

# KANSAS NOTARY HANDBOOK



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# KANSAS NOTARY HANDBOOK

<b>Table of Contents</b>	<b>Page</b>
Purpose of a Notary Public .....	<a href="#">3</a>
Jurisdiction of a Kansas Notary .....	<a href="#">3</a>
What is a Notarial Act? .....	<a href="#">4</a>
Types of Notarial Acts .....	<a href="#">4</a>
• Acknowledgment .....	<a href="#">4</a>
• Acknowledgment in a Representative Capacity .....	<a href="#">4</a>
• Witnessing or Attesting a Signature .....	<a href="#">5</a>
• Certifying or Attesting a Copy of a Record .....	<a href="#">5</a>
• Prohibition on Photocopying Certain Documents .....	<a href="#">5</a>
• Administering an Oath or Affirmation .....	<a href="#">6</a>
• Taking a Verification on Oath or Affirmation .....	<a href="#">6</a>
• Notarizing Wills .....	<a href="#">7</a>
How to Notarize a Tangible (Paper) Document .....	<a href="#">7</a>
Physical Presence Requirement .....	<a href="#">8</a>
Verification of Identity .....	<a href="#">8</a>
Refusal to Perform a Notarial Act .....	<a href="#">8</a>
Notarial Certificate .....	<a href="#">9</a>
Completing a Notarial Certificate .....	<a href="#">9</a>
Fee for a Notarial Act .....	<a href="#">10</a>
Notarizing for an Individual Who is Unable to Sign .....	<a href="#">10</a>
How to Become a Kansas Notary .....	<a href="#">10</a>
Notary Stamp .....	<a href="#">11</a>
• Notary Stamp for a Tangible (Paper) Document .....	<a href="#">11</a>
• Notary Stamp for an Electronic Document .....	<a href="#">11</a>
• Lost or Stolen Stamp .....	<a href="#">11</a>
Notary Journal .....	<a href="#">12</a>
• Journal Entry .....	<a href="#">12</a>
• Retention of a Notary Journal .....	<a href="#">12</a>
Surety Bond .....	<a href="#">13</a>
Denial, Refusal to Renew, Revocation, or Suspension of a Notary Commission .....	<a href="#">13</a>
Change to a Notary Commission .....	<a href="#">14</a>
Renewal of a Notary Commission .....	<a href="#">15</a>
Resignation of a Notary Commission .....	<a href="#">15</a>
Name Change .....	<a href="#">15</a>
Notary Commission Follows the Notary .....	<a href="#">15</a>
Financial or Beneficial Interest .....	<a href="#">15</a>
Advertising Notary Services .....	<a href="#">16</a>

Prohibited Acts and Penalties .....	<a href="#">16</a>
Failure to Attach Notary’s Commission Expiration Date .....	<a href="#">17</a>
In-Person Electronic Notarizations (IPEN) .....	<a href="#">17</a>
Remote Online Notarizations (RON) .....	<a href="#">18</a>
Notary Training and Testing Required for IPEN and RON .....	<a href="#">21</a>
Apostilles and Authentications .....	<a href="#">21</a>
Short Form Notarial Certificates .....	<a href="#">22</a>
Glossary .....	<a href="#">25</a>
Additional Resources .....	<a href="#">25</a>

## Purpose of a Notary Public

The primary role of a notary is to act as an official, impartial witness to the identity of an individual who comes before the notary. A notary's role in verifying the identity of an individual requesting a notarial act and performing a notarial act in accordance with the requirements of state law and regulation, helps to deter fraud in the execution of various types of documents.

## Jurisdiction of a Kansas Notary

A Kansas notary must be in the state of Kansas to perform a notarial act. A Kansas notary may perform a notarial act in any county in Kansas. This requirement also applies to Kansas notaries who reside in a bordering state.

- For example: a Missouri resident works in Kansas, has a Kansas notary commission, and notarizes documents as part of their job. The notary may notarize documents while in Kansas; however, the notary may not notarize documents as a Kansas notary when they are in Missouri or otherwise outside the state of Kansas.

For notarial acts performed for remotely located individuals, also known as remote online notarizations (RON), a Kansas notary may notarize a document for such individual regardless of where the individual is located. However, the notary must be in Kansas at the time of the notarial act. For more information about notarial acts for remotely located individuals, please refer to the section in this handbook on [Remote Online Notarizations \(RON\)](#).

[Recognition of notarial acts performed outside of Kansas:](#) Kansas law provides that a notarial act performed in another state or under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect under Kansas law as if performed by a notarial officer in Kansas if the act performed in that state is performed by:

- A notary public of that state or of the tribe;
- a judge, clerk or deputy clerk of a court of that state or of the tribe; or
- any other individual authorized by the laws of that state or the laws of the tribe to perform the notarial act.

The signature and title of an individual performing a notarial act in another state or under the authority and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title. The signature and title of a notarial officer described above conclusively establish the authority of the officer to perform the notarial act.

In addition, notarial acts performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

- A judge, clerk or deputy clerk of a court;
- an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- an individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or
- any other individual authorized by federal law to perform the notarial act.

The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title. The signature and title of an officer described above conclusively establish the authority of the officer to perform the notarial act.

## What is a Notarial Act?

A notarial act is defined in state law as an act, whether performed with respect to a tangible or electronic record, that a notarial officer, including a notary, may perform under the law of this state. "Notarial act" includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument. The terms "notarial act" and "notarization" are often used interchangeably.

## Types of Notarial acts

A Kansas notary may perform any of the following notarial acts and any other notarial act permitted by law.

### Acknowledgment

An acknowledgment requires the signer of a document to personally appear before the notary. However, the notary is not required to witness the signing of the document. The document may be signed before it is brought to the notary for notarization. The signer must verbally acknowledge to the notary that the signer signed the document. To perform an acknowledgment, a notary must:

1. Require the personal appearance of the signer.\*
2. Review the document to determine if the acknowledgment can be notarized.
3. Identify the signer.
4. Verify the signature on the document is that of the signer.
5. Complete the notarial certificate.
6. Record the notarial act in the notary's journal.

