

HB

97

ALASKA STATE LEGISLATURE

Rep. Lesli McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. John Coghill
Rep. Nancy Dahlstrom
Rep. Pete Kott
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
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House Judiciary Committee

Memorandum

To: Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: February 16, 2005
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 24-GH1008\F, HB 97, incorporating the attached three amendments. The bill was passed out of committee today.

If you have any questions, please call me at 4990.
Thank you!

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LEGAL SERVICES

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MEMORANDUM

January 28, 2005

SUBJECT: CSHB 97(STA) relating to notaries public and other related matters (Work Order No. 24-GH1008\G)

TO: Representative Paul Seaton
Chair of the House State Affairs Committee
Attn: Louie

FROM: *TB*
Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above.

- ① Changes. Semicolons replace commas in sec. 44.50.032(b)(2) and (c)(2) to make the paragraphs clearer to read. An addition ("; delegation") has been made to the catchline of sec. 44.50.069. In sec. 44.50.069(e), the parentheses have been removed and "created under" added. In the definition of "notary public" in sec. 44.50.200(1), the language accompanying the cross-referenced sections has been rewritten to be more precise.
- ② Suggested change. The introductory language to sec. 44.50.060 (notary public duties) uses the mandatory word, "shall." I suggest replacing "shall" with "may" since a notary public, even though commissioned to act as a notary public, is not required to exercise the duties of a notary public.

If I may be of further assistance, please advise.

TLB:med
05-063.med

Enclosure

*conceptual
A#1
by Rep.
Greenberg
PASSED*

*A#2
by Rep.
Greenberg
PASSED*

AMENDMENT #3 - PASSED

OFFERED IN THE HOUSE
TO: CSHB 97(STA)

BY REPRESENTATIVE GRUENBERG

1 Page 11, line 22, following "handwriting":

2 Insert "or by electronic means as authorized by regulations adopted by the
3 lieutenant governor"

4

5 Page 13, lines 14 - 15:

6 Delete "; a notary public may not sign through the use of a facsimile stamp or an
7 electronic or graphic printing method"

8 Insert ", or sign an electronic document by electronic means as authorized by
9 regulations adopted by the lieutenant governor"

10

11 Page 13, line 19:

12 Following "official":

13 Insert "handwritten"

14 Following "signature":

15 Insert "and information regarding the notary public's electronic signature"

16

17 Page 13, following line 19:

18 Insert a new subsection to read:

19 "(c) Within 10 days after the security of a notary public's electronic signature
20 has been compromised, the notary public shall provide the lieutenant governor with
21 written notification that the signature has been compromised. After the notary public
22 has provided the lieutenant governor with the notification, the notary public shall
23 provide the lieutenant governor with any additional information that the lieutenant

1 governor requests about the compromise of the signature."

2

3 Page 13, line 28:

4 Delete "or"

5 Insert ", "

6

7 Page 13, line 30, following "length":

8 Insert ", or may be an electronic form as authorized by regulations adopted by the
9 lieutenant governor"

10

11 Page 13, line 31, through page 14, line 1:

12 Delete "in a secure area"

13 Insert "secure and"

14

15 Page 14, line 2, following "lost,":

16 Insert "or the security of the notary public's official electronic seal is compromised,"

17

18 Page 14, line 4:

19 Delete "or"

20 Insert ", "

21 Following "loss":

22 Insert ", or compromised security. After the notary public has provided the
23 lieutenant governor with the notification, the notary public shall provide the lieutenant
24 governor with any additional information that the lieutenant governor requests about
25 the compromise of the seal"

26

27 Page 14, line 12:

28 Delete "A"

29 Insert "With regard to each paper document being notarized, a"

30

31 Page 14, line 15:

1 Delete "of each paper document notarized,"

2

3 Page 14, line 18:

4 Delete "Illegible"

5 Insert "For a notarized paper document, illegible"

6

7 Page 14, following line 23:

8 Insert a new subsection to read:

9 "(d) A notary public may use a seal in electronic form on electronic
10 documents notarized by the notary public as authorized by regulations adopted by the
11 lieutenant governor. The seal shall be affixed only at the time the notarial act is
12 performed."

13

14 Page 15, line 14, following "signature":

15 Insert "and information regarding the notary public's electronic signature"

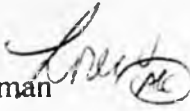
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Lt_Governor@gov.state.ak.us

Lieutenant Governor Loren Leman

MEMO

TO: Representative Lesil McGuire, Chairman
House Judiciary Committee

FROM: Lieutenant Governor Loren Leman 

DATE: February 9, 2005

RE: House Judiciary Committee hearing on
CSHB 97(STA): Oaths, Notaries Public, State Seal

Please schedule a hearing on CSHB 97(STA) at your earliest possible convenience. CSHB 97(STA) updates the notary statutes. These statutes have not been comprehensively revised since 1961. Notarial practices and terms have changed in the interim. The bill also increases the notarial fee from \$2 per folio to \$5 per certificate.

Attached are a copy of Governor Murkowski's transmittal letter, a sectional analysis and some additional backup material to assist your review of this legislation.

Please contact my Chief of Staff, Annette Kreitzer at extension 4081 if you have further questions or need additional information beyond the attached material.

AMENDMENT

OFFERED IN THE HOUSE JUDICIARY
COMMITTEE

BY _____

TO: CSHB 97(STA)

1 Page 11, line 22, following "handwriting":

2 Insert "or by electronic means as authorized by regulations adopted by the
3 lieutenant governor"

4

5 Page 13, lines 14 - 15:

6 Delete "; a notary public may not sign through the use of a facsimile stamp or an
7 electronic or graphic printing method"

8 Insert ", or sign by electronic means as authorized by regulations adopted by the
9 lieutenant governor"

10

11 Page 13, line 19:

12 Following "official":

13 Insert "handwritten"

14 Following "signature":

15 Insert "and information regarding the notary public's electronic signature
16 authorized by regulations adopted by the lieutenant governor"

17

18 Page 13, following line 19:

19 Insert the following new material:

20 "(c) Within 10 days after the security of a notary public's electronic signature has
21 been compromised, the notary public shall provide the lieutenant governor with written

1 notification and after that shall provide additional information regarding the incident
2 upon request of the lieutenant governor."

3

4 Page 13, line 28, following "diameter":

5 Delete "or"

6 Insert ", "

7

8 Page 13, line 30, following "length":

9 Insert ", or may be an electronic form as authorized by regulations adopted by the
10 lieutenant governor"

11

12 Page 14, line 2, following "lost,":

13 Insert "or the security of the notary public's official electronic seal is compromised,"

14

15 Page 14, line 4:

16 Following "theft":

17 Delete "or"

18 Insert ", "

19 Following "loss":

20 Insert ", or compromised security, and after that shall provide additional
21 information regarding the incident upon request of the lieutenant governor"

22

23 Page 14, following line 23:

24 Insert the following new material:

25 "(d) A seal in electronic form as authorized by regulations adopted by the
26 lieutenant governor may be used on electronic documents notarized by the notary public."

27

28 Page 15, line 14, following "signature":

29 Insert "and information regarding the notary public's electronic signature"

The Governor's transmittal letter dated January 20, 2005, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, verifications, and acknowledgements, to notaries public, and to fees for issuing certificates with the seal of the state affixed.

The primary purpose of the bill is to comprehensively update AS 44.50, the chapter that governs notaries public, which includes among its provisions the qualifications to become a notary public, duties of notaries public, and liability in the event of misconduct or neglect. AS 44.50 has not been comprehensively revised since it was enacted in 1961. These changes will allow the Lieutenant Governor to: focus attention on web-based education for notaries, allow businesses which employ large groups of notaries to keep track of their terms of office, lay a foundation for e-signatures for the future, and continue to provide information to notaries without internet access. Sections 7-14 of the bill would repeal obsolete provisions in AS 44.50, update antiquated language, and add new provisions as needed.

Sections 1-5 of the bill would update statutes in AS 09, the Alaska civil code, relating to the taking of oaths, affirmations, and acknowledgements and to notaries' responsibilities when notarizing, verifying, and acknowledging signed instruments. Section 6 of the bill would change the fee for the lieutenant governor's issuance of a certificate with the seal of the state affixed. Sections 15 and 16 of the bill contain applicability and transition provisions, respectively.

A more detailed description of the bill is found in a sectional analysis of the bill available from the office of the lieutenant governor.

I urge your prompt and favorable action on this measure.

