

DEPARTMENT OF STATE  
NOTARY PUBLIC SECTION

GUIDELINE 2010-1

REGARDING NOTARIAL ACTS PERFORMED FOR LAW ENFORCEMENT  
PERSONNEL IN CONJUNCTION WITH STATE OF DELAWARE COURT  
POLICIES, PROCEDURES AND RULES

**BACKGROUND**

State of Delaware Courts have set forth policies regarding the electronic filing of uniform traffic complaint and summons forms also known as electronic ticketing or e-ticketing (see Policy Directive 07-227 dated March 7, 2007). Police officers have the tools to create, print and issue an electronic ticket, a copy of which is printed and given to the alleged offender and a copy is transmitted electronically to the Voluntary Assessment Center or court as appropriate. Under certain circumstances, officers are still obligated to swear to a ticket before the court can act further. These circumstances include a contested ticket or the issuance of a *capias* or bench warrant for failure to appear at arraignment or trial. In these instances, the officer must either swear to the tickets at the court, or alternatively, may appear before a notary and then send the sworn ticket to the court. This manual process interrupts the electronic process as established by the Courts.

**DISCUSSION**

Pursuant to the Uniform Electronic Transactions Act, Title 6 §12A-111, “If a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.” Under §12A-102 (9) “Electronic signature” is defined as “an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.”

The Uniform Electronic Transactions Act also states in §12A-106 that “This chapter must be construed and applied:

- (1) To facilitate electronic transactions consistent with other applicable law;
- (2) To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) To effectuate its general purpose to make uniform the law with respect to the subject of this chapter among States enacting it.

## CONCLUSION

Since the State of Delaware Courts have set forth policies regarding the electronic filing of tickets, and since Delaware laws governing Notaries Public (Title 29, Chapter 43) do not specifically prohibit the use of an electronic signature for a notarial act, and in order to facilitate the reasonable practices and expansion of electronic transactions as intended by Title 6, Chapter 12A The Uniform Electronic Transactions Act, the following guideline is hereby established:

Notaries public assigned to Delaware Police agencies (whether State, local, county or municipal) may utilize an electronic signature in performing notarial acts for the swearing of tickets by law enforcement officers. When using an electronic signature, these notaries public shall utilize the computer program developed by DELJIS within the Criminal Justice Information System (CJIS).

This program, having been developed within CJIS, provides a secure mechanism and process for the notarial acts to occur. Any person who is offered employment at any Delaware Police agency must be fingerprinted and have a satisfactory State and Federal background check. A unique User ID and password are issued for secure login to the system following the Department of Technology and Information policies and standards. DELJIS policy requires a minimum of eight hours of hands-on training for all users of CJIS. An employee of a Delaware Police agency who has been appointed as a Delaware Notary Public on behalf of his or her respective agency must provide DELJIS a copy of his or her notary commission. DELJIS will then provide access to the Notary Electronic Swearing function within the system. Note: Only those who have been granted access will be able to perform the notary function. The system also tracks the expiration date of the notary commission and will not permit the notary function to occur if the notary commission has expired. **Note:** The law enforcement officer **must** personally appear before the notary public to swear to the tickets in compliance with Title 29 §4309 (c).

The notary public logs into the CJIS system using his or her assigned User ID and password and selects the Notary Electronic Swearing function from the menu. The officer provides and the notary enters the date range of the tickets and the officer's User ID. The system displays a list of available tickets for the entered date range. The officer indicates which tickets are to be sworn and the notary checks the boxes to select the specific tickets. At this point the officer should swear to the selected tickets. The notary presses "Enter" to move to the authorization and certification screen. This screen contains language which will require the notary to hit a PF key indicating the notary is performing this notarization in accordance with Department of State, Notary Public Section Guideline 2010-1, authorizing the use of an electronic signature as permitted under Title 6 §12A-111 and further certifying that the officer swearing to the tickets has personally appeared before the notary. The notary must press the

specified PF key to confirm, and then enter “Y” to confirm again. This completes the notarial acts and the ticket detail screens are updated in CJIS with the name of the notary, date sworn, jurisdiction where the notarial act was performed (State of Delaware, County of \_\_\_\_\_), commission expiration date and name of officer. The updated tickets now contain the notarial certificate as required by Title 29 §4327 and can be viewed and printed. The updated tickets are available to authorized CJIS users, but the computer program does not allow the information captured in CJIS pertaining to the notarial acts to be altered or modified. This security feature is essential to maintaining the integrity of the notarial acts as the documents move through the court process.

This guideline is established in accordance with Title 29 §4301(e).

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