\*If the notary is performing a notarial act for a remotely located individual, the personal appearance requirement can be satisfied by the use of a RON platform that meets the requirements in state law and regulation.

### Acknowledgment in a Representative Capacity

A notary may be asked to notarize a document that is signed by an individual on behalf of another individual or entity. This usually occurs when an individual is signing on behalf of a business entity, or in their capacity as a power of attorney or personal representative. If the individual is signing in a representative capacity (i.e., John Smith, as President of ABC Corporation), the notary is not required to verify the individual's authority to sign, which means the notary is not required to determine if John Smith is president of ABC Corporation. To notarize a document signed by an individual in a representative capacity a notary must:

1. Require the personal appearance of the signer.\*
2. Review the document to determine if the acknowledgement can be notarized.
3. Identify the signer of the document. The notarial certificate should indicate that the person is signing in a representative capacity.
4. Watch the signer sign the document.
5. Complete the notarial certificate.
6. Record the notarial act in the notary's journal.

\*If the notary is performing a notarial act for a remotely located individual, the personal appearance requirement can be satisfied by the use of a RON platform that meets the requirements in state law and regulation.

### **Witnessing or Attesting a Signature**

Witnessing or attesting a signature requires that a notary witness, or watch, a signer sign a document to be notarized. To witness a signature a notary must:

1. Require the personal appearance of the signer.\*
2. Review the document to determine if the document can be notarized.
3. Identify the signer as the person who is named in the document or who is required to sign the document.
4. Watch the signer sign the document.
5. Complete the notarial certificate.
6. Record the notarial act in the notary's journal.

\*If a document is brought to the notary that already has been signed, the notary may notarize the document by requiring the signer to sign the document again in the presence of the notary. It is not necessary to cross out the first signature; the signer should sign the document as close to the first signature as possible. The notary may then notarize the document. If the notary is performing a notarial act for a remotely located individual, the personal appearance requirement can be satisfied by the use of a RON platform that meets the requirements in state law and regulation.

### **Certifying or Attesting a Copy of a Record\***

A notary may be asked to certify or attest that a document is a true and correct copy of an original document. A notary who certifies or attests a copy of a document shall determine that the copy is a full, true, and accurate transcription or reproduction of the document. Since the notary is not verifying a signature on the document, the notary is not required to identify the person presenting the document or require the signer to sign the document. To certify that a document is a true and correct copy of an original document a notary should either:

1. Make a copy of the original document and certify the copy.
2. Alternatively, make a careful comparison of the original document to a copy of the document provided by the individual presenting the document before certifying that it is a true and correct copy.

\*Notaries should be aware that some documents prohibit photocopying (see below).

### **Prohibition on photocopying certain documents**

Public documents on file with a public office or agency must be certified by that office or agency. Public documents include:

- Court records, which are certified by the court that retains the original court records.
- Business formation documents and subsequent business documents, such as annual reports, amendments, or mergers, which are certified by the Secretary of State.
- Birth, death, and marriage certificates that are certified by the Office of Vital Statistics, Kansas Department of Health and Environment.

Some public documents contain a warning that the document is not to be copied. A notary should not copy and certify such documents. A notary may be sanctioned by the Secretary of State for providing a certified copy of such a document.

### **Administering an Oath or Affirmation**

A notary is authorized to administer an oath or affirmation. All oaths shall be administered with the person taking the oath laying their right hand upon the Holy Bible, or by raising their right hand. All oaths shall begin and end with the following statements:

Begin: "You do solemnly swear"

End: "So help you God."

Any person having conscientious scruples against taking an oath, may affirm. Affirmations shall begin and end with the following statements:

Begin: "You do solemnly, sincerely and truly declare and affirm"

End: "And this you do under the pains and penalties of perjury."

A notary who is providing an oath or affirmation to an officer elected or appointed under any law of the state of Kansas shall use the following oath or affirmation:

"I do solemnly swear [or affirm, as the case may be] that I will support the constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of \_\_\_\_\_ (name of appointed or elected office) \_\_\_\_\_. So help me God."

To administer an oath or affirmation a notary must:

1. Require the personal appearance of the person who is taking the oath or making the affirmation.\*
2. Administer the oath or affirmation.
3. Record the notarial act in the notary's journal.  
\*If the notary is performing a notarial act for a remotely located individual, the personal appearance requirement can be satisfied by the use of a RON platform that meets the requirements in state law and regulation.

### **Taking a Verification on Oath or Affirmation**

A verification on oath or affirmation, also known as a jurat or affidavit, is a declaration by a person before a notary in which the person states on oath or affirmation that the declaration or the contents of a document is true.

Taking a verification on oath or affirmation requires a notary to do the following:

1. Require the personal appearance of the person who is taking the oath or making the affirmation.\*
2. Review the document to determine if the document can be notarized.
3. Identify the signer as the person who is named in the document or who is required to sign the document.
4. Administer the oath or affirmation.
5. Watch the signer sign the document.
6. Record the notarial act in the notary's journal.  
\*If the notary is performing a notarial act for a remotely located individual, the personal appearance requirement can be satisfied by the use of a RON platform that meets the requirements in state law and regulation.

## Notarizing Wills

The notary should verify the identity of the person signing the will as well as each witness. State law provides that the acknowledgments and affidavits made before a notary regarding a will shall be substantially as follows:

State of \_\_\_\_\_

County of \_\_\_\_\_ ss.

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, known to me to be the testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of such persons being by me first duly sworn, such \_\_\_\_\_, testator, declared to me and to the witnesses in my presence that such instrument is the testator's last will and testament, and that the testator had willingly made and executed it as the testator's free and voluntary act and deed for the purposes therein expressed. Such witnesses, each on the witness' oath stated to me, in the presence and hearing of the testator, that the testator had declared to them that such instrument is the testator's last will and testament, and that the testator executed same as such and wanted each witness to sign it as a witness. Upon their oaths each witness stated further that they did sign the will as witnesses in the presence of each other and in the presence of the testator and at the testator's request, and that the testator at that time possessed the rights of majority, was of sound mind and under no restraint.

