    - (i) the person wants the person's name to appear on the ballot; and
    - (ii) the person's name is permitted to appear on the ballot under IC 3-5-7.
  - (B) Each person's residence address.
  - (C) The office for which each person is nominated.
- (3) Be signed by the chairman and secretary of the county, city, or town committee, who shall also give their respective places of residence and acknowledge the certificate before an individual

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authorized to administer oaths under ~~IC 33-42-4-1~~. **IC 33-42-9**.  
The signed acknowledgment must be included in the certificate of nomination executed under this section.

SECTION 5. IC 24-2-1-4, AS AMENDED BY P.L.135-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) Subject to the limitations of this chapter, a person who uses a mark in Indiana may file in the office of the secretary, in a manner that complies with the requirements of the secretary, an **electronic** application for registration of the mark. The **electronic** application must include the following information:

- (1) The name and business address of the person applying for registration of the mark, and:
  - (A) if the applicant is a corporation, the state of incorporation;
  - (B) if the applicant is a partnership, the:
    - (i) state in which the partnership is organized; and
    - (ii) names of the general partners, as specified by the secretary; or
  - (C) if the applicant is another form of legal entity, the jurisdiction in which the legal entity was organized.
- (2) The:
  - (A) goods or services on or in connection with which the mark is used;
  - (B) mode or manner in which the mark is used on or in connection with the goods or services; and
  - (C) class in which the goods or services fall.
- (3) The date on which the mark was first used anywhere and the date on which the mark was first used in Indiana by the applicant or the applicant's predecessor in business.
- (4) A statement that:
  - (A) the applicant is the owner of the mark;
  - (B) the mark is in use; and
  - (C) to the knowledge of the person verifying the application, another person:
    - (i) has not registered the mark, either federally or in Indiana; or
    - (ii) does not have the right to use the mark either in the identical form or in such near resemblance to the form as to be likely, if applied to the goods or services of the other person, to cause deception, confusion, or mistake.
- (b) The secretary may also require on an application:
  - (1) a statement indicating whether an application to register a mark, parts of a mark, or a composite of a mark, has been filed by



the applicant or a predecessor in the interest of the applicant in the United States Patent and Trademark Office. If an application has previously been filed in the United States Patent and Trademark Office, the applicant must provide full particulars with respect to the previous application, including the:

- (A) filing date and serial number of each application;
  - (B) status of each application; and
  - (C) reason or reasons for the refusal of the application or the nonregistration of the mark if an application to register the mark was finally refused registration or if an application to register the mark has not resulted in a registration; and
- (2) a drawing of the mark that complies with the requirements of the secretary.

(c) The **electronic** application must be signed and verified under oath, affirmation, or declaration subject to perjury laws by:

- (1) the applicant;
- (2) a member of the applicant firm or applicant limited liability company; or
- (3) an officer of the applicant corporation, association, or other form of legal entity.

The application must be accompanied by ~~three (3)~~ **one (1) specimens showing actual use sample image showing actual use** of the mark. The application must be accompanied by an application fee payable to the secretary.

SECTION 6. IC 24-2-1-4.5, AS ADDED BY P.L.135-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4.5. (a) If a person files an **electronic** application for registration of a mark and pays the **appropriate** application fee **described in section 15.3 of this chapter**, the secretary may examine the application for conformity with this chapter.

(b) An applicant must provide additional information requested by the secretary, including a description of a design mark.

(c) An applicant may make or authorize the secretary to make reasonable amendments to an **electronic** application that are requested by the secretary or are considered by the applicant to be advisable to respond to a rejection or an objection.

(d) The secretary may require an applicant to submit a new **electronic** application if the secretary determines amendments to the application are necessary and the applicant does not make or authorize the secretary to make amendments under subsection (c).

(e) The secretary may require an applicant to disclaim a component of a mark that is not eligible for registration, and an applicant may



voluntarily disclaim a component of a mark for which registration is sought. A disclaimer does not prejudice or affect the applicant's rights:

- (1) existing at the time of application or arising after the application in the disclaimed matter; or
- (2) on another application if the disclaimed matter is or becomes distinctive of the applicant's goods or services.

(f) If an applicant is not entitled to registration of a mark under this chapter, the secretary shall advise the applicant of the reason the applicant is not entitled to registration of the mark. The applicant has a reasonable time specified by the secretary:

- (1) to reply to the reason the applicant is not entitled to registration; or
- (2) to amend the application.

If the applicant replies to the secretary or amends the application within the reasonable time, the secretary shall reexamine the application.

(g) The procedure under subsection (f) may be repeated until:

- (1) the secretary finally refuses registration of the mark; or
- (2) the applicant fails to reply or amend the application within the time specified by the secretary, at which time the secretary shall consider the application to have been withdrawn.