Sincerely yours,

/s/

Frank H. Murkowski
Governor"

Frequently Asked Questions – CSHB 97(STA)

Q: Why is this bill necessary?

A: There has not been a comprehensive update to the notary statutes since 1961.

Q: What changes are being proposed?

A: The bill:

- Lowers the minimum age requirement from 19 to 18 years of age.
- Prohibits felons from applying as notaries public until 10 years post incarceration.
- Establishes disciplinary procedures for commission suspensions and revocations.
- Separates publicly available notary information from private notary information.
- Updates and expands the current State Employee notary commission system to include Municipal and Federal government employees.

Q: I'm a notary now, how does this bill affect me?

A: This bill will not impact current notaries unless they are felons.

Q: What is not changing?

A:

- The notary information that is currently publicly available remains publicly available.
- Notary testing remains voluntary.
- The notary bond amount remains unchanged.
- The application fee remains unchanged.

Q: What about fees?

A: The \$40.00 application fee for notary commissions will remain unchanged. The fee for certificates is being raised from \$2.00 to \$5.00.

Notary Statute Comparison – CSHB 97(STA)

	Current	Proposed
Qualifications	<p>Applicants must be a resident of the state at least 19 years of age.</p> <p>Resident defined to mean a person who maintains a permanent place of abode in the state, and is in fact living in the state.</p>	<p>Minimum age lowered to 18 years.</p> <p>Residency requirements made consistent with general residency statute AS 01.10.055, rather than separate definition.</p> <p>Applicant must reside legally in the United States.</p> <p>Applicants may not be convicted/incarcerated felons within 10 years of application.</p>
Term	Current	Proposed
	<p>Four years.</p> <p>Automatic revocation of commissions of State employee notaries who terminate employment prior to the commission expiration date.</p>	<p>Notaries Public will continue to serve a term of four years.</p> <p>Limited Governmental Notaries Public commissions will be open-ended with automatic revocation upon termination of government employment.</p>
Fees	Current	Proposed
	<p>\$40 application fee for non-state employee notaries.</p> <p>\$2 per Lieutenant Governor certificate.</p>	<p>\$40 application fee for non-state employee notaries (No change).</p> <p>\$5 per Lieutenant Governor certificate (\$3 increase).</p>
Bond	Current	Proposed
	<p>\$1,000 Notary Bond is required of all applicants.</p>	<p>\$1,000 Notary Bond required of all applicants except Limited Governmental Notaries. Lt. Gov. required to keep for 2 years.</p>

Commission Types	Current	Proposed
	Notaries Public who serve four-year commissions. Limited Governmental Notaries Public commissions available for State employees only.	Notaries Public who serve four-year commissions. Limited Governmental Notaries Public commissions – Expanded to include Municipal and Federal employees in addition to State employees.
Commission Revocation	Current	Proposed
	Via Administrative Procedure Act. Act must be invoked to review all complaints against notaries, no matter how trivial.	By Lieutenant Governor for good cause via a formal disciplinary procedure using administrative hearing office.
Notary Data	Current	Proposed
	Each notary's name, mailing address, surety information and commission dates are available to the public.	The notary information currently available remains unchanged. The notary's name, mailing address, surety information and commission dates continue to be publicly available. To facilitate training and communication the Lieutenant Governor may collect additional information from applicants and notaries that will not be available to the public.
Non-Commissioned Notaries	Current	Proposed
	Justices, Judges, Magistrates, Clerks or Deputy Clerks of Court, United States Postmasters, and Commissioned Military Officers are authorized to take oaths, affirmations or acknowledgments.	No change.

SECTIONAL ANALYSIS
CSHB 97(STA)

An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state; to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date.

Section 1. Adds presiding officers of each house of the Legislature and the Lieutenant Governor to the list of persons permitted to administer oaths. This permission is limited to the administration of the oath of office to new legislators (AS 24.05.160) and to the presiding officers for the same purpose during second and special sessions (AS 24.05.170).

Sections 2 and 3. Conform sections of Alaska Civil Procedure concerning notarial acts to the updated language in Sec. 44.50.061 (5). These sections apply to court system employees, U.S. Postmasters, U.S. military personnel and municipal clerks.

Sections 4 and 5. Update 09.63 to include reference to limited liability companies limited partnerships, and limited liability partnerships.

Section 6. Increases fee per notarial certificate from \$2/three folios to \$5/certificate. "Folio" is an outdated term not used in current practice. The increase reflects the State's cost to process the certificates. Deletes territorial language re: accounting for fees.

Section 7. Two categories of notaries:

- a) notary public without limitation
 - terms are for 4 years
 - can charge fees for service
- b) limited governmental notary public (state, municipal and federal employees)
 - conduct only official government business
 - terms are for the length of government employment
 - cannot charge fees for service (new Sec. 44.50.039)

Can have concurrent commissions as a notary public without limitation and as a limited governmental notary public, as long as the activities are separated.

Section 8. Changes Qualifications to be commissioned notary public:

- Lowers the age from 19 to 18.
- Must have established Alaska residency. The definition of "residency" is updated to a more widely used and more current definition (AS 01.10.055) than current statute (AS 44.50.020).
- Notary public must reside legally in the U.S.
- 10 years between felony conviction/incarceration and ability to apply as notary.

Section 9. Sets out the application requirements for notary public commission whether notary public without limitation or limited governmental notary public.

Restates the current \$40 fee per application along with the current requirement that State limited governmental notaries public are exempt from the fee.

Restates current bonding requirement of \$1,000 with term of four years for notaries public without limitation.

Requires Lieutenant Governor to keep the bond for two years.

Provides opportunities for Lieutenant Governor to deny applications if:

- a) application is incomplete
- b) applicant has been convicted of and incarcerated for a felony less than 10 years previous to application
- c) applicant's commission has been revoked

Clarifies current law as to when a new commission begins.

Section 10. Much of AS 44.50.060 is antiquated language. The changes here acknowledge that the duties of a notary public can be encompassed in the broader language of administering oaths and affirmations, taking acknowledgment of or proof of instruments of writing and giving notarial certificates.

Section 11. Defines scope of practice and makes clear that a notary public who is not an attorney may not perform functions that require the practice of law.

Also, sets out what a notary public cannot do (Sec. 44.50.062), the specifications of the official seal, and its care and keeping, what constitutes a "seal impression", changes in notary status and disciplinary actions. It also specifies at (5) (A) – (C) the elements that must be present for a notary public to notarize a document:

- Person must appear and sign the document before the notary public.
- Person must produce identification unless personally known to the notary public.
- The notary must sign in his/her own handwriting the name on his/her commission certificate.
- Notary cannot notarize documents which benefit the notary (see Page 12, Lines 19-25).CHECK THIS ON FINAL VERSION OF BILL WHEN INTRODUCED.

This section reorders and clarifies current law defining the notary's seal, and defining the seal impression. The \$5 name change fee is not in addition to the cost of a new certificate under Sec. 44.19.024.

New sections (Secs. 44.50.068-.069) give the Lieutenant Governor the latitude to suspend or revoke a notary public's commission or to reprimand a notary public for good cause. The Lieutenant Governor may delegate his authority. With regard to a complaint, the Lieutenant Governor may find no merit to the complaint or may refer the complaint to the office of administrative hearings for a formal disciplinary hearing which could end with revocation of the notary public's commission.

Section 12. Describes the information gathered from notaries public on the application which will be public information. House State Affairs Committee added language allowing the Lt. Governor to publish a summary of this chapter and regulations that can be distributed by electronic means. Provides for the Lieutenant Governor to adopt regulations.

Section 13. Defines terms used in this Chapter.

Section 14. Repealers:

- AS 44.50.030 (Term of office, now covered in new 44.50.010)
- AS 44.50.040 (Fees, now covered in new 44.50.033)
- AS 44.50.070 (Presence and ID, now covered in new 44.50.061)
- AS 44.50.080 (Seal, now covered in new 44.50.063)
- AS 44.50.090 (Protest of bill or note. Notaries don't do this, antiquated language, repealed and not replaced)
- AS 44.50.100 (Return of papers. There are no papers to return. Repealed and not replaced)
- AS 44.50.110 (APA procedure for disciplinary actions, replaced by more comprehensive 44.50.067)
- AS 44.50.120 (Bond requirements, now covered in new 44.50.034)
- AS 44.50.130 (Filing oath and bond, now covered in new 44.50.035)
- AS 44.50.140 (Disposition of bond, now covered in new 44.50.034)
- AS 44.50.170 (State employees as notaries, now covered in 44.50.010, 44.50.131 (c) and 44.50.039)
- AS 44.50.180(c) (Federal law prohibits postmasters from charging fees. Alaska law is inconsistent and this subsection must be repealed)
- AS 44.50.190 (Savings clause, a transitional measure from 1961 that is no longer necessary and can be repealed).