\_\_\_\_\_  
(Testator)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Witness)

Subscribed, acknowledged and sworn to before me by \_\_\_\_\_, testator, and \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_.

(seal)

(Signed) \_\_\_\_\_ (notary signature)

\_\_\_\_\_  
(Official capacity of officer, i.e. notary public)

## How to Notarize a Tangible (Paper) Document

A notary should follow the requirements based on the type of notarial act performed (see [Types of Notarial Acts](#)). However, common requirements exist for any type of notarial act and are as follows:

1. Require the physical presence of the signer. The signer of a document must be in the physical presence of the notary at the time the document is signed (except for taking an acknowledgment, etc). The physical presence requirement can be satisfied if the notary is performing a notarial act for a remotely located individual, in which the use of communication technology on a RON platform satisfies the physical presence requirement.
2. Review the document to determine if the notarization requested can be provided.
3. Identify the signer if required (copy certification does not require verification of the signer or person presenting the document for a notarization).

4. Complete the notarial certificate.
5. Record the notarial act in the notary's journal.

### **Physical Presence Requirement**

Generally, notarial acts require the person signing a document to be in the physical presence of the notary at the time the document is signed and notarized. This includes when a signer requests a notary to: witness or attest to a signature, administer an oath or affirmation, take a verification of a statement upon oath or affirmation, or make or note a protest of a negotiable instrument.

A signer also must personally appear before a notary when requesting an acknowledgment, to verify to the notary that the signature on the document belongs to the signer. When requesting an acknowledgment, the signer may, but is not required to, sign the document in the presence of the notary.

A document for which a certified copy is requested is not required to be presented by the signer to the notary and the signer is not required to be in the physical presence of the notary at the time the copy is certified.

### **Verification of Identity**

Before performing a notarial act, the notary shall determine, from personal knowledge or satisfactory evidence, that the person appearing before the notary has the identity claimed.

A notary is required to verify the identity of the signer in one of the following ways:

- A notary has personal knowledge of the identity of a person appearing before the notary if the person is personally known to the notary through dealings sufficient to provide reasonable certainty that the person has the identity claimed.
- A notary has satisfactory evidence of the identity of a person if the notary can identify the person by one of the following:
  - A passport, driver's license or government-issued nondriver identification card, or another form of government identification that contains the signature and a photograph of the person and is satisfactory to the notary.
    - The identification must be current or expired not more than three years before the performance of the notarial act.
  - By a verification on oath or affirmation of a credible witness personally appearing before the notary and known to the notary or whom the notary can identify based on a passport, driver's license or government-issued nondriver identification card.
  - A notary may require an individual to provide additional information or identification credentials to enable the notary to verify the individual's identity.

### **Refusal to Perform a Notarial Act**

A notary may refuse to perform a notarial act if the notary is not satisfied that the individual executing the record is competent or has the capacity to execute the record or that the individual's signature is knowingly and voluntarily made. Additionally, a notary may refuse to perform a notarial act unless refusal is prohibited by the law of this state or by federal law.

## Notarial Certificate

The notarial certificate contains the information the notary is required to complete when notarizing a document. The notarial certificate may also be referred to as the notarial block.

The type of notarial act is generally prescribed in the law that governs the document and the type of notarial act should be evident from the notarial certificate on the document.

If a notarial certificate is not printed on the document, the signer or the party that drafted or provided the document should instruct the notary which notarial certificate is required (such as acknowledgment, witnessing or verification).

A notary should know the correct language to use in a notarial certificate when the signer explains what type of notarial act is needed. A notary may provide a sample of notarial certificates from which the signer may choose. However, the notary may not provide advice or guidance on the type of notarial certificate to be used if the signer does not know what type of notarial act is needed. If the signer does not know the type of notarial certificate that is needed, the signer should consult with the issuer or drafter of the document, the entity that will receive the document, or an attorney for assistance.

The notarial certificate should be placed on the document to be notarized. Alternatively, the notary may provide the notarial certificate on a separate sheet of paper and staple or securely attach it to the document. If the notarial certificate is provided on a separate sheet of paper from the document that is to be notarized, notaries are encouraged to provide a brief description of the document to which the notarial certificate is attached.

Samples of completed short form notarial certificates are provided [here](#).

Regardless of whether the notary uses a notarial certificate printed on a document or provides the notarial certificate as an attachment, all information required as part of the notarial certificate must be included for the notarial act to be complete and correct. A notary may be subject to civil penalties and revocation of the notary's commission if a notarial certificate is incomplete or not completed correctly.

## Completing a Notarial Certificate

A notarial certificate should provide space for the following information to be completed by the notary at the time the notarial act occurs. A notary may use a notarial certificate other than the one provided if necessary to ensure all required information is included. If a notary is using a preprinted certificate the notary may line through and initial any information that is not completed, or the notary may make a correction to the notarial certificate and initial the correction. The notary may not alter the document; only the notarial certificate.

A complete notarial certificate includes the following:

- Jurisdiction where the notarial act is performed (State of Kansas, and County in which the notarial act is performed).
- Notary's signature. A notary's signature should match the notary's signature on file with the Secretary of State (for example, if the notary used a middle initial on the notary application, the signature should include the middle initial). The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

- Date of notarial act.
- Notary's commission expiration date (included as part of the notary's stamp).
- Notary's stamp (a notary's stamp should include the notary's commission expiration date or provide a blank space for the notary to write in the expiration date).

Note: Please review the [RON](#) section of the handbook for more information on requirements for completing a notarial certificate for RON.

### **Fee for a Notarial Act**

State law does not prohibit a notary from charging a fee for a notarial act. However, a notary who charges a fee for a notarial act must comply with the requirements in state regulation which states the fee must be:

- Disclosed to the signer and agreed to by the signer before the notarial act is performed.
- Disclosed to the signer that a fee is permitted but is not required by state law or regulation.
- Collected at the time the notarial act is performed, and
- Recorded in the notary's journal.

### **Notarizing for an Individual Who is Unable to Sign**

If an individual is physically unable to sign a document to be notarized, the individual may direct an individual other than the notary to sign the individual's name on the document. The notary shall insert: "Signature affixed by (name other than the individual) at the direction of (name of individual)" or similar words.