(h) If the secretary issues a final order refusing the registration of a mark, an applicant may bring a civil action in a court with jurisdiction to compel the registration of the mark. A court may order the secretary to register a mark, without costs to the secretary, on proof that all statements in the application are true and the mark is entitled to registration.

(i) If two (2) or more applications are concurrently processed by the secretary for registration of the same or confusingly similar marks for the same or related goods or services, the secretary shall grant priority to the applications in order of filing. If a previously filed application is granted a registration, the other application or applications must be rejected. A rejected applicant may bring an action for cancellation of the previously registered mark based upon previous or superior rights to the mark under section 10 of this chapter.

SECTION 7. IC 24-2-1-6, AS AMENDED BY P.L.135-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. (a) Registration of a mark under this chapter is effective for a term of five (5) years from the date of registration.

(b) If a person who registers a mark under subsection (a) files an **electronic** application not more than six (6) months before the expiration of the five (5) year term, in a manner complying with the requirements of the secretary, the registration may be renewed for an



additional five (5) year term commencing at the end of the expiring five (5) year term.

(c) A renewal fee payable to the secretary must accompany the application for renewal of the registration.

(d) A registration may be renewed for successive periods of five (5) years in the manner described in subsection (b).

(e) The secretary shall notify the registrants of marks of the necessity of renewal within the year next preceding the expiration of the five (5) years from the date of the registration by writing to the last known **electronic mail address or, if none, the last known** address of the registrants.

(f) An application for renewal under this chapter for a mark registered under this chapter or a mark registered under a prior law, must include:

- (1) a verified statement that the mark has been and remains in use; and
- (2) ~~a specimen showing actual use~~ **an image** of the mark on or in connection with the good or service.

SECTION 8. IC 24-2-1-11, AS AMENDED BY P.L.135-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) The secretary ~~shall~~ **may** adopt rules under IC 4-22-2 to establish:

- (1) a classification of goods and services for convenience of administration of this chapter but not to limit or extend an applicant's or registrant's rights; and
- (2) a single application for registration of a mark that:
  - (A) may include each good upon which a mark is used;
  - (B) may include each service with which a mark is used; and
  - (C) must indicate the appropriate class or classes of the goods or services.

To the extent practical, the classification of goods or services should conform to the classification of goods or services adopted by the United States Patent and Trademark Office.

(b) If a single application includes goods or services that fall within multiple classes, the secretary may require payment of a fee for each class.

SECTION 9. IC 24-2-1-15.3, AS ADDED BY P.L.135-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 15.3. (a) The secretary shall ~~adopt rules under IC 4-22-2 to establish:~~ **collect the following fees for a document delivered under this article:**

- (1) An application fee **of ten dollars (\$10).**

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- (2) A renewal fee of **ten dollars (\$10)**.
- (3) A recording fee **and of ten dollars (\$10)**.
- ~~(4) fees for related services:~~

(b) A fee is ~~nonrefundable unless otherwise specified in the rules adopted by the secretary under subsection (a):~~ **collected under subsection (a) is nonrefundable.**

SECTION 10. IC 25-1-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. This chapter applies to the imposition and collection of fees under the following:

- IC 14-24-10
- IC 16-19-5-2
- IC 25-30-1-17.
- ~~IC 33-42-2-1.~~

SECTION 11. IC 29-3-2-0.2, AS ADDED BY P.L.220-2011, SECTION 481, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 0.2. (a) As used in this section, "affected statutes" refers to the following:

- (1) IC 16-8-12-7 (repealed, now codified at IC 16-36-1-8).
- (2) IC 29-1-7.5-2.
- (3) IC 33-16-2-2 (repealed, ~~now~~ codified at IC 33-42-2-2, **also repealed**).
- (4) IC 33-19-3-2 (repealed, now codified at IC 33-37-3-2).
- (5) IC 35-34-2-3.
- (6) IC 35-37-1-5.

(b) This article and the amendments made by P.L.169-1988 to the affected statutes apply to guardianships in existence on June 30, 1989, except to the extent that application of this article and the amendments made by P.L.169-1988 to the affected statutes would contravene any vested or contractual rights in effect on June 30, 1989, in which case the law in effect before July 1, 1989, prevails.

SECTION 12. IC 33-42-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

**Chapter 0.5. Definitions**

**Sec. 1. The following definitions apply throughout this article:**

- (1) "Acknowledgment" means:
  - (A) a principal's declaration, before a notarial officer, that a record has been signed for the purpose stated in the record; or
  - (B) if the record was signed in a representative capacity, a declaration by the individual, before a notarial officer, that the individual signed the record with the proper authority





and signed it as the act of the individual or entity identified in the record.