Section 15. Applicability

- Current commissions continue in effect until term of office expires, except if the commissioned is a felon and 10 years have not elapsed since incarceration.
- Bonds, seals, liabilities in effect continue through the notary public's term of office.
- All notaries with current commissions or who are commissioned following the effective date of the legislation must follow the notarial procedures encompassed in the legislation.

- When commissions expire, notaries public will apply for new commissions under the new AS 44.50.032 (Section 9).

Sections 16 and 17. Transition

Allows the Lieutenant Governor to immediately proceed to adopt regulations with an effective date following the effective date of the legislation.

Section 18. Effective Date

Effective date is July 1, 2005 to allow time for revision of website, online handbook and forms.

February 11, 2005

Representative Lesil McGuire
Chair, House Judiciary Committee
State Capitol, Room 118
Juneau, AK 99801

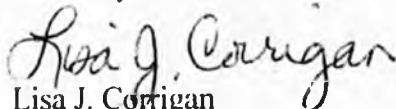
Re: HB 97 and SB 72

Dear Representative McGuire:

The members of the Alaska Bankers Association reviewed HB 97 and SB 72 which addresses the responsibilities of notaries public in the State of Alaska. We have no opposition to the proposed changes to existing law in support of the legislation.

We appreciate the opportunity to review and comment on any proposed legislation that may impact the financial services industry.

Sincerely,



Lisa J. Corrigan

President

Alaska Bankers Association

P.O. Box 100600

Alaska Bankers Association
Anchorage, Alaska 99510-0600

(907) 265-2920

OFFICE OF THE
FEB 11 2005
LIEUTENANT GOVERNOR

February 9, 2005

The Honorable Loren Lemman
Lieutenant Governor, State of Alaska
State Capitol, Third Floor
Juneau, Alaska 99811

Re: HB 97 and SB 72

Dear Lt. Governor Lemman:

The members of the Alaska Bankers Association reviewed HB 97 and SB 72 which addresses the responsibilities of notaries public in the State of Alaska. We have no opposition to the proposed changes to existing law and are in support of the legislation.

We appreciate the opportunity to review and comment on any proposed legislation that may impact the financial services industry.

Sincerely,



Lisa J. Corrigan

President

Alaska Bankers Association



United States
NOTARY
Association

February 3, 2005

The Honorable Loren Leman
Office of the Lieutenant Governor
P.O. Box 110015
Juneau, AK 99811-0015

RE: 2005 Alaska Senate Bill 72

Dear Lt. Governor Leman:

On behalf of the members of the United States Notary Association (USNA), I congratulate you and Governor Murkowski on your legislative initiative to comprehensively revise the chapter of the Alaska Statutes that governs Alaska notaries public: Title 44, Chapter 50 [Alaska Stat. §44.50].

USNA is strongly in favor of this notarial legislation because it will give notaries clearer and unambiguous direction for the performance of their official duties. This direction will protect both the notary and the public from the serious consequences of unintended error.

However, in reading the bill's text, we find no mention of the possibility of an Alaskan notary using any device other than paper and pen to act in his or her capacity as a notary. Because Alaska has adopted the Uniform Electronic Transactions Act (UETA), it should be permissible for notaries to serve their customers by following the guidelines set forth in Alaska Stat. §09.080.010, et seq. We encourage the Alaska Senate to include language in this bill that will enable notaries to participate in the 21st Century.

Again, since Alaska Stat. §44.50 has not been comprehensively revised since being enacted in 1961, USNA gives its full support to Senate Bill 72 because this bill intends to repeal obsolete provisions, update antiquated language and add new provisions where they are needed.

USNA urges the Alaska Legislature to take prompt and favorable action. If I can be of help to you in supporting this bill, please contact me at 800-587-2588 or usna@enotary.org.


I look forward to reporting on the successful passage of Senate Bill 72 in an upcoming issue of *Notary Review*.

For the Association,


Marc L. Aronson
President

About the United States Notary Association

USNA is a membership organization dedicated to the professional development of notaries public in all 50 states and the District of Columbia.


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United States
NOTARY
Association

USNA's goal is to provide notaries with accurate, reliable information and high quality products and services.

Notaries join USNA to learn about proper notarial procedures and the laws, current events, and common issues affecting notaries in their states and nationwide. Members can call USNA's telephone support or E-mail their questions. Members also receive a subscription to *Notary Review*, our bi-monthly publication, containing news briefs, educational articles and other information of interest to notaries.



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Notary Population by State & Electronic Applications

STATE	POPULATION	ACCEPTANCE OF E-APPLICATIONS	UCC OFFICE
ALASKA	11,800	Not yet	Banking and Corporations Office
ARKANSAS	Over 100,000	No	UCC Division
COLORADO	90,000 - 100,000	Not yet	Division of Bus. Filings UCC Section
DELAWARE	10,000	No	Corporations Division
FLORIDA	350,000	Yes	Department of State, Division of Corporations
HAWAII	7,000	Not yet	—
ILLINOIS	184,000	Not yet	Business Services
IOWA	50,000	Not yet	Corporations Division
KENTUCKY	80,000 (records kept 4 years only)	No	UCC Division
MAINE	—	No	UCC Division
MASSACHUSETTS	100,027	No	Corporations Division
MINNESOTA	83,000	No	—
MISSOURI	71,122	No	UCC Division
NEBRASKA	22,000	No	Secretary of State Office
NEW HAMPSHIRE	25,000	No	UCC Division
NEW MEXICO	32,000	No	Secretary of State Office
NORTH CAROLINA	196,000	Not yet	UCC Division of SOS Office
OHIO	85,000	No	—
OREGON	45,000	Not yet	Through each county Corporations Division
RHODE ISLAND	47,860	No	Corporations Bureau UCC Division
SOUTH DAKOTA	17,000	No	UCC Division
TEXAS	352,294	Not yet	Secretary of State Office UCC Division
VERMONT	20,000	Not yet	Division of Corporations Division of Corporations & Commercial Code
WASHINGTON	75,000	No	UCC Office in the Department of Licensing at the Business and Professions Division UCC Division
WISCONSIN	20,000	No	Department of Financial Institutions Corporations Division

— Information not available.

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Appointment Process – Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
ALABAMA	Individual county judges	Varies by county — 18 years old; resident of AL and county commissioned in; must have notary bond at time of commissioning.
ARIZONA	Secretary of State	18 years old; must be an AZ resident; minimum residency requirement varies.
CALIFORNIA	Secretary of State	18 years old; legal resident of CA; successful completion of an approved notary exam.
CONNECTICUT	Secretary of State	18 years old; residence or employment in CT.
DISTRICT of COLUMBIA	Office of the Secretary	18 years old; residence or employment in DC; letter explaining need included with application; three character references included with application.
GEORGIA	Clerk of Superior Court in each county	18 years old; able to read and write English; resident of GA.
IDAHO	Secretary of State	18 years old; residence or employment in ID; able to read and write English; No removal from office for misconduct or no conviction of a serious crime within the last 10 years.
INDIANA	Secretary of State	18 years old; resident of IN.
KANSAS	Secretary of State	18 years old; resident of KS; or resident of bordering state and employed in KS.
LOUISIANA	Secretary of State	18 years old; resident of LA, in and for the parish in which applicant lives or works, provided that the notary meets the requirements established by each parish in which the notary applies.
		must be a resident of the state in which the notary is commissioned to the office by a registered voter in ME.

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEES	COMMENTS
4 years	\$11-\$15, varies by county	Notaries are appointed by county judges in county of residence.
4 years	\$25 to Secretary of State; \$18 to Clerk of Superior Court in county of residence	Jurisdiction is statewide, though notaries are commissioned in the county of residence.
4 years	\$100	
5 years	\$60	
5 years	\$50	
4 years	\$15	
6 years	\$30	
8 years	\$5	
4 years	\$10	Notaries are <u>not</u> considered public officers.
Lifetime	Varies from parish to parish - up to \$1,000, includes education and examination, state fees, background checks, bonding, filing with parish, etc. LA notaries are civil law notaries with more involved duties than common law notaries. LA's requirements for notaries reflect this difference.	