### **How to Become a Kansas Notary**

To be eligible to be a notary in Kansas, state law requires that an individual must be:

- At least 18 years of age.
- A resident of Kansas or a resident of a state bordering Kansas and have a regular place of employment or practice in Kansas.
- Be able to read and write the English language.
- Not be disqualified to receive a commission under state law (K.S.A. 53-5a24).

#### **Follow these steps to become a Kansas notary:**

- Complete the [Notary Public Appointment Form](#) (Form NO).
- Obtain a notary surety bond. State law requires a notary to be bonded for \$12,000 for applications submitted on and after January 1, 2022. The bond must be issued by a surety or other entity licensed or authorized to do business in Kansas. The surety bond company must complete Section C of [Form NO](#).
  - A separate bond is not required for an applicant who is also registering to perform IPEN or RON.
- Obtain a notary stamp. A copy or impression of the stamp must accompany [Form NO](#).
- Mail or deliver the completed [Form NO](#) and application fee to the Secretary of State's office.

The Secretary of State's office processes notary applications within three to five business days of receipt and mails a Notary Commission Certificate to approved applicants. An applicant may not notarize documents until their application is approved by the Secretary of State. Applications that are not approved will be returned to the applicant with a letter stating the reason for the denial.

## Notary Stamp

State law requires a stamp be affixed to or embossed on notarial certificates completed by a notary. A notary must keep their stamp secured and should not share or loan their stamp to anyone to perform a notarial act.

## Notary Stamp for a Tangible (Paper) Document

A notary's official stamp for use when notarizing tangible documents shall include:

- The notary public's name exactly as it appears on the application for commission as a notary public.
- The words "notary public".
- The words "State of Kansas".
- The notary's commission expiration date or a space for the notary to write in this date.

Notary stamps are not provided by the Secretary of State. Stamps may be purchased at office supply stores, through online stores, and notary associations. A copy or impression of the notary's stamp(s) must be submitted as part of the application for a notary commission. A copy or impression of all stamps the notary uses must be on file with the Secretary of State. Additional stamps may be placed on file using [Form NC](#).

## Notary Stamp for an Electronic Document

A notary's stamp for use in an IPEN or RON must include:

- The notary public's name exactly as indicated on the notary's commission;
- the words "State of Kansas" and "notary public";
- the notary's commission number; and
- the notary's commission expiration date.

The stamp used for IPEN or RON must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated. A stamp for use in IPEN or RON may be obtained through a notary technology provider. Once a notary receives the notary's electronic stamp from the notary technology provider, the notary must provide an image of the electronic stamp to the Secretary of State using [Form NC](#). A notary shall not use an electronic stamp unless a copy of the stamp has been filed with the Secretary of State.

NOTE: An applicant who is registering as a notary and is also registering to perform IPEN or RON may obtain an electronic stamp from the notary technology provider. The electronic stamp may, but is not required to, be provided to the Secretary of State at the time the applicant submits [Form NO](#) – remote notary technology providers generally require an individual to show evidence of a notary commission before registering or completing registration on the IPEN or RON platform and obtaining an electronic stamp. A notary should check with the technology provider they intend to use to provide IPEN or RON. If a notary needs to submit an electronic stamp separately from their notary application, [Form NC](#) may be used.

## Lost or Stolen Stamp

If a notary public's stamping device is lost or stolen, the notary or the notary's personal representative or guardian must promptly notify the Secretary of State upon discovering that the device is lost or stolen. The notification requirement is satisfied if the notification is submitted on [Form NC](#) and mailed, emailed, or delivered to the Secretary of State's office. When a notary replaces a lost or stolen stamp,

the notary shall use a different style of stamp to ensure that the new stamp looks different to help deter misuse of the lost or stolen stamp.

## **Notary Journal**

State law requires a notary to maintain a journal of all notarial acts performed by the notary on and after January 1, 2022. A notary shall maintain only one journal at any time in a tangible format but may maintain one or more journals in an electronic format to record all notarial acts performed regarding electronic records. Notary technology providers may provide an electronic journal on the IPEN and RON platforms and may also provide storage of audio-visual recordings of RON sessions.

If the journal is maintained on a tangible (paper) format, it shall be a permanent, bound register with numbered pages.

If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format complying with the rules and regulations of the Secretary of State. A notary must take reasonable steps to ensure that a backup of a journal maintained in an electronic format exists and is secure from unauthorized use. Records must be capable of being printed in a tangible medium when requested.

## **Journal Entry**

A notary should record the following information in a journal for each notarial act:

- The date and time of the notarial act.
- A description of the record, if any, and type of notarial act.
- The full name and address of each individual for whom the notarial act is performed.
- If identity of the individual is based on personal knowledge, a statement to that effect.
- If identity of the individual is based on satisfactory evidence (identification credential or verification on oath or affirmation of a credible witness), a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential; and
- The fee, if any, charged by the notary public.

## **Retention of a Notary Journal**

A notary journal must be retained in either a tangible (bound register) or electronic format for 10 years after the last entry recorded in the journal.

On resignation from, or the revocation or suspension of, a notary's commission, the notary shall retain the notary journal for the retention period and inform the Secretary of State where the journal is located. Notice can be provided using [Form NC](#).

Alternatively, instead of retaining a journal, a current or former notary may transmit the journal to a repository approved by the Secretary of State.

On the death or adjudication of incompetency of a current or former notary public, the notary's personal representative, guardian or any other person knowingly in possession of the journal shall:

- Retain the notary's journal for the retention period or transmit the journal to a repository approved by the Secretary of State and indicate where the journal is located.

- Inform the Secretary of State where the journal is located. Notice may be provided in writing and mailed or emailed to the Secretary of State.

Notaries should choose a repository from the list of providers on file with Secretary of State. The list of providers is at: [sos.ks.gov/business/notary.html](https://sos.ks.gov/business/notary.html).

## **Surety Bond**

An individual who applies to be a Kansas notary on and after January 1, 2022, must maintain a surety bond in the amount of \$12,000 during the notary's commission. A surety bond must be issued by a surety or other entity licensed or authorized to do business in Kansas. Most notaries obtain a surety bond from a surety company or a Kansas-licensed insurance company.