- (2) "Credential" has the meaning set forth in IC 9-13-2-39.7.
- (3) "In a representative capacity" means acting:
- (A) as an authorized agent, officer, representative, or trustee of another person;
  - (B) in any capacity provided for or stated in a record;
  - (C) as an agent or attorney in fact for a principal; or
  - (D) in any other authorized capacity.
- (4) "Notarial act" means any act that a notarial officer may perform. The term includes the following acts:
- (A) Taking an acknowledgment.
  - (B) Administering an affirmation or oath.
  - (C) Taking a verification on an oath or affirmation.
  - (D) Attesting to or witnessing a signature.
  - (E) Attesting to or certifying a copy of a document or record.
  - (F) Noting a protest of a negotiable record.
- (5) "Notarial officer" means a notary public or any other individual authorized to perform a notarial act.
- (6) "Notary public" means an individual commissioned to perform a notarial act by the secretary of state.
- (7) "Official seal" means an image, affixed to or embossed upon, a record.
- (8) "Person" means:
- (A) an agency;
  - (B) an association;
  - (C) a business trust;
  - (D) a corporation;
  - (E) an estate;
  - (F) an individual;
  - (G) an instrumentality;
  - (H) a joint venture;
  - (I) a limited liability company;
  - (J) a partnership;
  - (K) a public corporation;
  - (L) a trust;
  - (M) a statutory trust;
  - (N) any other legal or commercial entity; or
  - (O) any local or state government:
    - (i) agency; or
    - (ii) instrumentality.



- (9) "Principal" means an individual:**
  - (A) whose signature is notarized; and**
  - (B) an individual taking an oath or affirmation from a notary public.**
- (10) "Record" means retrievable information that is:**
  - (A) memorialized upon a tangible medium; or**
  - (B) stored electronically.**
- (11) "Sign" means to:**
  - (A) adopt or execute with a tangible symbol; or**
  - (B) associate or attach an electronic process, sound, or symbol to a record;**

**with the intent to adopt or authenticate a record.**
- (12) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.**
- (13) "Stamping device" means a physical device capable of affixing or embossing a record with an official seal.**
- (14) "State" means any state of the United States, the District of Columbia, or any territory or possession subject to the jurisdiction of the United States.**
- (15) "Verification on an oath or affirmation" means a declaration that a statement in a record is true.**

SECTION 13. IC 33-42-1 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Jurisdiction).

SECTION 14. IC 33-42-2 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Qualifications, Powers, and Duties).

SECTION 15. IC 33-42-3 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Requirement of Appending Date of Expiration of Commission).

SECTION 16. IC 33-42-4 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Administering Oaths and Taking Acknowledgments).

SECTION 17. IC 33-42-8 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Maximum Fees).

SECTION 18. IC 33-42-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

**Chapter 9. Notarial Acts**

**Sec. 1. (a) The governor may appoint notaries public if the public interest would be promoted by the appointment.**

**(b) A notarial officer may perform the following notarial acts:**

- (1) Taking an acknowledgment.**
- (2) Administering an oath or affirmation.**
- (3) Taking a verification on an oath or affirmation.**
- (4) Attesting or witnessing a signature.**



- (5) Attesting or certifying a copy.
- (6) Noting a protest of a negotiable instrument.
- (7) Any additional act authorized by common law or the custom of merchants.

**Sec. 2. (a) A notarial officer who:**

- (1) takes an acknowledgment of a record;
- (2) takes a verification of statement on an oath or affirmation;
- or
- (3) attests or witnesses to a signature;

shall determine, from personal knowledge or satisfactory evidence, that the individual appearing before the officer has the identity claimed and that the signature on the record is the signature of the individual.

(b) A notarial officer who attests to or certifies a copy of a record or item shall verify that the copy is an accurate, full, and true reproduction or transcription of the record or item.

**Sec. 3.** If a notarial act relates to a statement made in or a signature executed on a record, the declarant or signatory shall appear personally before the notarial officer.

**Sec. 4. (a)** A notarial officer has personal knowledge of an individual's identity if the:

- (1) individual is personally known to the notarial officer; or
- (2) notarial officer has transacted sufficient, prior business with the individual to know the individual's identity.

(b) If a notarial officer does not have personal knowledge of an individual's identity, a notarial officer may authenticate the identity of an individual through one (1) of the following means:

(1) An inspection of any of the following that, if expired, has not been expired for more than three (3) years:

- (A) The individual's passport.
- (B) The individual's driver's license.
- (C) The individual's government issued identification card.
- (D) A credential that:
  - (i) is not described in clauses (A) through (C);
  - (ii) is government issued; and
  - (iii) contains a photograph of the individual.

(2) A verification on an oath or affirmation by a credible witness who:

- (A) personally:
  - (i) appears before the notarial officer; and
  - (ii) is personally known by the notarial officer; or
- (B) is identified to the notarial officer by a credential



described in subdivision (1).

