



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

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MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 80- 77

The Honorable Rex B. Hoy
State Representative, 24th District
Room 480-W, State Capitol
Topeka, Kansas 66612

Re: Notaries Public and Commissioners--Official
Signature of Notary--Certification

Synopsis: Absent any statutory provisions stating otherwise, the secretary of state is the only public officer who can certify as to the official signature of a notary public that is on file in the office of the secretary of state. Statutes cited or construed herein: K.S.A. 53-101 and 53-102 and K.S.A. 1979 Supp. 75-409.

* * *

Dear Representative Hoy:

You have inquired whether any local public officer has the authority to certify the authenticity of the signature of a notary public. You have noted that such function is now performed by the secretary of state, but have questioned whether there is any statutory authority which would permit this function to be performed at the city or county level.

We are aware of no such authority, and absent express statutory authorization, it is our opinion that persons other than the secretary of state do not possess the authority to certify the authenticity of a notary public's signature. Our opinion is primarily a consequence of existing statutory provisions, but also results from the nature of the function being performed itself.

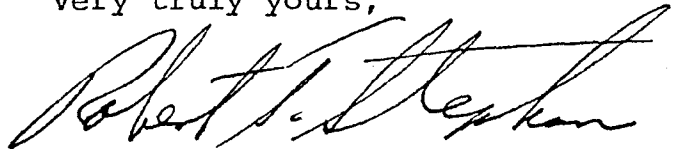
Pursuant to K.S.A. 53-101, the secretary of state is authorized to appoint notaries public. Application for such an appointment must be made in the manner prescribed by K.S.A. 53-102 which, inter alia, requires that the applicant "file with the secretary of state the official signature and an impression of the seal to be used by said notary public." We find no other statute imposing a requirement that such signature be filed with any other public officer.

By virtue of K.S.A. 1979 Supp. 75-409, the secretary of state issues under his or her certificate and official seal certified copies of "any law, resolution, bond, record, document or paper deposited or kept in or prepared by the secretary of state's office." Thus, in this instance, the certification made by the secretary of state is to the effect that a copy of the official signature of a notary public is a true and correct copy of the signature filed by such notary with the secretary of state's office. Since such official signature is not filed of record for this purpose with any other public officer, no other public officer is in a position to make such certification.

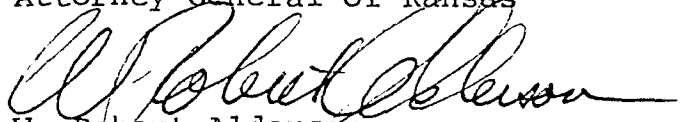
More importantly, though, no public officer except the secretary of state is capable of certifying that the person whose signature is in question is in fact a notary public. Such person is a notary public by virtue of an appointment under the hand and seal of the secretary of state, and the fact of such appointment can be certified only by the secretary of state.

Therefore, it is our opinion that, absent any statutory provisions stating otherwise, the secretary of state is the only public officer who can certify as to the official signature of a notary public.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



W. Robert Alderson
First Deputy Attorney General

RTS:WRA:gk