

**Department of Legislative Services**  
Maryland General Assembly  
2021 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1265 (Delegate W. Fisher)  
Health and Government Operations

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**State Government - Notarial Acts - Remote Notarizations**

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This bill authorizes remote notarial acts with respect to wills and trust instruments and clarifies the application of specified requirements for credential analysis and identity proofing as they pertain to remote notarial acts. In addition, the bill specifies that the notarization of any document in conformance with specified executive orders authorizing remote notarization must be deemed valid if the notarization occurred during the time that the orders were in effect.

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**Fiscal Summary**

**State Effect:** The bill does not directly affect State finances or operations.

**Local Effect:** The bill does not directly affect local government finances or operations.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** Chapter 407 of 2019, which took effect October 1, 2020, authorized a notary public located in the State to perform a notarial act using communication technology for a remotely located individual; however, Chapter 407 did not authorize remote notarization with respect to wills and trust instruments. When performing a remote notarization, a notary public may identify a remotely located individual (1) by personal knowledge; (2) on oath or affirmation from a credible witness, as specified; or (3) by remote presentation of satisfactory evidence of identification, credential analysis of the identification credential, and identity proofing of the individual. Identity proofing and credential analysis must be performed by a reputable third party in accordance with

specified requirements as set forth under Section 18-223 of the State Government Article. (The bill clarifies that these requirements for identity proofing and credential analysis apply only when a notary public identifies a remotely located individual by remote presentation of identification.)

On March 30, 2020, prior to the effective date of Chapter 407, the Governor issued [Executive Order 20.03.30.04](#) authorizing remote notarizations for the duration of the COVID-19 state of emergency and catastrophic health emergency. The order was subsequently amended by [Executive Order 20.09.29.01](#) (which took effect October 1, 2020, concurrent with the effective date of Chapter 407) specifically authorizing notaries public in the State to perform remote notarial acts with respect to wills and trust instruments for the duration of the emergency (and thereby suspending the provisions of Chapter 407 that preclude remote notarization of wills and trust instruments). Under the bill, a notarial act performed in accordance with either of these orders is deemed valid if the notarization occurred while the order was in effect.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 735 (Senator West) - Judicial Proceedings.

**Information Source(s):** Secretary of State; Judiciary (Administrative Office of the Courts); Register of Wills; Maryland State Bar Association; Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2021  
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