(c) A notarial officer may require an individual to provide additional identification or information before performing a notarial act.

Sec. 5. (a) A notarial officer may refuse to perform a notarial act if the notarial officer is not satisfied that:

- (1) the individual executing the record is competent; or
- (2) the individual's execution of the record is being done knowingly or voluntarily.

(b) A notarial officer may refuse to perform a notarial act unless the refusal is prohibited by law.

Sec. 6. (a) A principal may appoint or direct another individual to sign a record if the principal is physically unable to sign the record personally.

(b) A notarial officer shall note the principal's use of an appointed or designated signatory on any record executed in the manner described in subsection (a) by:

- (1) clearly labeling the appointee or designee's signature;
- (2) clearly labeling the name of the principal; and
- (3) including or using language that conveys the principal's intent to use an assigned or designated signatory.

Sec. 7. (a) A notarial act may be performed by the following individuals:

- (1) Notaries public.
- (2) An official court reporter acting under IC 33-41-1-6.
- (3) Judges and justices of Indiana courts.
- (4) The secretary of state.
- (5) The clerk of the supreme court.
- (6) Mayors, clerks, clerk-treasurers of towns and cities, township trustees, in their respective towns, cities, and townships.
- (7) Clerks of circuit courts and master commissioners in their respective counties.
- (8) Judges of United States district courts of Indiana, in their respective jurisdictions.
- (9) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.
- (10) A precinct election officer (as defined in IC 3-5-2-40.1) and an absentee voter board member appointed under IC 3-11-10 or IC 3-11.5-4, for any purpose authorized under IC 3.



(11) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division as defined under IC 3-6-4.2.

(12) County auditors in their respective counties.

(13) Any member of the Indiana general assembly anywhere in Indiana.

(14) The adjutant general of the Indiana National Guard, specific active duty members, reserve duty members, or civilian employees of the Indiana National Guard designated by the adjutant general of the Indiana National Guard for any purpose related to the service of an active duty or reserve member of the Indiana National Guard.

(b) The signature and title of an individual performing a notarial act in this state is prima facie evidence of the fact that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

Sec. 8. (a) A notarial act performed in another state is presumed valid and has the same effect as a notarial act performed by a notarial officer of Indiana if the notarial act performed in that state is performed by:

- (1) a notary public of that state;
- (2) a judge, clerk, or deputy clerk of the state; or
- (3) any other individual authorized by the law of the state to perform notarial acts.

(b) The signature and title of an individual performing a notarial act in another state is prima facie evidence of the fact that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

(c) The signature of a notarial officer described in subsection (a)(1) or (a)(2) conclusively establishes the authority of the officer to perform the notarial act.

Sec. 9. (a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe is presumed valid and has the same effect as a notarial act performed by a notarial officer of Indiana if the notarial act is:

- (1) performed within the territory of the tribe; and
- (2) performed by:
  - (A) a notary public of the tribe;
  - (B) a judge, clerk, or deputy clerk of the tribe; or
  - (C) any other individual authorized by the laws of the tribe to perform the notarial act.

(b) The signature and title of an individual performing a



notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence of the fact that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

(c) The signature and title of a notarial officer described in subsection (a)(2) conclusively establish the authority of the officer to perform the notarial act.

**Sec. 10. (a)** A notarial act performed under federal law shall be presumed valid and has the same effect as a notarial act performed by a notarial officer of Indiana if the notarial act performed under federal law is performed by:

- (1) a judge, clerk, or deputy clerk of a court;
- (2) an individual who is authorized to perform notarial acts under federal law and is:
  - (A) presently serving in the armed forces of the United States; or
  - (B) performing duties under the authority of the armed forces of the United States;
- (3) an individual designated as a notarial officer by the United States Department of State for the purpose of performing notarial acts overseas; or
- (4) any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority while performing a notarial act are prima facie evidence of the fact that:

- (1) the signature is genuine; and
- (2) the individual holds the designated title.

(c) The signature and title of an officer described in subsection (a)(1), (a)(2), or (a)(3) conclusively establish the authority of the officer to perform the notarial act.

**Sec. 11. (a)** As used in this section, "foreign" means a government other than the United States, a state, or a federally recognized Indian tribe.

(b) If a notarial act is performed under the authority of and in the jurisdiction of:

- (1) a foreign state;
- (2) a constituent component of a foreign state; or
- (3) an international or multinational governmental organization;

the notarial act is presumed valid and has the same effect as a



notarial act performed by a notarial officer of Indiana.

(c) If evidence of authority and title of office appear in a digest of law or comparable listing, the authority of an officer with that title to perform notarial acts is conclusively established.