A surety bond covers acts performed during the term of the notary's commission. If a notary violates the law with respect to notarial acts in Kansas, the entity that issued the surety bond is liable. No suit shall be instituted against a notary or the surety or issuing entity under the notary's assurance more than three years after the cause of action occurs.

An issuer who cancels a notary's surety bond shall notify the Secretary of State 30 days before the bond is cancelled. The Secretary of State shall notify the notary whose bond is being cancelled that the notary must file another surety bond before the cancellation date. A notary who does not provide a surety bond is no longer authorized to perform notarial acts in Kansas. Notaries may use [Form NC](#) to change a bond on file with the Secretary of State.

## **Denial, Refusal to Renew, Revocation, or Suspension of a Notary Commission**

The Secretary of State may deny, refuse to renew, revoke, suspend or impose a condition on a notary commission for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary, including:

- Failure to comply with the law governing notarial acts in Kansas;
- A fraudulent, dishonest, deceitful misstatement or omission in the application for a notary commission.
- A conviction of the applicant or notary of any felony or a crime involving fraud, dishonesty or deceit, including entering into a diversion agreement in lieu of further criminal proceedings for such crime.
- A finding against, or admission of liability by, the applicant or notary in any legal proceeding or disciplinary action based on the applicant's or notary's fraud, dishonesty or deceit.
- Failure by the notary to discharge any duty required of a notary, whether required by state law, regulations, or any federal or state law.
- Use of false or misleading advertising or representation by the notary representing that the notary has a duty, right or privilege that the notary does not have.
- A violation by the notary of a notary regulation.
- Denial, refusal to renew, revocation, suspension, or conditioning of a notary commission in another state.
- Failure of the notary to maintain a surety bond that complies with state law.
- Denial, revocation, or suspension of a professional license, if such denial, revocation, or suspension was for fraud, dishonesty, deceit or any cause substantially relating to the duties or responsibilities of a notary.
- Incapacitation to such a degree that the person is incapable of reading or writing the English language.

- A violation of the financial or beneficial interest limitation on the performance of notarial acts.
- A notary whose commission has been revoked for any reason listed above may not apply for a new commission until the expiration of four years from the date of such revocation.

The Secretary of State also may deny, refuse to renew, revoke, suspend or impose a condition on a notary's commission for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary, including:

- A violation of state law that prohibits a notary from: assisting persons in drafting legal records, giving legal advice, or otherwise practicing law; acting as an immigration consultant or an expert on immigration matters; representing a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or receiving compensation for performing any of these activities.
- A violation of state law prohibiting false or deceptive advertising.
- A violation of the prohibition on use of the term "notario" or "notario publico" or any equivalent non-English term in any business card, advertisement, notice or sign by a notary unless the notary is also an attorney licensed to practice law in Kansas.
- A violation of the advertising limitation, which prohibits a notary, other than an attorney licensed to practice law in Kansas, from advertising or representing that the notary may assist persons in drafting legal records, give legal advice, or otherwise practicing law unless the following statement is included on certain advertisements: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." For more information on this limitation, see [Advertising Notary Services](#).
- Except as otherwise allowed by law, a notary shall not withhold access to or possession of an original record provided by a person who seeks a notarial act from a notary.
- A notary whose commission as a notary has been revoked for any of the reasons described above may not apply for or receive a new commission for such individual's lifetime.

The authority of the Secretary of State to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

### **Change to a Notary Commission**

A notary should use the Notary Public Change of Status form, [Form NC](#), to make the following changes to a notary commission:

- Change a name. State law requires a notary whose name changes to notify the Secretary of State prior to performing a notarial act using the new name.
- Add or replace a notary stamp. A notary may have more than one stamp. All tangible and electronic stamps that a notary uses must be on file with the Secretary of State. If a notary adds a stamp during their commission, the notary must file a copy or impression of the stamp with the Secretary of State.
- Report a lost or stolen stamp. A notary is required to notify the Secretary of State of a lost or stolen stamp.
- Resign a notary commission.
- Change an address.
- Change a phone number or email address.

- Change surety bond company.
- Add or remove IPEN or RON registration.

### **Renewal of a Notary Commission**

A notary's commission is not automatically renewed. A notary who wants to renew a commission must meet the qualifications to be a notary and apply for a new commission using [Form NO](#). Notaries are encouraged to submit an application to renew a commission up to 90 days prior to their commission expiration date to ensure the notary's ability to notarize is uninterrupted.

### **Resignation of a Notary Commission**

A notary shall resign a commission as a notary by emailing, mailing, or delivering a letter of resignation, or by completing and submitting [Form NC](#) to the Secretary of State. The notary's commission shall terminate upon delivery of the notification. The Secretary of State's office will confirm receipt of the resignation in writing. A notary who has resigned is required to destroy any notary stamp(s) or make the stamp(s) unable to be used. If a notary provides IPEN or RON, the notary should request that the provider of the digital certificate revoke the certificate, which will make the digital certificate unable to be used. A notary's journal must be retained for 10 years from the date of the last journal entry.

### **Name Change**

If a notary changes name by any legal action, the notary shall obtain a new stamp containing the notary's new name. Prior to performing any notarial act after such change, the notary shall mail or deliver to the Secretary of State notice of the change of name and shall include a copy or impression of the new stamp and the notary's new signature. The notary may use [Form NC](#) to change a name and provide a new stamp and signature. The name on the stamp must identically match the name on the form. A notary may not notarize under their new name before the change is processed by the secretary of state. After a notary's name is changed, the notary may not notarize under the former name. There is no fee for a name change.

### **Notary Commission Follows the Notary**

A notary commission, including the notary's stamp and journal, belongs to the notary, regardless of who paid for the commission, surety bond, stamp, or journal. A notary who provides notarial acts as part of their job duties, and who leaves employment, should keep their notary stamp and journal. The notary may provide a copy of any journal entries documenting notarial acts performed for the notary's employer. If the employer cancels the notary's surety bond, the notary may purchase a new bond to continue their commission.

