



**MEMORANDUM**

**TO:** David J. Farrell, President  
The Maritime Law Association of the United States

**FROM:** John C. Stratakis, Vice Chair  
Marine Financing Committee

**DATE:** May 1, 2022

**SUBJECT:** Electronic Apostille

---

An apostille is a certification of a document's authenticity, which is often an essential requirement for documents to be used in a cross-border context. The Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (now known as the "Apostille Convention") is an international treaty which abolished the cumbersome and costly process for authentication of documents. In its place came the issuance of an Apostille certificate by a "Competent Authority" in the place where the document originates. The United States is one of over 120 countries who are party to the Convention.

Apostilles are regularly used in the context of both international litigation and transactions, as a means of authenticating the signature of an individual or an official document. Official government documents (such as passports or court orders) must be Apostilled for use in a foreign country. In the transactional context, a notarized signature is of little use in, say, Greece or Singapore, because people there have no way of confirming that the New York notary is competent. The Apostille provides that confirmation.

As typically applied in the U.S., obtaining an Apostille is a two-step process. The document is first verified by the issuing or licensing authority. Then the state Secretary of State validates that verification and issues the Apostille. The process requires physically taking documents from one government office to another.

An effort to streamline this process was launched in 2006 by a Special Commission of the Hague Conference on Private International Law (HCCH). It is designed to provide for the issuance of electronic Apostilles (e-Apostilles) together with electronic registers of Apostilles (e-Registers) that can be accessed online by recipients to verify an Apostille they have received. The HCCH has been working with the National Notary Association of the United States to develop an e-Apostille program.

During the Covid pandemic, the issue became more acute because of the closure of many government offices, including those that issue Apostilles. As a result, Apostilles were issued only by mail, resulting in tremendous delays to the process and, accordingly, to the transaction or litigation to which they were connected.

Over 20 parties to the Apostille Convention have implemented programs to issue e-Apostilles and e-Registers, and many others are actively developing one. Generally in the U.S., the authorization does not require action by a state legislature, only administrative action by the Secretary of State of the particular state. Montana is the first U.S. state to adopt a form of e-Apostille.

As proposed by HCCH, the e-Apostille is an electronic file that has been digitally signed (for example, by way of Adobe PDF or DocuSign) by the relevant state Secretary of State, which is then electronically transmitted, by email or otherwise made available for download or viewing on a website.

A number of associations of lawyers have petitioned the National Association of Secretaries of States (NASS) to support this effort. They include The American College of Trust and Estate Counsel, the American Academy of Matrimonial Lawyers, the International Academy of Family Lawyers and the Association of Adoption & Assisted Reproduction Attorneys. These and other groups have formed a coalition that has succeeded in placing the issue on the agenda of NASS at their next meeting in July. They have requested that the MLA sign on to this effort by sending a letter of support to the NASS. A typical association letter is attached.

It is my opinion that the MLA ought to support this undertaking, given the need for Apostilles in maritime litigation and transactions. As a transactional lawyer, I have seen first hand the delays caused by the cumbersome process currently used. Moreover, by taking a seat at this table, the MLA can monitor and participate in the formulation of a standard that would be reliable and safe.



Hon. Jeffrey Bullock, Co-Chair Hon. Jay Ashcroft, Co-Chair National  
Association of Secretaries of State  
Business Services Committee  
444 North Capitol St., NW, Suite 401  
Washington, D.C. 20001

VIA FEDEX AND EMAIL

August 4, 2021

Dear Secretaries Bullock and Ashcroft:

**RE: Request for State Issuance of Electronic Apostilles (e-APP)**

As an organization that has a family law driven focus, including at the international level, the International Academy of Family Lawyers (IAFL) respectfully requests that the NASS member states begin issuing electronic apostilles and, in particular, implement the e-APP as developed by the Hague Conference on International Law (HCCH).

We are pleased that NASS has already endorsed active consideration of member state integration of the e-APP (with a resolution of July 17, 2016 that reaffirmed a previous such endorsement, dated July 13, 2011). Because of the growing number of states that have enacted electronic and/or online notarization laws since 2016, we are now requesting that NASS endorse a policy of active e-APP implementation.

We believe that the availability of electronic apostilles will dramatically improve services relating to international enforcement of U.S. state judgments and other family matters. First, the availability of electronic apostilles and e-registries will result in enhanced document security by preventing the misfiling or destruction of certified documents and enabling ease of proving the fact of apostille issuance. Second, mailing delays associated with obtaining and sending paper apostilles will be eliminated. Third, mailing delays/losses in sending authenticated documents to receiving countries will be eliminated. And experience in the 35 countries that have implemented the e-APP, since its inception in 2007, has borne out the benefits of electronic apostilles.

Please do not hesitate to contact the chair of our EApostille Committee, Elisha Roy (eroy@sasserlaw.com) should you have any questions about this request or desire more information about the envisioned resulting benefits for children and families involved in international child custody, support and other family-related matters that require the cross-border transfer of notarized or certified records.

Respectfully yours,

Marlene Moses  
President IAFL

**PRESIDENT**  
Marlene Eskind Moses  
MTR Family Law, PLLC  
205 23rd Avenue North  
Nashville  
Tennessee 37203-1501  
USA  
Tel: + 1 (615) 341-0070  
E-mail: [marlene@mtrfamilylaw.com](mailto:marlene@mtrfamilylaw.com)  
[www.mtrfamilylaw.com](http://www.mtrfamilylaw.com)

**EXECUTIVE DIRECTOR**  
Donna Goddard  
2 Yew Tree Close  
Hatfield Peverel  
Chelmsford  
Essex CM3 2SG  
England  
Tel: + 44 1245 380010  
E-mail: [donna.goddard@iafl.com](mailto:donna.goddard@iafl.com)  
[www.iafl.com](http://www.iafl.com)

**OFFICERS**  
Thomas Sasser  
USA, *President Elect*  
Sandra Verburgt  
Netherlands, *Vice President*  
Carolina Marin Pedroño  
England, *Vice President*  
Suzanne Todd  
England, *Secretary*  
Heather Hostetter  
USA, *Treasurer*  
Mia Reich-Sjögren  
Sweden, *Immediate Past President*  
Reneaux Collins  
USA, *President USA Chapter*  
Rachael Kelsey  
Scotland, *President European Chapter*  
Karon Bales  
Canada, *President Canadian Chapter*  
Corinne Remedios  
Hong Kong, *President Asia Pacific Chapter*

**COUNSEL**  
Katharine Maddox  
USA

**PARLIAMENTARIAN**  
Jason Walker  
Australia

**ASSISTANT TREASURER**  
Jason Naimi  
USA

**GOVERNORS**  
Tim Amos QC  
England  
Robert Arenstein  
USA  
Anne Berger  
USA  
Marie Baronin von Maydell  
Germany  
Cynthia Diggs  
USA  
G. John Durward  
USA  
Zenobia Du Toit  
South Africa  
Edwin Freedman  
Israel  
Daniela Horvitz Lennon  
Chile  
Amanda Humphreys  
Australia  
Kim Kieller  
Canada  
Soma Kölcseyi  
Hungary  
David Lister  
England  
Ranjit Malhotra  
India  
Natalia Olowska-Czajka  
Poland  
Oren Weinberg  
Canada  
Kai Yun Wong  
Singapore