

THE FLORIDA SENATE
2019 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/HB 409 — Electronic Legal Documents

by Judiciary Committee; Civil Justice Subcommittee; and Reps. Perez, Grant J., and others
(CS/SB 548 by Judiciary Committee and Senator Brandes)

The bill authorizes and provides oversight for the use of Remote Online Notarizations (RON) by Florida notaries public. Remote Online Notarizations are possible because of audio-video communication technologies, such as FaceTime and Skype, where two or more people may be able to both see and hear one another in real time using a computer or mobile device, even from different states. This also means that a notary public can view the face of the principle signer and any witnesses using audio-video technology while simultaneously reviewing the identification and other credentials of each person.

Additionally, the bill puts Florida at the forefront of recognizing the validity of electronic legal documents, such as wills and powers of attorney, by authorizing their electronic creation as well as authorizing remote signing, remote notarization, and remote witnessing, even by a witness in separate location from both the notary and the principle signer. However, the bill contains safeguards for vulnerable adults and provides that witnesses must be physically present with a vulnerable adult in order for a legal document, such as a will or power of attorney, to be given any effect. Otherwise, the bill provides for the safekeeping of an electronic will until the testator's death by the appointment of a qualified custodian.

There are several advantages to using remote online notarization. First, online notarization sessions are recorded in their entirety and retained as a record, which may be used as evidence in the event the creation or execution of a remotely notarized document is challenged in court. Additionally, the verification of signer and witness credentials performed by an online notary is similar to those used credit card companies provided by third parties and public sources to verify that the person is who they claim to be (for example, verifying mother's maiden name).

If approved by the Governor, these provisions take effect January 1, 2020, except that the Department of State's rulemaking authority takes effect upon becoming law.

Vote: Senate 39-0; House 87-28