Appointment Process – Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
MASSACHUSETTS	Governor	18 years old
MINNESOTA	Governor	18 years old; resident of MN.
MISSOURI	Secretary of State	18 years old; registered voter of county of residence; able to read and write English; no commission revoked during past 10 years.
NEBRASKA	Governor	19 years old; application is accompanied by petition signed by at least 25 voters in county of residence.
NEW HAMPSHIRE	Governor and Ex. Council	18 years old; resident of NH; 2 notaries and 1 registered voter must endorse application; must complete State Police Records Check Form; cannot be a convicted felon.
NEW MEXICO	Governor	18 years old; resident of NM; able to read and write English; no revocation of commission or felony convictions in the past 5 years.
NORTH CAROLINA	Secretary of State	18 years old; resident of NC or employed in NC; recommended by publicly elected official; completion of notary course approved by SOS.
OHIO	Governor	18 years old; citizen of OH; or attorney of another state who is admitted to the practice of law in OH.
OREGON	Secretary of State	18 years old; residence or employment in OR; able to read and write English; be of good moral character; have no notary commission revoked in the preceding 5 years; no felony conviction within the last 10 years.
RHODE ISLAND	Governor	Any qualified elector/resident of RI.
SOUTH DAKOTA	Secretary of State	18 years old; citizen of US; no felony convictions.
TENNESSEE	Governor	18 years old; citizen of US and resident of TN; no felony convictions; elected by

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEES	COMMENTS
7 years	\$25	
5 years	\$40	Dept of Commerce oversees notary commissions.
4 years	\$25	Non-residents can be notaries in MO if they work in MO.
4 years	\$30	
5 years	\$50	
4 years	\$10	
5 years	\$30	
5 years	\$5-6	Notaries apply in the counties they reside in through the local bar association.
4 years	\$20	
4 years	\$80	
6 years	\$10	

Appointment Process – Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
TEXAS	Secretary of State	18 years old; resident of TX.
VERMONT	Superior Court Assistant Judges	18 years old; resident of the state or a nonresident who commutes for work.
WASHINGTON	Dept. of Licensing Dir.	18 years old; resident of the state or an adjoining state and be regularly employed in or conduct business in Washington; read and write English; submission of complete application; must submit a \$10,000 surety bond and application fee.
WISCONSIN	Governor	18 years old; resident of the state.

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEES	COMMENTS
4 years	\$21	
4 years	\$20 payable to county	
4 years	\$20	
4 years	\$20	

Notary Exam & Class Requirements

STATE	EXAM REQUIRED	CLASS REQUIRED	COMMENTS	STATE TRAINING
ALASKA	X		Exam in Alaska handbook.	
ARIZONA			No education or exam required.	
ARKANSAS			No education or exam required.	
CALIFORNIA	X		Exam required for new and returning notaries.	
COLORADO			No education or exam required.	X
CONNECTICUT	X		Exam is part of application.	X
DELAWARE			No education or exam required.	
FLORIDA		X	Class required for new notaries.	X
GEORGIA			No education or exam required.	X
HAWAII	X		Exam is closed-book test.	
ILLINOIS			No education or exam required.	
INDIANA			No education or exam required.	
IOWA			No education or exam required.	X
KANSAS			No education or exam required.	X
KENTUCKY			No education or exam required.	
LOUISIANA	X		Training suggested.	
MAINE	X		Open book exam part of application.	X
MARYLAND			No education or exam required.	
MASSACHUSETTS			No education or exam required.	
MINNESOTA			No education or exam required.	
MISSISSIPPI			No education or exam required.	
MISSOURI			No education or exam required.	X
MONTANA			No education or exam required.	
NEBRASKA			No education or exam required.	
NEVADA			No education or exam required.	X
NEW HAMPSHIRE			No education or exam required.	
NEW JERSEY			No education or exam required.	
NEW MEXICO			No education or exam required.	
NEW YORK	X		Exam is closed-book test.	
NORTH CAROLINA	X	X	Training and exam are required prior to commission.	X
NORTH DAKOTA			No education or exam required.	
OHIO	X		Tests are administered by the county. All exams are different and not every county issues an exam.	
OKLAHOMA			No education or exam required.	
OREGON	X		Exam is open-book test and part of application.	X
PENNSYLVANIA			No education or exam required.	
RHODE ISLAND			No education or exam required.	
SOUTH CAROLINA			No education or exam required.	
SOUTH DAKOTA			No education or exam required.	
TENNESSEE			No education or exam required.	
TEXAS			No education or exam required.	
UTAH	X		Training is encouraged, but not required.	X
VERMONT			No education or exam required.	X
VIRGINIA			No education or exam required.	
WASHINGTON			No education or exam required.	
WEST VIRGINIA			No education or exam required.	
WISCONSIN			No education or exam required.	
WYOMING	X		Test in back of WY notary book is not mandatory, but is recommended.	

Stamp/Embosser Requirements & Fees

STATE	STAMP/EMBOSSER	ALLOWABLE FEE NOTARY CAN CHARGE
ALABAMA	Embosser	Maximum fee is \$1.50 depending upon act performed.
ALASKA	Stamp/Embosser	Fees are left to the notary's discretion. State employed notaries cannot charge fees.
ARIZONA	Stamp	\$2 is maximum fee.
ARKANSAS	Stamp/Embosser	\$5 is maximum fee.
CALIFORNIA	Stamp	Maximum fee is \$20 depending upon act performed.
CONNECTICUT	—	\$5 is maximum fee.
DELAWARE	Stamp/Embosser	\$5 is maximum fee.
D. C.	Embosser	\$2 is maximum fee. Government employed notaries cannot charge fees.
FLORIDA	Stamp	\$10 is maximum fee per signature.
GEORGIA	Stamp/Embosser	\$4 is maximum fee.
HAWAII	Stamp/Embosser	Maximum fee is \$5 depending upon act performed.
IDAHO	Stamp/Embosser	\$2 is maximum fee.
ILLINOIS	Stamp	\$1 is maximum fee.
INDIANA	Stamp/Embosser	\$2 is maximum fee. Public official notaries cannot charge fees.
IOWA	Stamp/Embosser	The statutory schedule of fees for notarial acts was repealed in 1989.
KANSAS	Stamp/Embosser	Not specified by law.
KENTUCKY	—	Maximum fee is 50 cents depending upon act performed.
LOUISIANA	—	Not specified by law.
MAINE	—	Other than \$1.50 for each protest of a bill or note, fees are left to notary's discretion.
MARYLAND	Stamp/Embosser	\$2 is maximum fee.
MASSACHUSETTS	—	\$2 is maximum fee for protests. All other fees are left to the notary's discretion.
MICHIGAN	—	\$2 is maximum fee.
MINNESOTA	Stamp	\$1 is maximum fee.
MISSISSIPPI	Stamp/Embosser	Fee range is \$2 to \$5.
MISSOURI	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
MONTANA	Stamp/Embosser	Maximum fee is \$3.50 depending upon act performed.
NEBRASKA	Stamp	Maximum fee is \$5 depending upon act performed. State employed notaries cannot charge fees.
NEVADA	Stamp	Maximum fee is \$5 depending upon act performed.
NEW HAMPSHIRE	Stamp/Embosser	\$5 is maximum fee.
N. JERSEY	—	Maximum fee is \$2 depending upon act performed.
NEW MEXICO	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
NEW YORK	—	Maximum fee is \$2 depending upon act performed.
N. CAROLINA	Stamp/Embosser	\$3 is maximum fee.
N. DAKOTA	Stamp/Embosser	\$5 is maximum fee.
OHIO	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
OKLAHOMA	Stamp/Embosser	Maximum fee is 50 cents depending upon act performed.
OREGON	Stamp	Maximum fee is \$5 depending upon act performed.
PENNSYLVANIA	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
RHODE ISLAND	—	Maximum fee is \$1.50 depending upon act performed.
S. CAROLINA	—	Maximum fee is \$1 depending upon act performed.
S. DAKOTA	Stamp/Embosser	\$10 is maximum fee.
TENNESSEE	Stamp/Embosser	Maximum fee is \$1.50 depending upon act performed.
TEXAS	Stamp/Embosser	Maximum fee is \$6 depending upon act performed.
UTAH	Stamp/Embosser	\$5 is maximum fee.
VERMONT	—	Maximum fee is \$2 depending upon act performed.
VIRGINIA	—	Maximum fee is \$2 depending upon act performed.
WASHINGTON	Stamp/Embosser	Maximum fee is \$5 depending upon act performed.
WEST VIRGINIA	Stamp/Embosser	\$2 is maximum fee.
WISCONSIN	Stamp/Embosser	Maximum fee is \$1 depending upon act performed.
WYOMING	Stamp/Embosser	\$2 is maximum fee.