(d) The signature and official seal of an individual holding an office described in subsection (c) are prima facie evidence of the authenticity of:

- (1) the signature; and
- (2) the title of the office holder.

(e) An apostille in the form:

- (1) prescribed by the Hague Convention of October 5, 1961; and
- (2) issued by a foreign state that is a party to the convention described in subdivision (1);

establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(f) A consular authentication issued by an individual designated as a notarizing officer:

- (1) by the United States Department of State;
- (2) for notarial acts performed overseas;

conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office when affixed or attached to the record associated with the executed notarial act.

**Sec. 12. (a)** A notarial act must be authenticated by a certificate bearing the date of the notarial act and the signature of the notarial officer. A properly completed certificate must conform to the following conditions:

- (1) The certificate must be completed contemporaneously with the performance of the notarial act.
- (2) The certificate must be signed and dated by the notarial officer. If the notarial officer is a notary public, the certificate must be signed in the manner on file with the secretary of state for the specific notary public.
- (3) The certificate must identify the jurisdiction in which the notarial act is performed.
- (4) The certificate must display the title of the notarial officer.
- (5) If the notarial officer is a notary public, the certificate must display:
  - (A) the expiration date of the notary public's commission; and
  - (B) the county of the notary public's commission.

(b) A notary public who performs a notarial act shall do the



following:

- (1) affix, display, or emboss the notary's official seal; and
- (2) print or type the notary public's name underneath the notary public's signature on a certificate of acknowledgment, jurat, or other official record unless the name of the notary public:

- (A) appears in printed form on the record; or
- (B) appears as part of the notary public's seal; and is legible when the record is photocopied.

(c) If a notarial act is performed on a public record by a notarial officer other than a notary public, the information described in subsection (a)(2) through (a)(4) must be affixed, displayed, or embossed upon the certificate and accompanied by an official seal.

(d) A certificate of a notarial act is sufficient if it meets the requirements described in subsections (a) and (b) and:

- (1) is in a form permitted by the laws of this state;
- (2) is in a form permitted by the laws of the jurisdiction in which the notarial act was performed; or
- (3) sets forth the actions of the notarial officer.

(e) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements of this chapter.

(f) A notarial officer may not affix a signature to or associate a certificate with a record until a notarial act has been performed.

(g) All notarized records must have a certificate attached or associated with them. The affixing, attaching, or associating of certificates to notarial acts must conform to subsections (a) through (d).

(h) An official certificate bearing a notary public's seal constitutes presumptive evidence of the facts stated in cases, where, by law, the notary public is authorized to certify facts.

(i) A notarial officer may subsequently correct any information included or omitted from a certificate executed by the notarial officer.

(j) Changes or corrections may never be made to the impression of an official seal.

SECTION 19. IC 33-42-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

**Chapter 10. Official Seals and Stamping Devices**

**Sec. 1.** This chapter applies only to a notary commissioned or recommissioned after December 31, 2017.

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**Sec. 2. (a) The official seal of a notary public must include the following:**

- (1) The words "notary public".**
- (2) The words "state of Indiana".**
- (3) The word "seal".**
- (4) The name of the notary public exactly as it appears on the notary public's commission certificate.**
- (5) The words "commission number" followed by the commission number of the notary public.**
- (6) The words "my commission expires" followed by the expiration date of the notary public's commission.**

**(b) The seal described in subsection (a) must be capable of being copied together with the record to which it is affixed, attached, or associated.**

**(c) The seal described in subsection (a) may include any other information chosen by the notary public to be included on the seal.**

**Sec. 3. (a) A notary public is responsible for the security of any stamping device used for notarial acts by the notary public.**

**(b) A notary public shall not allow any other person to make use of the stamping device used by the notary public when performing notarial acts.**

**(c) Upon the:**

- (1) expiration;**
- (2) resignation; or**
- (3) revocation;**

**of the notary public's commission, the notary public shall damage, deface, destroy, erase, or secure the stamping device in a manner that precludes any further use of the device.**

**(d) Upon the:**

- (1) adjudication of incompetency; or**
- (2) death;**

**of a notary public, the notary public's guardian or personal representative shall preclude any further use of the device by disabling the device as described in subsection (c).**

**(e) If a device is lost or stolen, the notary public or notary public's guardian or personal representative shall promptly notify the secretary of state's office upon learning of the loss or theft.**

**Sec. 4. A notary public's official seal, when properly:**

- (1) executed; and**
- (2) affixed, associated, or attached to a record;**

**shall make the record self-authenticating for the purpose of a court proceeding.**



SECTION 20. IC 33-42-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

**Chapter 12. Commission Requirements and Qualifications**

**Sec. 1. (a)** As used in this section, "assurance" means a surety bond or the functional equivalent of a surety bond that covers a notary public's acts or omissions during the course of the notary public's commission.