### **Financial or Beneficial Interest**

A notary may not perform a notarial act if the notary or the notary's spouse is a party to or has a direct financial or beneficial interest in the document.

A direct financial interest occurs if the notary is named in the document, individually, as a principal to the transaction; or with respect to a real property transaction, is named in a record, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee to the transaction.

A notary does not have a direct financial or beneficial interest in a transaction when the notary acts in the capacity of an agent, employee, insurer, attorney, escrow agent or lender for a person having a direct financial or beneficial interest in the transaction.

- For example: the fact that an attorney receives a fee for performing legal services, presently or in the future, is not a direct beneficial interest resulting from the operation of the document or notarization.

### Advertising Notary Services

Notaries are required to adhere to the following requirements in state law regarding advertising of notary services:

1. A notary shall not engage in false or deceptive advertising.
2. A notary other than an attorney licensed to practice law in this state, may not use the term "notario" or "notario publico" or any equivalent non-English term in any business card, advertisement, notice or sign.
3. A notary, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary who is not an attorney licensed to practice law in Kansas in any manner advertises or represents that the notary offers notarial services, whether orally or in writing, including through broadcast media, print media, and the internet, the notary shall include the following statement in the advertisement or representation, prominently and in each language used in the advertisement or representation and in each language in which notarial services are offered:  
  
**"I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."**
4. If the form of advertisement is not broadcast media, print media or the internet and does not permit inclusion of the above statement because of size, the statement shall be displayed prominently or provided at the place where the notarial act is performed. Notice must be provided before the notarial act is performed.

### Prohibited Acts and Penalties

A Kansas notary is not authorized to:

- Assist persons in drafting legal records, give legal advice or otherwise practice law;
- Act as an immigration consultant or an expert on immigration matters;
- Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or
- Receive compensation for performing any of the activities listed here.
- Notarize a document if the notary or the notary's spouse is a party or in which either of them has a direct financial or beneficial interest. A notarial act performed in violation of this provision is voidable.
- Violate provisions regarding advertising;

- Use the term “notario” or “notario publico,” unless the notary is an attorney licensed to practice law in Kansas.
- A notary shall not engage in false or deceptive advertising. Violation constitutes a deceptive act or practice under the Kansas Consumer Protection Act.
- Violation of section 2 or 3 of the advertising provision constitutes a deceptive act or practice under the Kansas Consumer Protection Act and is a class B misdemeanor.
- Except as otherwise allowed by law, a notary shall not withhold access to or possession of an original record provided by a person who seeks a notarial act from the notary.

### **Failure to Attach the Notary’s Commission Expiration Date**

A notary who willfully neglects or refuses to attach the notary’s commission expiration date when notarizing a document is guilty of a Class C misdemeanor.

### **In-Person Electronic Notarizations (IPEN)**

A Kansas notary may provide in-person electronic notarizations (IPEN), also known as e-notarizations. An IPEN enables the signer to affix an electronic signature to an electronic document and enables the notary to electronically notarize the document by placing the notary’s electronic signature and stamp on the document.

An IPEN is subject to the same requirements as a notarization performed on a paper document; the only difference is that the signature of the signer and the notary stamp and signature are affixed to the document electronically. This includes the requirement that the signer of the document must be in the physical presence of the notary at the time the document is notarized.

To comply with state law and regulation, the notary’s electronic signature and electronic stamp must be tamper-evident and affixed using a digital certificate. Notary technology providers can provide the notary with the software needed to perform IPEN and also may provide the digital certificate, or it may be purchased separately.

Prior to performing IPEN, a notary must:

- Select a notary technology provider, obtain an electronic signature, electronic stamp, and digital certificate (used to securely affix the notary’s signature to the notarized document).
  - A notary must ensure the technology they choose to perform IPEN complies with state law and regulation. The notary technology provider should be able to provide this assurance to the notary. Notaries should choose an IPEN provider from the list of technology providers on file with Secretary of State. The list of available providers is at: [sos.ks.gov/business/notary.html](https://sos.ks.gov/business/notary.html).
- Complete required testing and training and submit along with [Form NO](#) or [Form NC](#).
- Complete [Form NC](#) to notify the Secretary of State that the notary will provide IPEN services, provide a copy of the electronic stamp to the Secretary of State, and pay the appropriate fee.

To perform an IPEN, the document is uploaded to the IPEN platform. The notary verifies the signer of the document, and witnesses the signer sign the electronic document with an electronic signature. The notary affixes or logically associates the notary’s electronic signature and electronic stamp to the document along with the notary’s digital signature, which secures the document and makes it evident if there are unauthorized attempts to alter the document once it has been notarized. The notary records the notarial act in the notary’s electronic journal (IPEN technology providers generally provide an electronic journal to the notary).

## Remote Online Notarizations (RON)

A Kansas notary may provide notarizations for remotely located individuals, also referred to as remote online notarizations (RON). RON allows a notary and a remotely located individual with an electronic document to be notarized to communicate using audio-visual technology to satisfy the personal appearance requirement, eliminating the need for the signer to be in the physical presence of the notary at the time the document is notarized.

A notary may perform a RON for a signer who is in any location; however, the notary must be physically in Kansas at the time of the notarization.

Notaries who provide RON will select one or more notary technology providers who can provide the platform to perform RON. Generally, this includes the audio-visual communication technology, the notary's electronic signature, electronic stamp for use in a remote online notarization, the digital certificate (which makes the notarized document tamper-evident), and the technology needed to identify the signer of the document to be notarized. Note: some notary technology providers provide a digital certificate as part of the notary platform, while others may require the notary to purchase a digital certificate separately from another technology provider that offers digital certificates. Please consult with the notary technology provider to make this determination.

Prior to performing a RON, a notary must:

- Select a notary technology provider(s) that will provide the technology needed to perform remote online notarizations.
- Notify the Secretary of State that the notary will provide RON, provide a copy of the notary's electronic stamp, and pay the appropriate fee. An applicant for a notary commission or a notary who is renewing their commission should complete [Form NO](#). A current Kansas notary who is adding RON services to their commission should complete [Form NC](#).
- Complete required testing and training and submit along with [Form NO](#) or [Form NC](#).