* New legislation enacted requiring use of stamp or seal.

Bond & Recordbook Requirements/Penalties for Wrongdoing

STATE	RECORDBOOK	BOND	PENALTIES ACTION
ALABAMA	X	\$10,000	— Discipline done through probate office/local DA office.
ALASKA	Recommended	\$1,000	X Bond is required in writing and filed by Attorney General. An administrative hearing is followed by the suspension or revocation of commission.
ARIZONA	X	\$5,000	X Attorney General determines whether commission is revoked or renewal is denied.
ARKANSAS	Recommended	\$7,500	X Complaint must be in writing to the staff attorney who has the power to revoke the commission if necessary.
CALIFORNIA	X	\$15,000	X Commission can be suspended or revoked, or application for commission can be denied.
COLORADO	X	None	X Secretary of State has the option to revoke commission.
CONNECTICUT	Recommended	None	X A disciplinary hearing is followed by reprimand, suspension, or revocation of commission.
DELAWARE	—	None	X Complaints referred to Attorney General. Commission can be revoked.
D. C.	X	\$2,000	X A written complaint must be filed with the Notary Commission Section Chief who decides what action to take. The most severe action is revocation of commission.
FLORIDA	Recommended	\$7,500	X Notary commissions can be suspended or revoked and the notary can be subject to fines and/or criminal penalties.
GEORGIA	—	None	Each county handles disciplinary action.
HAWAII	X	\$7,000	X Issues are solved verbally. State has the ability to revoke a commission but never has.
IDAHO	—	\$10,000	— —
ILLINOIS	—	\$5,000	— —
INDIANA	—	\$5,000	— There is a complaint form, but no official disciplinary procedure.
IOWA	Recommended	None	X State code encourages informal settling of disciplinary issues. If that is not possible, the commission is revoked.
KANSAS	—	\$7,500	X After review by an attorney, revocation of the commission is the ultimate penalty.
KENTUCKY	Recommended	Varies per county	— —
LOUISIANA	X (Ordain Parish only)	\$5,000	— Notaries are not governed by the state. No bond required for attorneys.
MAINE	Recommended (Optional for commission only)	None	— Complaints are made to and handled by the Attorney General.
MARYLAND	X	None	— The notary receives a letter of reprimand for the first act of wrongdoing. In the event of a second act of wrongdoing, the commission is revoked.
MASSACHUSETTS	Recommended	None	— Complaints are referred to the Governor's council.
MICHIGAN	Recommended	\$10,000	X There is a hearing and possible revocation of commission.
MINNESOTA	—	None	X The Enforcement Division investigates. Penalties can include warnings, fines, suspension, or revocation of commission.
MISSISSIPPI	X	\$5,000	— Complaints are referred to Governor's office.
MISSOURI	X	\$10,000	— Revocation must be done through Attorney General's office.
MONTANA	Recommended	\$10,000**	— Complaints are referred to county attorney.
NEBRASKA	Recommended	\$10,000	X The commission can be revoked or in extreme cases there are court hearings.
NEVADA	X	\$10,000	X Complaints must be in writing. If wrongdoing is found, penalties are issued.
N. HAMPSHIRE	X	None	X Commission can be revoked.
N. JERSEY	X	None	— The state isn't involved in notary discipline. If a notary case goes through the court system, the state will be notified to revoke the commission.
NEW MEXICO	X (Notaries of Peace only)	\$500	Secretary of State has no authority to discipline notaries.

* Recent legislation passed increasing bond from \$4,000 to \$7,500.

** Recent legislation passed increasing bond from \$5,000 to \$10,000.

Bond & Recordbook Requirements/Penalties for Wrongdoing

STATE	RECORDBOOK	BOND	PENALTY/ACTION
NEW YORK	—	None	X If a notary is accused of wrongdoing, he/she has the right to an administrative hearing before an administrative law judge.
N. CAROLINA	—	None	X Complaints must be received in writing. If wrongdoing is found, the notary's commission can be suspended or revoked, depending on the severity of the wrongful act.
N. DAKOTA	Recommended	\$7,500	X A letter is written to the Attorney General who can then revoke the commission, reprimand the notary, or assess a fee. <small>(None for Notaries of Peace only)</small>
OHIO	X	None	— Discipline/complaints are handled individually by each county.
OKLAHOMA	X	\$1,000	— Complaints go through the court system.
OREGON	X	None	X Discipline alternatives include a letter of advice, a warning, suspension, or revocation of the commission.
PENNSYLVANIA	X	\$3,000	— Complaints are sent to the state prosecution office.
RHODE ISLAND	—	None	— Complaints are referred to the local police.
S. CAROLINA	—	None	— There is no policy unless the notary has done a false certification. In that case, the notary can be tried through the county and the commission can be revoked.
SDAKOTA	Recommended	\$5,000	— Complaints are kept on file and commissions are revoked with a court order.
TENNESSEE	X	\$10,000	— —
TEXAS	X	\$10,000	— Handled through the legal office.
UTAH	—	\$5,000	X Notary administrator and commissioning office have the authority to revoke, suspend, or deny a commission with cause. There is an administrative hearing process in place if a notary wishes to appeal a decision.
VERMONT	—	None	— Secretary of State has no jurisdiction over notary discipline. Complaints must be made to assistant judge of the superior court.
VIRGINIA	—	None	X Notaries are penalized through reprimand, suspension, and revocation of their commissions.
WASHINGTON	—	\$10,000	X Complaints are investigated and if wrongdoing is found the commission can be revoked.
WEST VIRGINIA	—	None	— Due to change in staff this process is being revised.
WISCONSIN	—	\$500 (none for attorneys)	— Complaints are forwarded to the Governor's office.
WYOMING	Recommended	\$500	— Discipline is handled at the county level.

X Is required or applicable

— Information not available or on record

Contact Information

STATE	CONTACT PERSON	OFFICE ADDRESS
ALABAMA	Jane Ryals, Notary Registrar	Office of the Secretary of State, PO Box 5616, Montgomery, AL 36103-5616
ALASKA	John A. Galloway, Notary Registrar	Office of the Secretary of State, PO Box 11001, Anchorage, AK 99511-0001
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ARIZONA	Connie Copeland, Director	Notary Section, 1700 West Washington, 7 th Floor, State Capitol Executive Tower, Phoenix, AZ 85007
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(916) 653-3595	notaries@ss.ca.gov	www.ss.ca.gov/business/notary/notary.htm
(801) 535-2680	—	www.sos.state.co.us/pubs/info_center/contact.html
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(202) 727-3117	—	www.state.de.gov/info/notary.htm
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		www.state.wv.us/sos/notary/default.htm
		badger.state.wi.us/agencies/sos/notary.htm
		soswy.state.wy.us/notary/notary.htm

February 2, 2005

Representative Leslie McGuire, Chair
The House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: House Bill 97

Dear Representative McGuire:

Today, I briefly commented via teleconference before the State Affairs Committee on this bill.

I am sending you for your consideration three documents that I would ask you to share as this bill is moved forward. Citizens of the United States and Alaska need to know that any justice, judge or magistrate of a court of the State of Alaska or of the United States have a current oath of office in effect and this coupled with an official appointment is a matter of public record. Sec. 09.63.010⁽¹⁾⁽³⁾₍₂₎₍₄₎ on oath will help citizens to know these officials are required to have an oath and perhaps an official state website to access this.

Standard Operating Procedures have become the source of major crimes of fraud, the lack of protection of personal financial information and the lack of human, civil and economic rights being respected in a democracy.

Representative Cecil M. Guire, Chair
The House Judiciary Committee
Alaska State Legislature

Page Two

President Bush signed into law, July 15, 2004 Identity Theft Penalty Enhancement Act, 118 STAT. 831 108-275 Public Law. I would suggest the rules and regulations of this legislation for criminal consequences be incorporated when a notary may have his commission revoked. Sec. 44.50.064. Official seal a (B) "State of Alaska" is very important and a review of notary seals to make sure this is in effect when this legislation is finalized. (c) this may need to be done with existing seals that do not have the "State of Alaska" on the seal. The Federal legislation was a major bi-partisan effort.