**(b)** As used in this section, "surety" means an entity that:

- (1)** is licensed or authorized to do the business described in subdivision **(2)** in Indiana; and
- (2)** guarantees the legal liability of a notary public for:
  - (A)** debt;
  - (B)** default; or
  - (C)** failure to perform a duty of a notary public.

**(c)** An individual qualified under subsection **(d)** may apply to the secretary of state for a commission as a notary public. The applicant shall provide the information required by the rules established by the secretary of state, if any, and pay a filing fee.

**(d)** An applicant for a commission as a notary public must:

- (1)** be at least eighteen (18) years of age;
- (2)** be a citizen or permanent legal resident of the United States;
- (3)** be a resident of or primarily employed in Indiana;
- (4)** not be disqualified to receive a commission under IC 33-42-13;
- (5)** satisfy all educational requirements; and
- (6)** have passed the examination described in section 2 of this chapter.

**(e)** An applicant applying for a commission or reapplying for a subsequent commission shall:

- (1)** complete an electronic application and provide all necessary information required by the secretary of state;
- (2)** pay a nonrefundable filing fee of five dollars (\$5);
- (3)** execute an oath of office and comply with any associated requirements imposed by the secretary of state;
- (4)** obtain an assurance in the amount of twenty-five thousand dollars (\$25,000);
- (5)** submit, or have submitted by the surety on the applicant's behalf, an electronic copy of the assurance not later than thirty (30) days after the effective date of the assurance; and
- (6)** submit an electronic signature sample to the secretary of



state.

(f) A notary public may perform notarial acts only during a period covered by a valid assurance on file with the secretary of state.

(g) A surety must notify the secretary of state of a payment made under a notary public's assurance not later than thirty (30) days after issuing a payment to a claimant.

(h) The secretary of state shall issue a commission to an applicant who fully complies with this section for a term of eight (8) years.

(i) A commission granted under this section authorizes the notary public to perform notarial acts within the state of Indiana. The commission does not provide the notary public with any immunity or benefit.

(j) A person may not have more than one (1) active Indiana notary public commission at a time.

(k) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, a notary public commission is not a lucrative office.

**Sec. 2. (a)** An applicant seeking a commission as a notary public, including an applicant reapplying for a subsequent commission, must complete:

- (1) a course of education; and
- (2) an examination;

administered by the secretary of state.

(b) A notary public must fulfill a continuing education requirement administered by the secretary of state, not to exceed two (2) hours of continuing education every two (2) years.

**Sec. 3. (a)** A notary public shall notify the secretary of state not later than thirty (30) days after any change to the following information associated with the notary public:

- (1) Name.
- (2) Residential address.
- (3) Mailing address.
- (4) Personal electronic mail address.
- (5) Personal telephone number.
- (6) Employer's:
  - (A) Address.
  - (B) Name.
  - (C) Telephone number.

(b) A notary public shall file the following documents with the secretary of state upon any change to the notary name on file with



the secretary of state's office:

(1) A rider or other record issued by the notary's surety reflecting the change of name.

(2) An example of the notary's new, official signature.

(c) A notary public shall notify the secretary of state of the following occurrences not later than fourteen (14) days after they occur:

(1) The notary public is convicted of a felony offense involving deceit, dishonesty, or fraud.

(2) The notary public is found to have acted deceitfully, dishonestly, or fraudulently in any disciplinary action or legal proceeding.

(3) The notary public has a notary commission denied, restricted, or revoked in a state other than Indiana.

(d) The commission of a notary public who is:

(1) no longer a citizen or resident of Indiana; or

(2) primarily employed by the state of Indiana;

shall be treated as resigned.

SECTION 21. IC 33-42-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

**Chapter 13. Notary Discipline**

**Sec. 1. (a) The secretary of state may:**

(1) deny;

(2) refuse to renew;

(3) revoke;

(4) suspend; or

(5) impose a condition upon;

a commission granted under IC 33-42-12.

(b) An action described in subsection (a) may be taken against any notary public for any act or omission that demonstrates a deficiency in competence, honesty, integrity, or reliability. Additional acts that may result in one (1) or more sanctions are as follows:

(1) Any failure to comply with the requirements of this article or rules adopted under this article.

(2) Any deceitful, dishonest, or fraudulent statement or omission made during the application for a commission.

(3) Any conviction for a felony offense or a crime involving deceit, dishonesty, or fraud.

(4) An adverse ruling or admission of liability in any legal proceeding pertaining to deceit, dishonesty, or fraud.



