

SENATE BILL NO. 1588

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

6631S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 59.120, 486.735, 570.095, and 578.700, RSMo, and to enact in lieu thereof four new sections relating to protections against document fraud, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 59.120, 486.735, 570.095, and
2 578.700, RSMo, are repealed and four new sections enacted in
3 lieu thereof, to be known as sections 59.120, 486.735, 570.095,
4 and 578.700, to read as follows:

59.120. **1.** The recorder shall keep **[his] the**
2 **recorder's** office at the seat of justice, and the county
3 commission shall provide the same with suitable books, in
4 which the recorder shall record all instruments of writing
5 authorized and required to be recorded. If there is no
6 courthouse or other suitable county building at the seat of
7 justice, the county commission shall provide an office for
8 the recorder at any other place in the county where there is
9 a courthouse and courts of record are held.

10 **2. Each recorder shall display in the recorder's**
11 **office in a place visible to the public a printed sign with**
12 **the following text in all capital letters of at least one**
13 **inch in height: "WARNING: THE OFFENSE OF FILING FALSE**
14 **DOCUMENTS IS A FELONY UNDER MISSOURI LAW (RSMO 570.095) WITH**
15 **PENALTIES THAT MAY INCLUDE JAIL OR PRISON TIME AND FINANCIAL**
16 **RESTITUTION."**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

486.735. 1. A vendor or manufacturer shall register
2 with the secretary prior to selling or manufacturing notary
3 seals. The secretary shall maintain an internet site for
4 the purpose of allowing vendors and manufacturers to confirm
5 the current standing of any notary in the state.

6 2. A vendor or manufacturer shall not provide a notary
7 seal to a purchaser claiming to be a notary, unless the
8 purchaser presents a notary commission issued by the
9 secretary, and unless:

10 (1) In the case of a purchaser appearing in person,
11 the vendor or manufacturer identifies this individual as the
12 person named in the commission, through either personal
13 knowledge or satisfactory evidence of identity; or

14 (2) In the case of a purchaser ordering a seal by mail
15 or delivery service, the vendor or manufacturer confirms the
16 notary's standing as a commissioned notary through the
17 internet site.

18 3. For each commission, a vendor or manufacturer shall
19 make or sell only one seal and, if requested by the person
20 presenting the commission, only one embossing seal.

21 4. After manufacturing or providing a notary seal, the
22 vendor shall affix an image of all seals on a form as
23 prescribed by the secretary and, within seven business days,
24 send the completed form to the secretary, retaining a copy
25 of the form and the commission for a period of five years.

26 5. A notary obtaining a seal as a result of a name
27 change shall present a copy of the confirmation of notary's
28 name or address change from the secretary in accordance with
29 sections 486.780 and 486.785.

30 6. A vendor or manufacturer who fails to comply with
31 this section shall be subject to a fine of **[one] ten**
32 thousand dollars for each violation. For multiple

33 violations, a vendor's permission to sell or manufacture
34 notary seals may be withdrawn by the secretary. Such
35 violation shall not preclude the civil liability of the
36 vendor to parties injured by the vendor's failure to comply
37 with this section.

570.095. 1. A person commits the offense of filing
2 false documents if:

3 (1) With the intent to defraud, deceive, harass,
4 alarm, or negatively impact financially, or in such a manner
5 reasonably calculated to deceive, defraud, harass, alarm, or
6 negatively impact financially, he or she files, causes to be
7 filed or recorded, or attempts to file or record, creates,
8 uses as genuine, transfers or has transferred, presents, or
9 prepares with knowledge or belief that it will be filed,
10 presented, recorded, or transferred to the secretary of
11 state or the secretary's designee, to the recorder of deeds
12 of any county or city not within a county or the recorder's
13 designee, to any municipal, county, district, or state
14 government entity, division, agency, or office, or to any
15 credit bureau or financial institution any of the following
16 types of documents:

- 17 (a) Common law lien;
18 (b) Uniform commercial code filing or record;
19 (c) Real property recording;
20 (d) Financing statement;
21 (e) Contract;
22 (f) Warranty, special, or quitclaim deed;
23 (g) Quiet title claim or action;
24 (h) Deed in lieu of foreclosure;
25 (i) Legal affidavit;
26 (j) Legal process;
27 (k) Legal summons;

28 (l) Bills and due bills;

29 (m) Criminal charging documents or materially false
30 criminal charging documents;

31 (n) Any other document not stated in this subdivision
32 that is related to real property; or

33 (o) Any state, county, district, federal, municipal,
34 credit bureau, or financial institution form or document; and

35 (2) Such document listed under subdivision (1) of this
36 subsection contains materially false information; is
37 fraudulent; is a forgery, as [defined] **described** under
38 section 570.090; lacks the consent of all parties listed in
39 a document that requires mutual consent; or is invalid under
40 Missouri law.

