
Emergency Rules

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 110—Electronic Notarization**

EMERGENCY RULE

15 CSR 30-110.070 Storage and Retention of Notarial Records

PURPOSE: This emergency rule sets out the requirements for storage and retention of notarial records used by electronic notaries in Missouri.

EMERGENCY STATEMENT: The secretary of state determined that this emergency rule is necessary to preserve a compelling governmental interest. This emergency rule is necessary to address changes made by the legislatures, which took effect on August 28, 2020, to electronic notarization. The secretary of state needs this emergency rule since the Executive Order issued by the governor expired on August 28, 2020. The secretary of state finds there is a compelling governmental interest, which requires this emergency action since due to the pandemic of COVID-19, in person notarization is unable to be performed for wills, powers of attorney, and durable power of attorney in health care decisions. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 31, 2020, becomes effective September 15, 2020, and expires March 13, 2021.

(1) Remote Online Notarization (RON) systems.

(A) RON must—

1. Facilitate the process of collecting the required notarial records;
2. Provide a method by which a notary can access and/or export the notarial records; and
3. Provide automated backup of the notarial records and audio/video recording to ensure redundancy.

(B) RON technology solution must employ data protection safeguards consistent with generally accepted information security standards.

(C) Retention of the audio/video recording and notarial records by either the notary or their designated third party, as directed by the notary, must adhere to the laws, directives, rules, and regulations of the state.

(2) A notary must retain an electronic journal and an audio-visual recording created under Chapter 486, RSMo in a computer or other electronic storage device that protects the journal and recording against unauthorized access by password or cryptographic process.

(A) The recording must be created in an industry standard audio-visual file format and must not include images of any electronic record on which the remotely located individual executed an electronic signature.

(B) An electronic journal must be retained for at least ten (10) years after the last notarial act chronicled in the journal. An audio-visual recording must be retained for at least the (10) years after the recording is made.

(C) A notary must take reasonable steps to ensure that a backup of the electronic journal and audio-visual recording exists and is secure from unauthorized use.

March 13, 2021. A proposed rule and emergency rule covering this same material will be published in the Oct. 1, 2020, issue of the *Missouri Register*.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

AUTHORITY: sections 486.1110 and 486.1195, RSMo Supp. 2020. Emergency rule filed Aug. 31, 2020, effective Sept. 15, 2020, expires