I am also including a document that was sent to me by email from the President of Mexico. I began the Binational efforts over 30 years ago and a Binacional mechanism is being discussed and implemented regularly to incorporate decisions at binational meetings. With 25,000 Alaskans connected by language and culture to Spanish speaking countries this may be of interest to make contact.

The third document is "The Meaning of Global Legal Perspective" which gains everything in the translation. This was originally presented in a meeting I chaired on agricultural trade in the Dowd Capitol July 1993 that had a delegation from Mexico.

Representative Lesli McGuire, Chair Page Three
The House Judiciary Committee
Alaska State Legislature

The Mission Statement from this meeting went to the women of the world in regional meetings (i.e. Africa was a region, Europe + North America, another) and we dialogued in talking circles in the rural countryside of China for the Fourth United Nations World Conference on Women: "Action for Equality, Development and Peace".

Thank you for your consideration.

Sincerely,

Patricia Bray, President
The Thomas Jefferson Regional
and Academic Science Award

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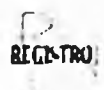
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RELATORÍA GENERAL DEL CONGRESO INTERNACIONAL "EL ORDEN JURÍDICO DE LA CONSOLIDACIÓN DEMOCRÁTICA"

A través de cuatro mesas de discusión y diecinueve conferencias magistrales, se hicieron, entre otras, las siguientes propuestas:

En materia de Derecho Público se propuso:

1. Concreción de un rediseño institucional contextualizado, que respete antecedentes históricos, correlación de fuerzas y prácticas, a fin de garantizar que el consenso de los actores políticos impulse una plena transición política con posibilidades reales de viabilidad.
2. Reglas de procedimiento para cambiar incentivos hacia la obligación de resolver problemas, distribuir y asumir la responsabilidad política, en las que pluralidad, división de poderes y federalismo sean los ejes de la consolidación democrática.
3. Reformar los artículos 41, 99 y 116 constitucionales para elevar a este nivel las bases de la democracia interpartidista, e impulsar así una mayor competitividad, una militancia más activa y vinculada con la sociedad, sin una colisión de principios entre autonomía y participación equitativa.
4. Revisar el sistema penal para garantizar la transparencia y el equilibrio entre las partes, fortalecer al Legislativo mediante el juicio de las urnas, profesionalizarlo y darle visión a largo plazo con la opción de la reelección de legisladores y generar consensos en la agenda política nacional a través de un jefe de gabinete que concentre y opere las políticas públicas entre los poderes y los actores sociales.
5. Llevar la defensa de los derechos humanos como tema prioritario a la agenda nacional para garantizar, en un contexto de reforma estructural, una vida con igualdad, dignidad y plenitud a todas las personas, como un compromiso y una obligación del Estado.

6. Reformar la legislación federal y local para asumir como derecho positivo nacional, las recomendaciones internacionales sobre desaparición de personas, tortura, garantías judiciales, protección jurídica y en materia electoral.
7. Atender a la observancia por parte de México, de la plena vigencia de los derechos humanos, mediante el fortalecimiento de instancias de protección y actualización del marco normativo, en consonancia con el Derecho Humanitario Internacional, y de manera particular, con los compromisos y recomendaciones adquiridos en el sistema interamericano.
8. La creación, de manera coincidente con la iniciativa presentada por el Presidente de la República para reformar los sistemas de procuración e impartición de justicia, de una fiscalía autónoma, mecanismos alternativos de solución como la mediación y el arbitraje, procedimientos orales, sistema judicial para adolescentes basado en los convenios internacionales y la incorporación del reconocimiento constitucional de presunción de inocencia.
9. Reformar la Constitución para que la Procuraduría General de la República sea un órgano autónomo, se creen fiscalías de distrito y un Consejo de la Fiscalía, así como garantizar la autonomía e imparcialidad de los servicios periciales.
10. Revisar el sistema de pruebas penal, la actuación de la policía y la posibilidad de un mando único policial, la figura de la prisión preventiva y los mecanismos de ejecución de sentencias.
11. Modificar el régimen de los tribunales administrativos a fin de garantizar la integración autónoma de los mismos y llevar la equidad entre las partes a esta materia, así como promover el recurso al arbitraje en las controversias comerciales internacionales.
12. En materia tributaria, se propone revisar la distribución del ingreso entre la Federación y los estados, a fin de ampliar la recaudación municipal, gravar con un criterio distributivo las contribuciones directas y desalentar actividades nocivas vía contribuciones indirectas, así como impulsar

programas de estímulo en beneficio de la inversión y la productividad, que nos ubiquen dentro de parámetros internacionales de competitividad.

13. Actualización del marco jurídico aplicable a los fenómenos informáticos, para regular aspectos de actualidad que por lagunas o deficiencias en la ley, quedan abiertos a efectos que impactan negativamente en el desarrollo general del país y en particular, en materia informática.
14. Crear el consenso necesario para definir principios generales a nivel constitucional, que los estados puedan desarrollar normativamente sin atenerse necesariamente a su tratamiento federal, lo que permitiría encaminarnos hacia un modelo jurídico que consolide la democracia desde la perspectiva local, mediante la renovación normativa de los estados a partir de un eficaz y activo orden jurídico local.
15. Asumir el concepto de democracia como el contexto adecuado para fomentar el respeto y la responsabilidad estatal frente a los derechos humanos, en términos de la Carta Democrática de la Organización de los Estados Americanos.
16. Propugnar por que el régimen internacional de los derechos humanos incluya las vertientes que sobre democracia y práctica política se desarrollan junto con los procesos de integración mundial
17. Revisar la organización y mecanismos procesales internos en función de los aspectos que internacionalmente reviste la justicia universal - respetando el ámbito de competencia constitucional reservado al Estado- a fin de que soberanía no signifique aislamiento sino, en la perspectiva global, la opción de promoción de nuestros intereses en el contexto internacional.
18. Buscar los medios idóneos para que México participe de los aspectos positivos que en materia de jurisdicción universal y tutela de los derechos humanos se desarrollan con la globalización, como un proceso irreversible de alcance mundial.
19. Mejorar, a través de las reformas legales pertinentes, la eficiencia y la eficacia en la aplicación de los recursos por los gobiernos locales y

municipales, así como mejorar los procesos de definición y competencia, para incidir en un mejor nivel de vida de la comunidad mediante sistemas contables homogéneos y de gestión del gasto público.

20. Trabajar en pro de los consensos necesarios para eficientar la respuesta del sistema jurídico mexicano a los nuevos requerimientos que se plantean, de hecho y como una necesidad de atención urgente, en materia energética, a través de la conciliación de puntos de vista y a favor de la comprensión de cuáles deben ser los objetivos comunes.
21. Mantener activos en la agenda bilateral México-Estados Unidos los temas prioritarios para nuestro país, como la migración de nuestros connacionales, y mantener abiertos aquellos que representan puntos de acercamiento en la relación bilateral, en áreas de interés común.
22. Fortalecer las instancias y mecanismos jurídicos para culminar la transición de la democracia electoral a la democracia participativa, mediante una actividad legislativa comprometida y propositiva, tendiente a concretar la colaboración eficaz con los poderes Ejecutivo y Judicial, en un ejercicio pleno de comunicación interinstitucional.
23. Potenciar a los medios de comunicación como un vehículo para el fortalecimiento de los procesos de consolidación democrática, a través de una actuación cada vez más responsable y apegada a la legalidad, que permita utilizar su capacidad formadora e informadora en un gran proyecto colectivo, con profunda responsabilidad histórica y social.
24. Federalizar las instituciones para que su actuación se traduzca en un orden constitucional pleno y en una eficaz observancia de las leyes. La división de poderes y la distribución efectiva de competencias debe ser la premisa que determine la construcción democrática sobre una base constitucional de legitimidad incuestionable.
25. Revalorar el juicio de amparo para conceptuarlo como el medio de gran accesibilidad que permite una verdadera defensa del orden constitucional porque, si bien se tutela de manera inmediata el interés particular, trasciende en la protección genérica de los derechos humanos y es así una

garantía de la vigencia del principio de legalidad como el principio rector que debe orientar nuestra vida nacional.

26. Favorecer una interpretación de las normas constitucionales electorales que favorezca su potenciación, con sentido general y amplio, para el fortalecimiento de un régimen de derechos humanos, y evitar así, desde el más alto tribunal del país, posiciones reduccionistas que limiten la trascendencia del sistema de justicia electoral a una materia o aspecto determinados.