41 2. Filing false documents under this section is a
42 class [D] **C** felony for the first offense except the
43 following circumstances shall be a class [C] **B** felony:

44 (1) The defendant has been previously found guilty or
45 pleaded guilty to a violation of this section;

46 (2) The victim or named party in the matter:

47 (a) Is an official elected to municipal, county,
48 district, federal, or statewide office;

49 (b) Is an official appointed to municipal, county,
50 district, federal, or statewide office; or

51 (c) Is an employee of an official elected or appointed
52 to municipal, county, district, federal, or statewide office;

53 (3) The victim or named party in the matter is a judge
54 or magistrate of:

55 (a) Any court or division of the court in this or any
56 other state or an employee thereof; or

57 (b) Any court system of the United States or is an
58 employee thereof;

59 (4) The victim or named party in the matter is a full-
60 time, part-time, or reserve or auxiliary peace officer, as
61 defined under section 590.010, who is licensed in this state
62 or any other state;

63 (5) The victim or named party in the matter is a full-
64 time, part-time, or volunteer firefighter in this state or
65 any other state;

66 (6) The victim or named party in the matter is an
67 officer of federal job class 1811 who is empowered to
68 enforce United States laws;

69 (7) The victim or named party in the matter is a law
70 enforcement officer of the United States as defined under 5
71 U.S.C. Section 8401(17)(A) or (D);

72 (8) The victim or named party in the matter is an
73 employee of any law enforcement or legal prosecution agency
74 in this state, any other state, or the United States;

75 (9) The victim or named party in the matter is an
76 employee of a federal agency that has agents or officers of
77 job class 1811 who are empowered to enforce United States
78 laws or is an employee of a federal agency that has law
79 enforcement officers as defined under 5 U.S.C. Section
80 8401(17)(A) or (D); or

81 (10) The victim or named party in the matter is an
82 officer of the railroad police as **[defined] authorized** under
83 section 388.600.

84 3. For a penalty enhancement as described under
85 subsection 2 of this section to apply, the occupation of the
86 victim or named party shall be material to the subject
87 matter of the document or documents filed or the relief
88 sought by the document or documents filed, and the
89 occupation of the victim or named party shall be materially
90 connected to the apparent reason that the victim has been

91 named, victimized, or involved. For purposes of subsection
92 2 of this section and this subsection, a person who has
93 retired or resigned from any agency, institution, or
94 occupation listed under subsection 2 of this section shall
95 be considered the same as a person who remains in employment
96 and shall also include the following family members of a
97 person listed under subdivisions (2) to (9) of subsection 2
98 of this section:

99 (1) Such person's spouse;

100 (2) Such person or such person's spouse's ancestor or
101 descendant by blood or adoption; or

102 (3) Such person's stepchild while the marriage
103 creating that relationship exists.

104 4. Any person who pleads guilty or is found guilty
105 under subsections 1 to 3 of this section shall be ordered by
106 the court to make full restitution to any person or entity
107 that has sustained actual losses or costs as a result of the
108 actions of the defendants. Such restitution shall not be
109 paid in lieu of jail or prison time but rather in addition
110 to any jail or prison time imposed by the court.

111 5. (1) Nothing in this section shall limit the power
112 of the state to investigate, charge, or punish any person
113 for any conduct that constitutes a crime by any other
114 statute of this state or the United States.

115 (2) No receiving entity shall be required under this
116 section to retain the filing or record for prosecution under
117 this section. A filing or record being rejected by the
118 receiving entity shall not be used as an affirmative defense.

119 6. (1) Any agency of the state, a county, or a city
120 not within a county that is responsible for or receives
121 document filings or records, including county recorders of
122 deeds and the secretary of state's office, shall, by January

123 1, 2019, impose a system in which the documents that have
124 been submitted to the receiving agency, or those filings
125 rejected by the secretary of state under its legal
126 authority, are logged or noted in a ledger, spreadsheet, or
127 similar recording method if the filing or recording officer
128 or employee believes the filings or records appear to be
129 fraudulent or contain suspicious language. The receiving
130 agency shall make noted documents available for review by:

131 (a) The jurisdictional prosecuting or circuit attorney
132 or such attorney's designee;

133 (b) The county sheriff or the sheriff's designee;

134 (c) The police chief of a county or city not within a
135 county or such chief's designee; or

136 (d) A commissioned peace officer as defined under
137 section 590.010.

138 Review of such documents is permissible for the agent or
139 agencies under this subdivision without the need of a grand
140 jury subpoena or court order. No fees or monetary charges
141 shall be levied on the investigative agents or agencies for
142 review of documents noted in the ledger or spreadsheet. The
143 ledger or spreadsheet and its contents shall be retained by
144 the agency that controls entries into such ledger or
145 spreadsheet for a minimum of three years from the earliest
146 entry listed in the ledger or spreadsheet.

147 (2) The receiving entity shall, upon receipt of a
148 filing or record that has been noted as a suspicious filing
149 or record, notify the chief law enforcement officer or such
150 officer's designee of the county and the prosecutor or the
151 prosecutor's designee of the county of the filing's or
152 record's existence. Such notification shall be made within
153 two business days of the filing or record having been

154 received. Notification may be accomplished via email or via
155 paper memorandum.

