

Can a Notary Certify a Copy of a Passport or a Driver License?

State laws vary on the acceptability and procedures for Copy Certifications. As with every other type of notarial procedure, notaries should study carefully their state's statutes on copy certification to see if, and how it is administered. For some states, the client will make a copy of a document to be certified and present it to the notary. In other states, the notary will be presented with an original document by the client and then the notary will make a photocopy of the original. Whatever the procedure in your individual state, there are certain documents which require special consideration when presented for copy certification. Most states prohibit copy certification of vital records such as birth, marriage and death certificates. This is because the original of these documents are held by local agencies; a client must seek a certified copy by going to the agency or requesting a copy online; usually there is a fee required.

But what about other common documents such as a driver's license or U.S. or Foreign Passport? Notaries will discover that they will be presented with requests to certify these documents from time to time. Most states do not have specific laws for the certifying of these documents as they do for birth and death records. Therefore, whether or not to proceed with a copy certification for such documents may present a quandary for the notary: whether to proceed with a seemingly reasonable request by the constituent or whether to risk reprimand from your State's authorities for performing an ill-advised procedure.

Inasmuch as the states have not regulated these types of certifications, it is best, wherever feasible to avoid handling the copy certification of a driver's license or passport. If however, the client insists upon some action by the notary, the notary may proceed to assist the client in "certifying" his or her copy of the document in question. This procedure is correctly termed, "Copy Certification by Document Custodian." In this procedure, the copy of the license or passport is being certified by the document custodian - the individual who is in permanent possession of the document, i.e. the client - not the notary. The notarization would proceed as follows:

- The document custodian - client - will present a request to have a copy of his or her U.S. or Foreign Passport or driver's license certified. It is always good if the verbal request can be accompanied by a written directive.
- The document custodian will make a photo copy of the requested document to be certified and present it to the notary. In this case, the notary should not be the one to make the photocopy.
- The signer will present an affidavit attesting to the fact that the attached copy is a true copy of his or her passport or driver's license.
- Depending on the state, the signer or the notary will select or attach the correct notary certificate containing jurat language to the signer's affidavit statement.
- The notary will issue an oath to the signer, having previously identified him through acceptable ID methodology.
- The signer will swear or affirm that the attached copy is a true and correct copy of the license or passport and then sign the affidavit.
- The notary will complete the notary certificate, by signing and stamping it.

All the documentation will be handed back to the signer; in some states the notary will also retain a "copy" of the photocopy of the document to be certified. All steps and information involved in this procedure must be carefully documented in the notary's record book or journal; especially due to the sensitive nature of the request.

It is extremely important that before this certification by document custodian is initiated, that the signer contacts the recipient or requester of the certified copy to ascertain if this procedure is going to serve the necessary purpose for which it is being requested. Because of the stringent procedures involved in obtaining a valid driver's license or passport, this procedure may not be considered sufficient for certain legal purposes. In that case, the signer may have to further consult with the certification requester or the government offices which issue the documents to see how to proceed. In an extreme case an attorney may

need to be consulted. Notaries should always follow their conscience when presented with these requests. While copy certification by document custodian may be a viable alternative, if the notary has misgivings, he or she should not proceed. As usual, document all requests which have been denied in your notary record book in case the matter should resurface at a later date.