- (5) Any failure to discharge any duty required of a notary public.
- (6) Any use of false or misleading advertisements.
- (7) Use of any false or misleading statement claiming a right or privilege that the notary public does not have.
- (8) Any denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state.
- (9) Any violation of a rule or requirement that:
  - (A) pertains to a notary public; and
  - (B) is required by the secretary of state.
- (10) Any failure to maintain an assurance as described in IC 33-42-12.

(c) If the secretary of state denies, refuses to renew, revokes, suspends, or imposes a condition on an applicant or notary public's commission, the affected party is entitled to timely notice and a hearing as described in IC 4-21.5.

(d) The secretary of state's decision to discipline an applicant or notary public as described in this section does not prevent a person from pursuing any civil or criminal cause of action against the offending applicant or notary public.

Sec. 2. The secretary of state shall maintain an electronic data base of active notaries public.

Sec. 3. (a) A commission as a notary public does not allow a person to perform the following:

- (1) Provide legal advice or otherwise practice law.
- (2) Act as an immigration consultant or provide advice on immigration matters.
- (3) Represent a person in an administrative or judicial proceeding related to citizenship or immigration.
- (4) Use an initial or name, other than the initial or name under which the notary public has been commissioned, to sign an acknowledgment.
- (5) At the time the notary takes the acknowledgment or administers an oath to any person the notary public knows to be:
  - (A) adjudicated mentally incompetent; or
  - (B) under a guardianship described in IC 29-3.
- (6) Take an acknowledgment from any person who is blind without first reading the record to the person who is blind.
- (7) Take the acknowledgment of any person who does not speak or understand the English language unless the nature and effect of the record is translated into a language the



person speaks or understands.

(8) Take the acknowledgment of a record without witnessing a signature or receiving an acknowledgment from the principal that the signature is authentic.

(9) Take a verification of an affidavit or oath in the absence of an affirmation of truth by the affiant.

(10) Perform a notarial act for:

(A) oneself;

(B) one's spouse; or

(C) any party;

that may directly benefit any person described in clauses (A) through (C).

(b) A notary public may not engage in false or deceptive advertising.

(c) A notary public, other than an attorney licensed to practice law in Indiana, may not use the term "notario" or "notario publico".

(d) Except as provided in subsection (g), a notary public may not advertise or represent that the notary public can draft legal documents, provide legal advice, or otherwise practice law. Any notary public who advertises notarial services shall include the following statement in each advertisement:

"I am not an attorney licensed to practice law in Indiana. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."

(e) The disclaimer described in subsection (d) shall be translated into every language used in an advertisement.

(f) If size or space restrictions make it impossible for the disclaimer to be incorporated into an advertisement, the disclaimer described in subsection (d) shall be prominently displayed at the site of the notarial service. A display described in this subsection must be shown before the performance of a notarial act.

(g) Subsections (c) through (f) do not apply to a notary public who is licensed to practice law in Indiana.

(h) Unless otherwise permitted by law, a notary public may not withhold access to or possession of an original record provided by a person seeking the performance of a notarial act by a notary public.

(i) A notary public who violates this chapter may have the notary public's commission revoked by a judge with jurisdiction in the county in which the notary public resides or is primarily employed.



**(j) The secretary of state may:**

- (1) investigate any violation of this chapter by a notary public; and**
- (2) revoke the commission of a notary public as described in section 1 of this chapter.**

**(k) A notary public whose commission has been revoked may not reapply for a new commission until five (5) years after the revocation.**

**(l) A notary public who has been convicted of notario publico deception under section 4 of this chapter may not reapply for a new commission.**

**(m) If the secretary of state revokes the commission of a notary public, the notary public may not reapply for a new commission for five (5) years.**

**Sec. 4. A person who knowingly or intentionally:**

- (1) advertises notarial services without using the disclaimer described in section 3(d) of this chapter;**
- (2) advertises notarial services while claiming to be an expert on immigration matters without being a designated entity as described in 8 CFR 245 a.11; or**
- (3) accepts payment in exchange for providing legal advice or any other assistance that requires legal analysis, judgment, or interpretation of the law;**

**commits notario publico deception, a Class A misdemeanor. It is a defense to a prosecution under this section that a notary public is also licensed to practice law in Indiana.**

SECTION 22. IC 33-42-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

**Chapter 14. Notary Fees**

**Sec. 1. (a) A notary public may charge a fee of not more than ten dollars (\$10) for each of the following notarial acts:**

- (1) Taking an acknowledgment.**
- (2) Administering an affirmation or oath.**
- (3) Attesting to or witnessing a signature.**
- (4) Taking a verification on an oath or affirmation.**
- (5) Attesting to or certifying a copy.**

**(b) Fees for notarial acts not described in subsection (a) are negotiable.**

**(c) If a fee is charged for a notarial act, the notary public shall display, in advance, a list of the fees that the notary public will charge.**