**Remote Notarization Process:** While specific processes may vary, below is a general overview the process of providing a RON. The notary technology provider whose platform a notary uses to provide RON may provide training and resources to assist a notary with completing a RON:

1. An individual with an electronic document to be notarized logs into the RON platform of a notary technology provider. The signer (or notary) uploads the document to be notarized. The signer's identity is verified through five knowledge-based authentication (KBA) questions and credential analysis. Once the signer's identity is verified, the signer is connected to a notary to complete the RON. The notary receives notice from the technology provider that the signer's identity is verified.
2. The signer and the notary are connected on the RON platform. The platform's audio-visual technology must be of sufficient video resolution and audio clarity to enable the notary public and signer to see and speak with each other throughout the recorded notarization session. This satisfies the personal appearance requirement.
3. A notary who is performing a RON is encouraged to take the following steps when beginning a remote notary session with a signer:
  - The notary verbally identifies themselves by name.

- The notary asks the signer to verbally identify themselves. The notary also should use traditional identification methods (such as comparing the signer's identity credential to the signer) to verify the signer.
- The notary asks the signer if the signer is knowingly and voluntarily executing the document.
- The notary asks the signer if the signer understands the notary session is being recorded.

4. The signer signs the electronic document with an electronic signature. The notary completes the electronic notarial certificate, applies the notary's electronic signature, stamp, and digital certificate. Attachment of the digital certificate secures the document and makes it evident if there are unauthorized attempts to alter the document once it has been notarized. An electronic notarial certificate must include the same information required for a notarial certificate on a paper document. In addition, the certificate must include a statement substantially as follows: "This notarial act involved the use of communication technology."

5. The notary records the notarial act in the notary's electronic journal and saves the journal entry and audio-visual recording of the notarial act (the electronic journal and audio-visual recording are generally provided as part of the RON platform and the platform provider may retain both on the notary's behalf).

If at any point during the notarization session the signer must exit the session, the session must be restarted from the beginning, including the identity verification process of the signer.

**Audio-Visual Recordings and RON Electronic Notary Journal:** The requirements for an audio-visual recording of a RON shall include, at minimum:

- Confirmation by the notary that the signer has successfully completed identity verification and credential analysis.
- Visual confirmation of the identity of the signer through visual inspection of the credential used during credential analysis.
- The actual notarial act performed.

If the individual is personally known to the notary, the notary should include a statement to that effect as part of the notarization session.

A notary who performs RON must retain an electronic journal and any audio-visual recordings in a way that protects the journal and recordings against unauthorized access by password or other secure means. A notary must take reasonable steps to ensure that a backup of the journal and audio-visual recordings exists and is secure from unauthorized use. A notary journal and audio-visual recording must be retained for at least 10 years after the last notarial act and recording is made. A RON technology provider may provide these services to notaries who use the provider's RON platform.

On the death or adjudication of incompetency of a current or former notary, the notary's personal representative or guardian or any other person knowingly in possession of a journal in an electronic format or audio-visual recording must:

- Comply with the retention requirements;
- Transmit the journal and audio-visual recording to one or more repositories; or
- Transmit the journal and audio-visual recording in an industry-standard readable data storage device to the Secretary of State.

Alternatively, a notary, guardian, conservator, or agent of a notary, or a personal representative of a deceased notary may, by written contract, engage a third party to act as a repository to provide the storage of the electronic notary journal and audio-visual recordings. The contract shall meet the requirements established in state regulation.

Notaries should choose a repository from the list of providers on file with Secretary of State. The list of providers is at: [sos.ks.gov/business/notary.html](https://sos.ks.gov/business/notary.html).

**RON for Individuals Outside the United States:** Certain provisions apply to a RON notarization for an individual located outside the United States. For these individuals, a notary may perform a notarial act only for a document that meets one of the following requirements:

- The document is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States.
  - This may be a judicial proceeding (such as a lawsuit in which the record will be submitted), a matter before an administrative agency (such as a matter before a federal or state regulatory board), or a matter that is before another governmental or non-governmental entity (such as a record that will be submitted to a corporate entity). The court, agency, or other entity must be located in the territorial jurisdiction of the United States, although the location of the court, agency, or other entity need not be in the same state in which the notary public is performing the notarial act.
- The document involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States.
  - The property may be either real or personal property. It need not be located in the same state in which the notary public is performing the notarial act.
    - For example: the matter may involve an acknowledgement on a deed that is transferring real property located anywhere in the United States, or it may involve an affidavit filed regarding a transfer of a decedent's personal property located anywhere in the United States.
- The act of making the statement or signing the document is not prohibited by the foreign state in which the remotely located individual is located.
  - A notarization for a person located outside the U.S. is performed in the state in which the notary is commissioned and is performing the notarial act. However, if the act is performed for an individual located in a foreign country, that nation nevertheless might seek to impose a penalty on the remotely located individual, the notary, or both for performing the notarial act. Thus, in order for the notarization to be permitted, the act of making the statement or signing the document must not be prohibited in the foreign country in which the remotely located individual is situated. This provision is not intended to impose a requirement upon a notary to translate, understand, or interpret the laws of foreign countries. Instead, it is intended to alert international users of remote notarial services that they may be exposed to sanctions under the laws of other countries.

## Notary Training and Testing Required for IPEN and RON

Before performing IPEN or RON a notary shall complete training and pass an examination that covers the laws, rules, procedures, and ethics relevant to notarial acts. The training and examination are provided at no cost on the Secretary of State's website: [sos.ks.gov/business/notary.html](https://sos.ks.gov/business/notary.html). A notary who chooses to perform IPEN or RON should complete the training and examination, print the certificate that is generated upon passage of the examination and submit it to the Secretary of State with the notary's registration to perform IPEN or RON. A notary may take the examination as many times as needed to pass.

In addition, many organizations and associations offer notary training courses. Notaries may want to consider additional training opportunities in addition to the required training.

The notary technology provider(s) that a notary chooses to use to perform IPEN or RON generally also offer platform-specific training to notaries.

