

Remote Online Notarization Will Support Business Continuity

By **Joshua Prever** (March 24, 2020)

Companies across the U.S. are having to adjust their business continuity plans to address unique problems caused by the current COVID-19 crisis. A key piece of those plans should be the incorporation of remote online notarizations, or RONS.



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Currently, 23 states have RON laws.

Thirteen states are conducting RON as of today: Virginia, Montana, Texas, Nevada, Tennessee, Minnesota, South Dakota, Ohio, Utah, Michigan, Oklahoma, Florida and Idaho.

Four additional states have effective RON statutes, but RON may not be performed because:

- In three states required regulations have not been promulgated: Vermont, Indiana and North Dakota. According to regulators in Indiana and North Dakota, they expect to promulgate the required regulations during the second half of 2020.
- One state's RON statute is newly effective, but no technology provider has completed the required registration process: Kentucky.

Six more states' enacted RON laws are slated to become effective between now and the end of 2020. These states are: Arizona, Maryland, Washington, Iowa, Nebraska and Wisconsin.

These laws give businesses access to a critical tool in today's climate of quarantines and isolation. RONS allow businesses to execute critical documents with clients, vendors and government entities despite the notary and signer being unable to physically be in the same room at the same time.

What exactly are RONS, and how can they help your business during the current health crisis and beyond?

RON laws allow notaries to electronically and remotely notarize documents. They eliminate the need for the notary to be in the physical presence of the signer, while providing a tamper-proof electronic version of the document.

In a world where freedom of movement is being restricted, and notaries and signers are unable to be in the same place, RONS provide an additional avenue to get the documents your business needs notarized — such as contracts, government permits, financial forms and others — even when the signer is at home or otherwise unable to appear in person.

But is it safe?

RONS rely on powerful technology to prove the identity of the signers, and uses real-time video and audio to communicate between the notary, signer and any necessary witnesses.

In many ways, the identity-proofing technology that is used provides greater confidence that the signers are who they say they are, and also provides a digital record of the signing process through a recording.

As with any new process, however, businesses must, of course, do the work before implementing to ensure compliance with laws and regulations, and ensure the integrity of electronic files. Whenever technology is used, risks can emerge, but these risks can be mitigated with due diligence.

Will your business want to use RONS after the crisis is over?

As businesses begin implementing their business continuity plans, start using RONS and see what a valuable tool they are, it is likely that when the current crisis subsides RONS will become a fixture of business as usual. Because it is done remotely, and can be done on your schedule and often times on demand, RONS have the ability to offer a number of efficiency gains post-crisis. Accordingly, implementing them and reducing the strain on your business now will lead to improved processes tomorrow.

What if my state does not allow RONS?

While it is true that almost half of the states in the country allow for RONS, some key states such as New York and California do not — yet. There are, however, active bills in both states, along with 12 others, and momentum is growing.

Importantly, even though every state does not have RON laws, when RONS are conducted in a state allowing for RONS, the document should have the same force and effect in jurisdictions that do not yet have them in place. This is because the state where the notarization is being conducted is in control. One potential exception, however, may be trust and estate documents.

What will employees who are already notaries need to do to start performing RONS?

If your company employs notaries, most states will require them to be trained and otherwise authorized to perform RONS. Getting your current notaries trained and authorized during the immediate crisis, may, however, be impractical.

Keep in mind that even if you are conducting RONS in-house, you may still need to partner with an approved third-party vendor to ensure continuous two-way video and audio, recording, creation of tamper-evident documents and to meet other requirements that are noted below.

Given other numerous challenges your company may be facing during the crisis, it may be easier to leverage existing third-party platforms. These third-party platforms are operated by vendors who already have processes in place, along with employees who are trained and authorized to conduct RONS. Therefore, they may serve as the path of least resistance for implementation.

In many cases, enterprise-level contracts can be entered into for large corporations and can help ensure priority access, while smaller companies can access these services for one-off documents.

What are some of the key requirements for RONS?

Although the process has some variation among the 23 states with RON laws (13 of these states have both regulations and laws in place allowing for RONs), a general outline of how RONs are conducted is below:

- They must be conducted in real time with continuous audio and visual feeds.
- The transaction must be recorded.
- The signer's identity is proven using approved ID software tools and correctly answering four to five background questions (i.e., where the signer has lived, car loan details and other personal information) within a specified period of time (often two minutes).
- The document is signed and notarized, and the electronic original is tamper-evident (i.e., cannot be altered without showing that it has been modified).
- The notary block states that it was notarized remotely, there is a log entry detailing the notarization and the notary keeps the log and video recording (generally between five and 10 years).

What happens after the signing is completed?

For companies that already sign documents electronically, the process will be familiar, as it is similar to electronic document-signing platforms already widely in use. When the signing and notarization are completed, an electronic version is sent, along with the video recording and transactional history of the signing. The electronic document serves as the original, and if any changes are made to it after it is signed, it will be clearly marked.

What is next?

Businesses are often required to adapt during a crisis. While everyone hopes that this global health crisis will be over quickly, companies should adopt RONs as part of their business continuity plans so they can continue executing and notarizing mission critical documents. Once the crisis passes, RONs may very well become a part of business as usual.

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