En materia de Derecho Privado se propuso:

1. Desarrollar políticas públicas con perspectiva comunitaria, para brindar soluciones a la problemática de la familia de hoy, bajo las circunstancias y realidades actuales, tales como la desintegración, el desarraigo, la violencia, la marginación y un entorno social desfavorable para los más débiles.
2. Impulsar iniciativas que permitan la democratización de la familia mediante programas, políticas y adecuaciones legislativas que atiendan aspectos específicos y de atención urgente, con mecanismos viables de implementación y seguimiento permanentes.
3. Buscar una fórmula de unidad, mediante la revisión del artículo 121 constitucional, respecto de la disparidad de regimenes jurídicos locales aplicables a la familia, habida cuenta de la autonomía legislativa y jurisdiccional de los estados y la diversidad cultural del país.

En materia de Derecho Social se propuso:

1. Buscar la creación de una tendencia que en materia laboral consense la adecuación del marco regulatorio vigente, constitucional y reglamentario –y en conjunto los órdenes público y privado- a los tiempos modernos, manteniendo los valores que nos dan identidad como nación y lleve la

democratización al ámbito de la justicia social y el desarrollo del individuo como persona humana.

2. Fomentar las condiciones, en el medio rural, para rejuvenecer el campo, bajo nuevos paradigmas de productividad, mediante la capacitación agraria y productiva como la vía necesaria para transitar al desarrollo rural integral que consolide el patrimonio familiar, los recursos naturales, el financiamiento y la tecnología, la vida democrática en ejidos y comunidades y la gobernabilidad.
3. Abordar la necesidad de reformas en la seguridad social como un fenómeno de atención urgente y multidisciplinario, que aborde los aspectos financieros, de servicios, de atención médica y pensiones con una visión a largo plazo y una inversión en la viabilidad del sistema en su conjunto.
4. Integrar a todos los sectores involucrados en la seguridad social en mecanismos de discusión y análisis, a fin de conjuntar los diversos intereses en opciones legales sólidas, sin perder de vista los principios constitucionales y el carácter humanista de la política del Estado Mexicano en esta materia.

5 de octubre de 2004

Dr. Eduardo Castellanos Hernández
Lic. Ernesto Reyes Cadena
Lic. Claudia Iverte Ángeles Villegas



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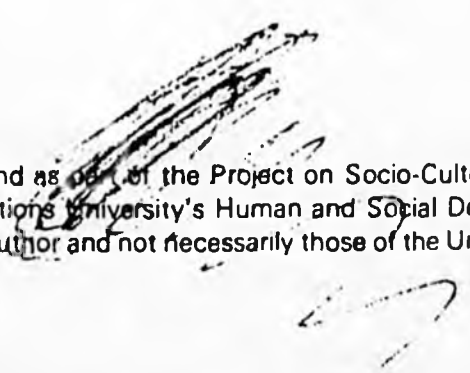
ANTROPOLOGIA JURIDICA

THE MEANING OF GLOBAL LEGAL PERSPECTIVE

BY

FLORENCIO SANCHEZ-CAMARA

This working paper was prepared within the framework and as part of the Project on Socio-Cultural Development Alternatives in a Changing World (SCA) of the United Nations University's Human and Social Development Programme. The views expressed in the paper are those of the author and not necessarily those of the United Nations University.



ANTROPOLOGIA JURIDICA

{ Qué significa la perspectiva legal global?

La respuesta preocupa a los juristas y los induce a tomar medidas concretas. Esta Carta parte de un plan que articula textos en campos versátiles(forman parte de la investigación sobre estructuras ideológicas superiores que emprendí con el patrocinio axiológico del Instituto de Investigaciones Economicas de la UNAM en el año de 1987) comprenden las ciencias sociales y políticas donde solicitamos y pediremos la opinion de pensadores del Derecho eminente.

El proposito es acudir a las fuentes en la civilizacion actual, de ahí lo juridico, pues el Derecho es un largo documento humano.

Interpretar el movimiento de la juridicidad- en todos los puntos cardinales- y descubrir los puntales de la nueva conciencia que contribuyan al ser propio de las ciencias sociales: la interrelación del hombre con el universo, la sociedad y el individuo al compartir los valores juridicos: el sustento de la comunidad ordenada.

Orbis mundi, la perspectiva juridica representa el universo juridico en su discurso, enfatiza el principio de la unidad en lo humano, su axiología permanente dentro del cambio. A saber, hace inevitable la concepcion antropologica en su sentido mas vasto.

Los campos del entendido humano remiten al saber juridico a lo largo del recurso antropologico durante la cabal estimativa que situe al hombre en su contexto y aprecie-ad hoc- sus valores y aspiraciones.

El hombre y sus proyectos aunque surjan de estudios rigurosos tecnol^o localizados exigen para su analisis y sintesis-como la axiomatica segun Goedel- la nueva estructura y marco de refer^encia donde exploren , en bien del hombre, la juridicidad.

La propuesta es contener la atomizacion eopragmatica del conocimiento que obedece a la enorme desinformacion deliberada o no.

Los hechos cientificos dispersos en las disciplinas actuales tendran su resolucioⁿ inminente y activa en el conjunto de las ciencias sociales cuando, las presida, como corresponde, la vision paradigmatica concerniente a la Antropologia-Juridica.

Esclarecer y sintetizar estas ideas, a traves de la penetrante inseminacion de las mentalidades con la comprension global de los fenomenos y noumenos (vease la congruencia del coincidir-para los fisicos de la mecanica cuantica y la cosmologia relativista) cuando la diversidad del enfoque universal, la correlacion de hechos y valores y su inextinguible juego (ya no abalorico como suscitaria Herman Hesse) *afirman la calidad del Homo ludens.*

Demostrar la arquetipica, las afinidades electivas del pensamiento juridico, la logica de las operaciones (procedimientos) y la entera mundanidad organica del Derecho y no solo aspirar a los intersticios del conocimiento, es revelar las sintesis internas y la unidad orgiastica de la ~~n~~aturaleza cientifica.

La tesis de la antropologia juridica , sitio de diferencias y biodiversidades para la liza donde se acometen las varias disciplinas, es presidir el tribunal del entendimiento plurigarante para la cualidad de la vida humana.

El Derecho es el ancla del barco donde los Leviatanes navegan, su espíritu pese a las mareas adversas de la violencia esta impreso en nuestro ser intelectual y en la vida espiritual de la humanidad y en pensadores- el abogado Gandgi- filosofos-Bertrand Russell- y antropólogos-Cramsci- de manera indeleble.

En verdad el reto de la ciencia es enorme y no puede dejarse aislado en la ciencias dichas naturales, por una parte o en religiosidades autocráticas por la otra, sin la reflexión antropológica-histórica y jurídica. Pues estas conforman la arquitectura en el edificio del pensamiento humano.

Este proceder se justifica, por ejemplo, en el tribunal científico y filosófico de Russell, donde se acepta la unidad de las ciencias y artes en torno al Derecho con mayuscula, el dirimir de la contienda. Y hacerlo con mayor porcentaje de espíritu aristotelico y el menor de los magnos Alejandros.

Juristas y antropologos construyen así la nueva sintesis de lo cognitivo y paraperceptual que anticipara el esfuerzo enciclopedico del antropologo Sol Tax. Concierno a la unidad y continuidad del conocimiento en relacion con la naturaleza del hombre-Anthropology To Day- el esfuerzo que realizan en otro orden, pero en el mismo horizonte, los llamados poetas cuya imaginacion sintetiza la imagen con la palabbra.

La ubicacion del hombre es siempre nueva, discreta, discontinua; su poderosa creatividad y hacer predatorio(Thorstein Veblen) caen al mundo del Derecho. La antropologia cognitiva ve entrecruzarse los caminos del hombre que debemos superar en el ordenamiento juridico sin negligencia en la tarea. Menos asimetrías en la enorme red

4.

El disparo del ser al porvenir busca la orbita mas amplia, incluye la sintesis interna, el ergon de la vida misma y la norma juridica cuyo cauce conquista la abstraccion para regresar al hombre practicante del Jus.

La cuestion de la Antropología Jurídica es breve: pese a lo diverso de las ciencias informantes, existe entre los juristas universales un acuerdo comun sobre la experiencia de la persona en Derecho: garantias y deberes de su legitimidad.

El estudio sobre la experiencia de los hombres de Estado contemporaneos -plantea la antropologia- no debe postergarse o dejar su registro mediante los modos formales e informales que implica el saber superior, dada su evidente univalencia, ante las cumbres de los mundos cambiantes.

