DEPARTMENT OF CORRECTIONS

Policy Number:	**106.025**
Title:	**Notary Services for Offenders/Residents**
Effective Date:	**1/7/20**

PURPOSE: To provide procedures for offender/resident access to notary services

APPLICABILITY: Adult and juvenile facilities

DEFINITIONS:

Acknowledgement – a declaration that a person has executed an instrument for the purposes stated therein (e.g., powers of attorney).

Allowable notary services – staff notaries provide the following notary services to offenders/residents: verifications upon oath or affirmation, acknowledgements, and witnessing signatures.

Verification upon oath or affirmation – a declaration that a statement is true and was made by a person upon oath or affirmation.

Witnessing a signature – determining that the signature on a document is that of the person appearing before the notary and named therein.

PROCEDURES:

A. General

1. Each warden must ensure notary services are available at no charge as necessary to provide offender/resident access to the courts in actions relating to their criminal convictions or to seek redress of complaints concerning the conditions of their confinement.

2. Facilities may also provide notary services consistent with the department's goal of transitioning offenders/residents to the community.

3. Notary services provided by facility staff are not intended to meet all of an offender's/resident's needs.

4. Each facility must have a process for offenders/residents to receive a professional visit from a community notary public.

5. Facilities may develop procedures to implement this policy.

B. Notaries public Licensing

1. Each facility must select appropriate staff to serve as notaries public for offenders/residents.

2. The applicant must submit the required paperwork to a county recorder's office to record the license.

3. A licensed notary must keep their license and supplies at their work location.

4. The facility must purchase a notary stamp for each notary.

C. Provision of notary services

1. Each facility must provide notary services on a regular basis for offenders/residents in the general population.

2. Notary services must be provided in a reasonable time to offenders/residents in closed units upon written request.

3. Each facility must provide information to offenders/residents on how to obtain notary services and when the services are provided.

D. Requirements for notary service

1. The offender/resident must present the entire document that is legally required to be notarized and their offender/resident identification card for identification for the witnessed signature.

2. The notary must review the document to determine its nature but must not divulge to others information received during the notarial act, unless disclosure to the warden is needed for facility security or public safety purposes.

3. The offender/resident must sign the document in the notary's presence.

4. Notaries must not notarize documents on which the offender's/resident's name is followed by a ©, ®, ™ symbol or a Uniform Commercial Code (UCC) citation.

5. Notaries must not notarize documents that have a blank space(s) which has not been filled in by the offender/resident in advance.
   a) A blank space(s) may not be left for the offender/resident to fill in at a later time.
   b) The document must be in final form before the notarization.
   c) The offender/resident may enter N/A or similar notation in the blank field(s).

6. Staff notaries must not notarize documents for offenders/residents in a representative capacity (i.e., the offender/resident claims to be acting on behalf of another person), certify offender/resident copies, or note protests of negotiable instruments.

7. Notaries must keep a record for each notarial act including: date, offender/resident name, notarial act performed, and number of documents. Notary journals must be retained with the notary at the work location.

E. Notarizing other documents

Notaries who have completed training may notarize or witness documents that assist the offender/resident in addressing family matters while incarcerated or in transitioning to the community.

1. Examples of allowable documents include such examples as:
   a) Marriage applications;
   b) Affidavits or forms relating to paternity;
   c) Health care directives;

d) Documents related to the care of the offender's/resident's dependent children; and/or

e) Documents needed to allow a third party to manage an offender's/resident's personal finances while incarcerated (e.g. financial powers of attorney, sale of real estate or personal property, etc.).

2. Other financial documents

a) If the offender/resident is within nine months of release, a facility notary may notarize an application to open an outside bank account.

b) Facility notaries must not notarize documents or forms related to an offender's/resident's personal financial or legal matters that are unrelated to the department's mission. Examples of documents that must not be notarized include:

(1) Patent, trademark, or copyright documents; or

(2) Documents related to establishing a business entity.

F. Verification upon oath or affirmation

1. Court forms or documents that require an oath or affirmation generally have a space at the bottom for notary use that reads "signed (or subscribed) and sworn before me…." Some examples include affidavits, civil pleadings, and conciliation court claim forms.

2. Offenders/residents who object to swearing an oath under God may request that the affirmation language (see 3.b below) be used.

3. Some legal documents may contain a specific oath or affirmation that the notary must read to the offender/resident before signing. If the document does not contain an oath or affirmation, the notary must use the following language.

a) Oaths

(1) The notary administers the oath: "*You do swear that the statements in this document which you are about to sign before me are true. So help you God.*"

(2) The certificate of notarial act must contain:

(a) "*Signed (or subscribed) and sworn before me on _____ (date)*."

(b) The notary's signature and stamp with the state seal.

b) Affirmations

(1) The notary administers the affirmation: "*You do affirm that the statements in this document which you are about to sign before me are true, under penalty of perjury.*"

(2) The certificate of notarial act must contain:

(a) *"Signed (or subscribed) and affirmed before me on _____ (date).*"

(b) The notary's signature and stamp with the state seal.

G. Retention

Notaries must retain their journal entries for at least one year from the date the service was performed.

INTERNAL CONTROLS

A. Current notary licenses and journals are retained at the notary's place of work.

ACA STANDARDS: None

REFERENCES: Minn. Stat. §§ 241.01, subd 3(a), 357.17, 358.07, 358.08, 358.14, 358.52, 358.55, 358.66, 359.085 and 544.15
The Model Notary Act 2010
The Notary Public Code of Professional Responsibility, by the National Notary Association, July 2009

REPLACES: Policy 106.025, "Notary Services for Offenders," 8/2/16.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Notary Public Journal (106.025A)

APPROVALS:
Deputy Commissioner, Community Services
Deputy Commissioner, Facility Services
Assistant Commissioner, Operations Support
Assistant Commissioner, Facility Services