**(d) Notarial acts that:**

**(1) are performed as part of the notary public's employment;  
or**

**(2) do not require record keeping;**

**are subject to private agreement and are not governed by this section.**

**(e) A notary public may charge a reasonable fee for traveling to perform a notarial act. The travel fee requested may not exceed the federal travel fees established by the United States General Services Administration.**

**(f) Except as provided in subsection (g), a person who is a:**

**(1) public official; or**

**(2) deputy or appointee of a public official;**

**may not charge for services as a notary public in connection with any official business of that office or any other office belonging to the governmental unit in which the person serves.**

**(g) Subsection (f) does not apply to a person or transaction authorized to charge a fee for notarial services by another statute.**

SECTION 23. IC 33-42-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018]:

**Chapter 15. Apostilles**

**Sec. 1. (a) The secretary of state may attest to the authenticity of the signature of a public official in Indiana.**

**(b) Except as provided in subsection (c), the secretary of state may attest to the authenticity of a signature or certify a signature of a notary public.**

**(c) The secretary of state may not certify or attest to the signature of a notary public on a document regarding:**

**(1) allegiance to a government or jurisdiction;**

**(2) the relinquishment or renunciation of citizenship, military status, sovereignty, or world service authority; or**

**(3) a claim of immunity from the jurisdiction of the United States, the laws of any state of the United States, or federal law.**

**Sec. 2. The secretary of state shall collect two dollars (\$2) for each attestation provided under this chapter. However, no fee may be collected for an attestation pertaining to the following:**

**(1) An adoption.**

**(2) A birth certificate.**

**(3) A death certificate.**

**(4) A student transcript.**





**(5) A document prepared by the secretary of state.**

SECTION 24. IC 33-42-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

**Chapter 16. Miscellaneous Provisions**

**Sec. 1. (a) The failure of a notarial officer to perform a duty or meet a requirement specified in this article does not invalidate a notarial act performed by the notarial officer.**

**(b) The presumed validity of a notarial act under this section does not prevent an injured party from seeking:**

**(1) the invalidation of a record or transaction reliant upon an incomplete notarial act; or**

**(2) any other remedy provided by the laws of Indiana or the laws of the United States.**

**(c) The presumed validity of a notarial act described in subsection (a) does not apply to notarial acts:**

**(1) performed by unauthorized persons; or**

**(2) described in IC 33-42-13-3(a)(10).**

**Sec. 2. The secretary of state may adopt rules under IC 4-22-2 in order to implement this article. The rules may:**

**(1) prescribe the process for conditioning, denying, granting, renewing, revoking, or suspending a notary public commission;**

**(2) prescribe standards designed to ensure the trustworthiness of individuals applying for or in possession of a commission; and**

**(3) establish processes for accepting and approving assurances.**

**Sec. 3. A commission as a notary public in effect on January 1, 2018, continues until its date of expiration. A notary public who applies or reapplies for a commission on or after January 1, 2018, is subject to this chapter.**

**Sec. 4. This chapter does not affect the ongoing validity or effect of a notarial act performed before January 1, 2018.**

SECTION 25. IC 35-43-5-3.7, AS ADDED BY P.L.85-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3.7. A person who violates ~~IC 33-42-2-10~~ **IC 33-42-13-4** commits notario publico deception, a Class A misdemeanor.

SECTION 26. IC 35-43-5-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 23. (a) The following terms are**



**defined for this section:**

**(1) "Acknowledgment" has the meaning set forth in IC 33-42-0.5-1(1).**

**(2) "Notarial officer" has the meaning set forth in IC 33-42-0.5-1(5).**

**(b) A notarial officer who, with intent to defraud, knowingly or intentionally:**

**(1) affixes a person's signature to a blank affidavit or certificate of acknowledgment; and**

**(2) delivers that affidavit or certificate to another person;**

**with the intent that it be used as an affidavit or acknowledgment commits notary fraud, a Level 6 felony.**

**(c) A person who knowingly or intentionally uses an affidavit or certificate described in subsection (b) for any purpose commits notarial fraud, a Level 6 felony.**

SECTION 27. IC 35-52-33-5 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 5: IC 33-42-2-10~~ defines a crime concerning notaries public:

SECTION 28. IC 35-52-33-6 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 6: IC 33-42-4-2~~ defines a crime concerning notaries public:

SECTION 29. IC 35-52-33-7 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 7: IC 33-42-4-3~~ defines a crime concerning notaries public:

SECTION 30. [EFFECTIVE JULY 1, 2018] **(a) Any action taken by the secretary of state before July 1, 2018, to assess, receipt, or collect a trademark application filing fee under IC 24-2-1-4 is legalized and validated.**

**(b) This SECTION expires July 1, 2023.**



\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Speaker of the House of Representatives

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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