A semejanza del Derecho consuetudinario anglosajon deben constituir (digamos) la jurisprudencia de los errores que la humanidad no debe permitirse ensayar de nuevo. Al propio tiempo, los juristas deben concluir instrumentos del equilibrio justo, advertir los factores integrantes del universo normativo, los cabos del humano proceder en un todo organizado: La Ley.

El jurista ante sí mismo o ante la ley injusta, debe librar la batalla del Derecho para evitar las de la sangre: los humanos recorran así y hacen penetrante su comunión con el universo legal y proscriben el mundo del ilícito.

normativa y la divisa unica de la sencillez. La cultura conjunta mere-
ce la herramienta juridica a su nivel.

Aprendimos de Sol Tax que el conocimiento juridico antropologico debe
tener como informantes a los estadista, y juristas eminentes y en lo posible
y probable publicar este saber enciclopedico no como enciclopedia sino
en sus puntos polemicos cuestionables.

Alguna vez dije que la ciencia es polemica y excepcional. Agrego que
la excepcionalidad del saber cientifico reclama la eminencia del
dictum. No se puede admitir la simple manipulacion del saber vulgar
o del dicho ~~sen~~tal comun o la aureola del austero neopragmatismo,
tampoco la reduccion al poder de la encuesta y la estadistica de los
ordenes mecanicos. La inteligencia del hombre debe liberarse de esta
actitud paraistaria que lo convierte en victima de sus herramientas
p rimero y despues de sus herrumbres. El jurista y antropologo por
peticion de principio esta liberado del terror o de los iconos falsos.
Señalar el rumbo antropojuridico es recrear el jus gentium la voluntad
y el renacimiento de la confianza en los tribunos.

Las constituciones no son tabula rasa, White paper, papel en blanco
donde se imprime el capricho ^{animo} ~~pero~~ aceptan materiales de construccion
en el ejercicio de la excepcion juridica..

El Derecho separa al hombre del animal en el ejercicio de la norma j
juridica, la mala conduccion en el transito historico(~~xxxxxxx~~)
ante su experiencia, es delincuente como se probó en los juicios de
Nuremberg.

Nuestra expectativa ya no es apocalíptica, merced al esfuerzo de estadistas ~~empíricas~~ ^{empíricas} pero, pero si oculta las tensiones excepcionales, la antropología jurídica merece descubrirlas y actuar de manera comprometida, a sabiendas, de que su universo disyuntivo cederá al paso de quienes ejercen el saber jurídico o al casus belli donde se dispendia el esfuerzo humano.

Condicionados por las circunstancias, conocemos la independencia y el crecimiento moral que otorga la facultad de erigir el Derecho, construir el desarrollo ordinativo y reunir la eficacia del esfuerzo humano.

La antropología jurídica distingue en la pletera del saber una necesidad mas urgente incluso que el conocimiento de la naturaleza: el reconocimiento de la cualidad unica de la vida humana. Los grandes cambios estan ahora precedidos por la energica accion del hombre, por la energia moral que revalua y reorganiza.

Los antropólogos comprenden que el llamado pecado de la hibris no existe y que el proceso de la conduccion de cualquier Estado no lo hace independiente del Derecho arbitral ya que forma parte de los procesos creativos ^{universales} más arduos. El proceso global es una tarea cuya investigacion ideologica superior (Veblen) no esta presidida por las simples leyes de la economia sino por todas las expresiones del proceder normativo. Asi, la Antropologia juridica piensa la mundialidad ~~como~~ como dragon protegido por circulos de jade, la cultura permanece segun aprendió Confucio en el Libro de las mutaciones humanas escrito hace miles de anos.

(I Ching-1950- Wilhelm/Baynes)

President Bush Signs Identity Theft Penalty Enhancement Act

Remarks by the President at Signing of Identity Theft Penalty Enhancement Act
Roosevelt Room

10:52 A.M. EDT

THE PRESIDENT: Thanks for coming. Welcome to the White House. Thanks for coming. (Laughter.) Welcome to the White House. (Laughter.)

We're taking an important step today to combat the problem of identity theft, one of the fastest growing financial crimes in our nation. Last year alone, nearly 10 million Americans had their identities stolen by criminals who rob them and the nation's businesses of nearly \$50 billion through fraudulent transactions. The bill I'm about to sign sends a clear message that a person who violates another's financial privacy will be punished.

The Identity Theft Penalty Enhancement Act also prescribes prison sentences for those who use identity theft to commit other crimes, including terrorism. It reflects our government's resolve to answer serious offenses with serious penalties.

I appreciate the members of my administration who worked on this important piece of legislation, particularly Cabinet members John Snow and John Ashcroft. I appreciate the members of the Congress who worked hard on this legislation: Senator Orrin Hatch and Senator Jon Kyl, Senator Dianne Feinstein, and members of the House, Chairman, Senator Jim Sensenbrenner, and John Carter from the great state of Texas. I want to thank the other members of Congress who are here, members of both political parties. Thank you for coming. I thank those who are on their staffs who have worked hard.

The crime of identity theft undermines the basic trust on which our economy depends. When a person takes out an insurance policy, or makes an online purchase, or opens a savings account, he or she must have confidence that personal financial information will be protected and treated with care. Identity theft harms not only its direct victims, but also many businesses and customers whose confidence is shaken. Like other forms of stealing, identity theft leaves the victim poor and feeling terribly violated.

But the losses are not measured only in dollars. An identity theft – thief can steal the victim's financial reputation. Running up bills on credit card accounts that the victim never knew existed, the criminal can quickly damage a person's lifelong efforts to build and maintain a good credit rating. Repairing the damage can take months or years.

Government has a responsibility to protect citizens from these crimes and the grief and hassle they cause. It's a solemn responsibility of our government. I want to thank the members of Congress for recognizing that responsibility.


This good law is part of a broader effort we've waged in recent years. The U.S. Postal Inspection Service, the FBI, and Secret Service are working with local and state officials to crack down on the criminal networks that are responsible for much of the identity theft that occurs in this nation. The Federal Trade Commission is training local law enforcement in the detection of identity theft. The Commission has set up the ID Theft Data Clearinghouse, which keeps track of complaints across the country, and provides those records to prosecutors seeking to take down organized rings.



VIDEO Multimedia

President's Remarks

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7/15/04

James B. Comey Deputy Attorney General, discussed the Identity Theft Penalty Enhancement Act on Ask the White House. [Click here to read the transcript](#)

Last December, I signed the Fair and Accurate Credit Transactions Act, which established a national system of fraud detection so that identity thieves can be stopped before they run up tens of thousands of dollars in illegal purchases. Thanks to this law, victims can make one phone call to alert all three major credit rating agencies to report the crime and to protect their credit ratings.

The law I sign today will dramatically strengthen the fight against identity theft and fraud. Prosecutors across the country report that sentences for these crimes do not reflect the damage done to the victim. Too often, those convicted have been sentenced to little or no time in prison. This changes today. This new law establishes in the federal criminal court the offense of aggravated identity theft. And someone convicted of that crime can expect to go to jail for stealing a person's good name. These punishments will come on top of any punishment for crimes that proceed from identity theft. For example, when someone is convicted of mail fraud in a case involving stolen personal information, judges will now impose two sentences, one for mail fraud, and one for aggravated identity theft. Those convicted of aggravated identity theft must serve an additional mandatory two-year prison term. Someone convicted of aggravated identity theft, such as using a false passport in connection with a terrorism case, would receive an additional prison sentence of five years. In addition, judges will not be allowed to let those convicted of aggravated identity theft serve their sentence on probation.

This law also raises the standard of conduct for people who have access to personal records through their work at banks, government agencies, insurance companies, and other storehouses of financial data. The law directs the United States Sentencing Commission to make sure those convicted of abusing and stealing from their customers serve a sentence equal to their crimes.

What I'm telling you is this is a good law. And I appreciate you working hard to see to it that it made it to my desk. Because of this act of Congress I sign today, the guilty will be certain to be punished. That's good for our consumers, it's good for our economy, and it's good for the cause of justice.

Welcome to the White House. (Applause.)

(The bill is signed.)

END 10:59 A.M. EDT

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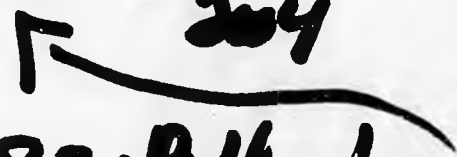


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