



Testimony of Professor James M. Concannon
Washburn University School of Law
In Support of HB 2713
Before the House Judiciary Committee
Wednesday, February 19, 2020

Chair Patton and Members of the Judiciary Committee:

I am one of four Commissioners representing Kansas on the Uniform Law Commission (ULC). I appear today to express the ULC's support for House Bill 2713, which adopts, with minor changes I will discuss, the Revised Uniform Law on Notarial Acts (RULONA). I was not a member of the drafting committee for this act but did serve on the ULC Style Committee that edited the act.

Kansas in 1984 was the third state to adopt the Uniform Law on Notarial Acts of 1982. Kansas has not updated its act to account for changes in technology. HB 2713 does that. Nine states enacted the 2018 version of RULONA in the past year. Six others adopted RULONA before the significant addition of Section 14A in 2018. Four states have introduced RULONA legislation already this year.

RULONA clarifies the law regarding notaries public, their responsibilities and duties, and provides a framework for performing notarial acts with respect to electronic records. RULONA also permits remote notarization, a concept that is growing in popularity across the states. The benefits of RULONA include:

First, RULONA harmonizes the treatment of notarization of all records, whether those records are paper or electronic. RULONA also works seamlessly with two other uniform acts Kansas has adopted, the Uniform Electronic Transactions Act and the Uniform Real Property Electronic Recording Act.

RULONA also preserves the integrity and reliability of notarized documents. It requires any person seeking a notarization to appear in person before the notarial officer, who must verify the identity of the person and witness the signature or receive an acknowledgment or verification of the signature. The person may appear in the physical presence of the notarial officer or via communications technology. In the latter case, in addition to identification by the personal knowledge of the notary or verification by a witness, the notary may use two different technologies or processes to identify the person. In addition, the notary must be able to confirm that the record is the same one signed by the person and make an audio-visual recording of the notarial act.

RULONA also works with notarial acts conducted in other jurisdictions by providing for recognition of valid notarizations from other states, from federally recognized American Indian tribes or nations, or under federal law or the law of foreign nations.

HB 2713 carries forward several Kansas provisions on notarial acts that are not part of RULONA. These were provisions Kansas law included for policy reasons and to assure comprehensive coverage of issues relating to notarial acts, because the 1982 act consisted of only nine substantive sections. At my request, the Legislative Counsel for the ULC office in Chicago reviewed those added

provisions and determined they are not inconsistent with any of the sections of the act that need to be uniform and will not impair the effective interstate functioning of the revised act.

Section 11(a)(3) of HB 2713 adds a requirement that is not in RULONA that a notarial act performed in another state by the use of audio and video communication technology with a remotely located individual is treated as if it were performed in this state only if the law in the state where the act was performed requires the identity of the individual making the statement be verified in the ways similar to the ways Section 15 of HB 2713 requires for an act performed in this state by audio and video communication technology. The effect is we will give effect to remote verifications in other states that have adopted RULONA or comparable standards, but not in states that have more relaxed standards. Again, the ULC Legislative Counsel determined this provision does not undermine uniformity.

RULONA is a carefully crafted and complete update to Kansas law governing notaries public and notarial acts. It has been endorsed by the American Societies of Notaries and the Property Records Industry Association. Adopting RULONA through HB 2713 provides clarity to Kansas's law and ensures that the state keeps pace with technological advances.