156 (3) No agency receiving the filing or record shall be
157 required under this section to notify the person conducting
158 the filing or record that the filing or record is entered as
159 a logged or noted filing or record.

160 (4) Reviews to ensure compliance with the provisions
161 of this section shall be the responsibility of any
162 commissioned peace officer. Findings of noncompliance shall
163 be reported to the jurisdictional prosecuting or circuit
164 attorney or such attorney's designee by any commissioned
165 peace officer who has probable cause to believe that the
166 noncompliance has taken place purposely, knowingly,
167 recklessly, or with criminal negligence, as described under
168 section 562.016.

169 7. To petition for a judicial review of a filing or
170 record that is believed to be fraudulent, false, misleading,
171 forged, or contains materially false information, a
172 petitioner may file a probable cause statement that
173 delineates the basis for the belief that the filing or
174 record is materially false, contains materially false
175 information, is a forgery, is fraudulent, or is misleading.
176 This probable cause statement shall be filed in the
177 associate or circuit court of the county in which the
178 original filing or record was transferred, received, or
179 recorded.

180 8. A filed petition under this section shall have an
181 initial hearing date within twenty business days of the date
182 the petition is filed with the court. A court ruling of
183 invalid shall be evidence that the original filing or record
184 was not accurate, true, or correct. A court ruling of
185 invalid shall be retained or recorded at the original

186 receiving entity. The receiving entity shall waive all
187 filing or recording fees associated with the filing or
188 recording of the court ruling document in this subsection.
189 Such ruling may be forwarded to credit bureaus or other
190 institutions at the request of the petitioner via motion to
191 the applicable court at no additional cost to the petitioner.

192 9. If a filing or record is deemed invalid, court
193 costs and fees are the responsibility of the party who
194 originally initiated the filing or record. If the filing or
195 record is deemed valid, no court costs or fees, in addition
196 to standard filing fees, shall be assessed.

197 10. (1) **An owner of an interest in real property that**
198 **has been subject to a filing or record that is believed to**
199 **be fraudulent, false, misleading, or forged or that contains**
200 **materially false information may petition for a judicial**
201 **review under subsections 7, 8, and 9 of this section.**

202 (2) **A county recorder of deeds may post information on**
203 **such petition process in the recorder's office and online.**

578.700. 1. For purposes of this section, all
2 definitions from section 486.600 shall apply.

3 2. In performing a notarial act, a notary shall be
4 guilty of:

5 (1) **A class E felony for executing a false notarial**
6 **certificate under subdivision (1) of section 486.660; or**

7 (2) A misdemeanor, punishable upon conviction by a
8 fine not exceeding five hundred dollars or imprisonment for
9 not more than six months, or both, for knowingly:

10 [(1)] (a) Failing to require the presence of a
11 principal at the time of a notarial act; **or**

12 [(2)] (b) Failing to identify a principal through
13 personal knowledge or satisfactory evidence; **[or**

14 (3) Executing a false notarial certificate under
15 subsection 1 of section 486.660].

16 3. A notary who knowingly performs any other act
17 prohibited by chapter 486 or fails to perform any other act
18 required by chapter 486 shall be guilty of a misdemeanor,
19 punishable upon conviction by a fine not exceeding five
20 hundred dollars or imprisonment for not more than six
21 months, or both.

22 4. Any person who is not a notary and who knowingly
23 acts as or otherwise impersonates a notary shall be guilty
24 of a [misdemeanor, punishable upon conviction by a fine not
25 exceeding five hundred dollars or imprisonment for not more
26 than six months, or both] **class E felony**.

27 5. Any person who knowingly obtains, conceals,
28 defaces, or destroys the seal, journal, or official records
29 of a notary shall be guilty of a [misdemeanor, punishable
30 upon conviction by a fine not exceeding five hundred
31 dollars] **class E felony**.

32 6. Any person who knowingly solicits, coerces, or in
33 any way influences a notary to commit official misconduct
34 shall be guilty of a [misdemeanor, punishable upon
35 conviction by a fine not exceeding five hundred dollars]
36 **class E felony**.

37 7. Any person who knowingly obtains, conceals,
38 damages, or destroys the coding, disk, certificate, card,
39 token, program, software, or hardware that is intended
40 exclusively to enable an electronic notary public to produce
41 a registered electronic signature, notary seal, or single
42 element combining the required features of an electronic
43 signature and notary seal, shall be guilty of a
44 [misdemeanor, punishable upon conviction by a fine not

45 exceeding five hundred dollars or imprisonment for not more
46 than six months, or both] **class E felony.**

47 **8. Any person who is not a notary and knowingly**
48 **presents false information to obtain or attempt to obtain a**
49 **notary public's seal from a manufacturer under chapter 486**
50 **shall be guilty of a class E felony.**

51 **9.** The penalties of this section shall not preclude
52 other sanctions and remedies provided by law.

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