While training and passage of the examination are required for any notary who wishes to provide IPEN or RON, any current notary or notary applicant who does not intend to provide IPEN or RON also may complete the training and examination for their own benefit.

## Apostilles and Authentications

For documents notarized by a Kansas notary that will be used outside of the United States, the Kansas Secretary of State may provide an apostille or an authentication that verifies the notary's signature and stamp. A notary is not permitted to issue an apostille or authentication; however, a notary must ensure the notarization on a document is completed correctly. The Kansas Secretary of State's office cannot provide an apostille or authentication for a document with an incorrect or incomplete notarial certificate.

### Apostille

An apostille is a certificate issued by the Kansas Secretary of State that verifies the seal and signature of public officials and notaries on a state-issued document that enables the document to be recognized in foreign countries that are members of the 1961 Hague Convention Treaty regarding public documents.

### Authentication

An authentication is a certificate issued by the Kansas Secretary of State that verifies the seal and signature of public officials and notaries on a state-issued document that enables the document to be recognized in countries that are **not** members of the 1961 Hague Convention Treaty.

- An apostille or authentication does not validate the contents of the document. It verifies the public official who signed the document or the notary who notarized the document.
- An apostille or authentication may be obtained for the following documents:
  - Kansas birth certificates
  - Kansas marriage certificates
  - Kansas death certificates
  - Kansas divorce decrees
  - Diplomas and transcripts from Kansas schools
  - Judgments from a Kansas court
  - Other documents issued by a public authority or notarized by a Kansas notary

NOTE: Public documents, such as those listed above, on file with a public office or agency must be certified by that office or agency. Many public documents contain a warning that the document is not to be copied. These documents should not be copied and certified. A notary may be sanctioned by the Secretary of State for providing a certified copy of such a document.

### Short Form Notarial Certificates

The short form notarial certificates that follow serve as a guide to help ensure a notarial certificate is properly completed. However, there may be variations in notarial certificates that are printed on a document. For example, some preprinted certificates include a place for information to be provided that is included in the notary's stamp (such as commission expiration date). If a notary includes their commission expiration date as part of their stamp, it is not necessary to enter this information on the preprinted form, as long as the notary affixes their stamp to the certificate. A notary should draw a line through and initial any item on a preprinted certificate that is intentionally not completed. The notary may not alter the legal document; only the certificate.

The certificate must identify the title of office of the notarial officer. The officer may be notary or clerk of the court. The notarial officer may also be an individual in a military service or performing duties under the authority of a military service, in which case the individual's rank or position should be identified.

If used in the performance of a notarial act for a remotely located individual, any short form certificate must contain a statement substantially as follows: "This notarial act involved the use of communication technology."

#### For an acknowledgment in an individual capacity:

State of     Kansas      
County of     Shawnee    

This record was acknowledged before me on     1/1/2021     by     John Doe      
Date Name(s) of person(s)

    Sue Smith      
Signature of notarial officer

Official Stamp

    Notary Public      
Title of office

My commission expires:     1/1/2023    

#### For an acknowledgment in a representative capacity:

State of     Kansas      
County of     Shawnee

This record was acknowledged before me on 1/1/2021 by John Smith  
Date Name(s) of person(s)

as President of ABC Company  
(type of authority, such as officer or trustee) (name of party on behalf of whom record was executed)

Jane Doe  
Signature of notarial officer

Official Stamp

Notary Public  
Title of office

My commission expires: 1/1/2023

**For a verification on oath or affirmation:**

State of Kansas  
County of Shawnee

Signed and sworn to (or affirmed) before me on 1/1/2021 by John Doe  
Date Name(s) of person(s) making statement

Sue Smith  
Signature of notarial officer

Official Stamp

Notary Public  
Title of office

My commission expires: 1/1/2023

**For witnessing or attesting a signature:**

State of Kansas  
County of Shawnee

Signed [or attested] before me on 1/1/2021 by John Doe  
Date Name(s) of person(s)

Sue Smith  
Signature of notarial officer

Official Stamp

Notary Public  
Title of office

My commission expires: 1/1/2023

**For certifying a copy of a record:**

State of Kansas  
County of Shawnee

I certify that this is a true and correct copy of a record in the possession  
of John Doe. Dated 1/1/2021

Sue Smith  
Signature of notarial officer

Official Stamp

Notary Public  
Title of office

My commission expires: 1/1/2023

**For power of attorney in a representative capacity:**

State of Kansas  
County of Shawnee

This instrument was signed before me on 1/1/2021 by John Doe  
Date Name(s) of designees(s)  
as (power of attorney) of \_\_\_\_\_  
name of party on behalf of whom instrument was executed.

Sue Smith  
Signature of notarial officer

Official Stamp

Notary Public  
Title of office

My commission expires: 1/1/2023

## Glossary

**In-person electronic notarization (IPEN).** A notarial act in which the signer of a document affixes an electronic signature to an electronic document and the notary electronically notarizes the document by placing the notary's electronic signature and stamp on the document and affixing or logically associating the notary's digital certificate, which secures the document and makes it tamper-evident.

**"Notarial act"** means an act, whether performed with respect to a tangible or electronic record, that a notarial officer (including a notary) may perform under the law of this state. "Notarial act" includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument. The notarization of a document is a notarial act.

**Notary technology provider.** An internet-based provider of the technology that a notary uses on the technology provider's platform (website) to provide in-person electronic notarizations or remote online notarizations.

**Remote online notarization (RON).** A notarial act performed for a remotely located individual in which the signer of a document affixes an electronic signature to an electronic document and the notary notarizes the document by placing the notary's electronic signature and stamp on the document and affixing or logically associating the notary's digital certificate, which secures the document and makes it tamper-evident. The notary and signer use communication technology, provided by a RON technology provider, that enables the notary and signer to see and hear each other throughout the notary session which satisfies the personal appearance requirement.

## Additional Resources

- State notary laws are available at: [sos.ks.gov](https://sos.ks.gov) (placeholder)
- State notary regulations are available at: [sos.ks.gov](https://sos.ks.gov) (placeholder)