
Wisconsin Legislative Council

ACT MEMO



Prepared by: Melissa Schmidt, Principal Attorney

March 26, 2024

2023 Wisconsin Act 130 [2023 Senate Bill 898]

Remote Notarization of Estate Planning Documents

2023 Wisconsin Act 130 authorizes and creates a process allowing for the remote notarization of an “estate planning document,”¹ including a declaration to health care professionals, an authorization for final disposition, a power of attorney for health care, and the execution of a will. Specifically, the act authorizes the remote notarization of an estate planning document where a remotely located individual appears before a notary public via two-way, real-time audiovisual communication technology if all of the following apply:

- The signing is supervised by an attorney in good standing licensed to practice law in Wisconsin. The supervising attorney may serve as the notary public.
- The remotely located individual attests to being physically located in this state during the two-way, real-time audiovisual communication.
- The notary public attests to being physically located in this state during the two-way, real-time audiovisual communication.
- The remotely located individual positively confirms the remotely located individual’s identity. If the remotely located individual is not personally known to the notary public and the supervising attorney, the remotely located individual must provide satisfactory evidence of the remotely located individual’s identity as provided under current law.
- The remotely located individual identifies anyone else present in the same physical location as the remotely located individual. If possible, the remotely located individual must make a visual sweep of the remotely located individual’s physical surroundings so that the notary public and the supervising attorney can confirm the presence of any other persons.
- The remotely located individual displays the estate planning document, confirms the total number of pages and the page number on which the remotely located individual’s signature is to be affixed, and declares to the notary public and the supervising attorney that the remotely located individual is 18 years of age or older, that the document is the remotely located individual’s estate planning document, and that the document is being executed as a voluntary act.
- The remotely located individual, or another individual 18 years of age or older authorized to sign on behalf of the remotely located individual at the express direction and in the physical presence of the remotely located individual, signs the estate planning document in a manner that allows the notary

¹ “Estate planning document” is defined by the act to mean any of the following: (a) a will or a codicil; (b) a declaration of trust or other document creating a trust as provided under current law or an amendment to a declaration of trust or other document creating a trust; (c) a certification of trust as provided under current law; (d) a power of attorney for finances and property; (e) a power of attorney for health care; (f) a marital property agreement or an amendment to a marital property agreement; (g) a written instrument evidencing a nonprobate transfer pursuant to current law; (h) a declaration to health care professionals; (i) an authorization for final disposition; (j) an authorization for use and disclosure of protected health information; (k) an instrument of disclaimer as provided under current law; or (l) an instrument exercising a power of appointment as provided under current law.

public and the supervising attorney to see the signing. If the estate planning document is signed by someone on behalf of the remotely located individual, the signing must comply with current law.

- The audiovisual communication technology used allows communication by which a person is able to see, hear, and communicate in an interactive way with another person in real time using electronic means, except that if the remotely located individual, the notary public, or the supervising attorney has an impairment that affects hearing, sight, or speech, assistive technology or learned skills may be substituted for audio or visual if it allows that person to actively participate in the signing in real time.
- The estate planning document indicates that it is being executed pursuant to the provisions of the act.
- The estate planning document is signed and notarized as provided by the act and, within a reasonable time after the signing and performance of the notarial act, is personally delivered or transmitted by U.S. mail or commercial carrier to the supervising attorney.
- The supervising attorney completes and attaches to the estate planning document an affidavit of compliance as provided by the act. The act specifies the content and form of the affidavit of compliance that the supervising attorney must use.

In addition, the act specifies that a witness for a declaration to health care professionals must be 18 years of age or older. The act also requires an individual who signs on behalf of a declarant executing an authorization for final disposition must also be 18 years of age or older.

Effective date: March 23, 2024

For a full history of the bill, visit the Legislature's [bill history page](#).

MS:ksm