

COLORADO COMMISSION ON UNIFORM STATE LAWS

2017 Annual Report

January 1, 2017

I. PREAMBLE

To the Honorable Governor, John Hickenlooper; the Chief Justice of the Colorado Supreme Court, Nancy E. Rice; the Chief Judge of the Colorado Court of Appeals, Alan M. Loeb; the President of the Senate, Bill L. Cadman; the Speaker of the House of Representatives, Dickey Lee Hullinghorst; and the members of the Colorado General Assembly. The Colorado Commission on Uniform State Laws (CCUSL) respectfully submits this Annual Report.

II. HISTORY OF THE UNIFORM LAW COMMISSION

In 1889, the New York Bar Association appointed a special committee on uniformity of laws. In the next year, the New York Legislature authorized the appointment of commissioners “to examine certain subjects of national importance that seemed to show conflict among the laws of the several commonwealths, to ascertain the best means to effect an assimilation or uniformity in the laws of the states, and especially whether it would be advisable for the State of New York to invite the other states of the Union to send representatives to a convention to draft uniform laws to be submitted for approval and adoption by the several states.” In that same year, the American Bar Association passed a resolution recommending that each state provide for commissioners to confer with the commissioners of other states on the subject of uniformity of legislation on certain subjects. In August, 1892, the Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws) was formed, and the first national conference of ULC state commissioners convened in Saratoga, New York, three days preceding the annual meeting of the American Bar Association.

By 1912, every state was participating in the ULC. In each year of service, the ULC has steadily increased its contribution to state law. Because of that contribution, it very early became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. In 1912, Woodrow Wilson became a member. This, of course, was before

his more notable political prominence and service as President of the United States. Several people who later became Justices of the Supreme Court of the United States have been members: former Justices Brandeis and Rutledge and former Chief Justice Rehnquist. Legal scholars have served in large numbers. Examples are professors Wigmore, Williston, Pound, and Bogert. Many distinguished lawyers have served since 1892, though their names are not as well known in legal affairs and the affairs of the United States. This distinguished body has guaranteed that the products of the ULC are of the highest quality and are enormously influential upon the process of the law.

The ULC is a confederation of state interests. It arose out of the concerns of state government for the improvement of the law and for better interstate relationships. Its sole purpose has been, and remains, service to state government and improvement of state law.

III. THE OPERATION OF THE ULC

The ULC convenes as a body once a year. It meets for a period of eight to twelve days, usually in late July or early August. In the interim period between the annual meetings, drafting committees composed of commissioners meet to supply the working drafts that are considered at the annual meeting. At each national conference, the work of the drafting committees is read and debated. Each Act must be considered over a substantial period of years. An Act does not become officially recognized as a Uniform Act until the ULC is satisfied that it is ready for consideration in the state legislatures. It is then put to a vote of the states, during which each state caucuses and votes as a unit.

The governing body is the ULC Executive Committee, and is composed of the officers, certain ex officio members, and members appointed by the President of the ULC. Certain activities are conducted by standing committees. For example, the Committee on Scope and Program considers all new subject areas for possible Uniform Acts. The Legislative Committee superintends the relationships of the ULC to the state legislatures. A small staff located in Chicago operates the national office of the ULC. The national office handles meeting arrangements, publications, legislative liaison, and general administration for the ULC. The total staff numbers only fifteen people.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which contributes each year to the operation of the ULC. Liaison is also maintained with the American Law Institute, the Council of State Governments, and the National Conference of State Legislatures on an ongoing basis. Liaison and activities may be conducted with other associations as interests and activities necessitate.

IV. ACTIVITIES OF THE COLORADO COMMISSIONERS

- A. Participation of the Colorado commissioners in the ULC is provided for in part 6 of article 3 of title 2, Colorado Revised Statutes. Colorado's commissioners must be attorneys admitted to practice law in Colorado. Six members are appointed or

reappointed by joint resolution of the General Assembly, of whom at least two must be legislators and at least two must be members of the public at large. Commissioners serve terms of two years.

In addition, any Colorado citizen who is elected as a life member of the ULC (after twenty years of membership) is a member of the Colorado Commission. The currently active life members are Thomas T. Grimshaw, Charles W. Pike, and Donald E. Mielke. The director of the Office of Legislative Legal Services, or the director's designee, has the same status as appointed members of the Commission and also serves as the ex officio secretary of the Colorado Commission. Thomas Morris currently serves as the director's designee to the Commission.

B. The current Colorado commissioners, their offices, and current ULC committee assignments:

Robert S. Gardner, Private Law Practice

- Study Committee on Drones
- Study Committee on Involuntary Pornography Websites

Thomas T. Grimshaw, Retired, Private Law Practice

- Life Member of Uniform Laws Commission

Claire B. Levy, Executive Director, Colorado Center on Law and Policy

- Standby Committee on Military and Overseas Voters Act
- Standby Committee to Revise the Uniform Unclaimed Property Act
- Study Committee on Declarations of Quarantine
- Drafting Committee on the Revised Uniform Parentage Act
- Drafting Committee on Unauthorized Disclosure of Intimate Images
- Committee to Monitor Healthcare Law

Donald E. Mielke, Private Law Practice

- Life Member of Uniform Laws Commission
- Enactment Committee on Emergency Volunteer Health Practitioners
- Enactment Committee on the Revised Uniform Athlete Agents Act
- Standby Committee on U.N. E-Commerce Convention
- Standby Committee on Commercial Real Estate Receivership Act
- Standby Committee on the Revised Uniform Athlete Agents Act
- Study Committee on Identity Management in Electronic Commerce

Anne L. McGihon, Private Law Practice

- Chair of the Colorado Commission on Uniform State Laws
- Enactment Committee on the Revised Uniform Athlete Agents Act
- Standby Committee on the Revised Uniform Athlete Agents Act
- Standby Committee on Wage Garnishment Act
- Study Committee on the Enforcement of Child Custody and Child Support Orders

Thomas Morris, Managing Senior Attorney, Office of Legislative Legal Services

- Secretary of the Colorado Commission on Uniform State Laws
- ULC Committee of Legislative Attorneys
- Study Committee on Driverless Cars

Charles W. Pike, Former Director, Office of Legislative Legal Services

- Life Member of Uniform Laws Commission

Brandon C. Shaffer, Executive Director of Legal and Governmental Affairs, Community Outreach, and P-TECH at St. Vrain Valley Schools

- Vice Chair of the Colorado Commission on Uniform State Laws
- Drafting Committee on Criminal Records Accuracy
- Committee to Monitor Criminal Justice Reform

Pat Steadman, Member of the State Senate

- Study Committee on Involuntary Pornography Websites
- Coordinating Committee on Technical Amendments Necessary to Comply with *Obergefell v. Hodges*

Yeulin Willett, Member of the State House of Representatives

- Committee to Monitor Criminal Justice Reform

C. Colorado Commissioners attending the ULC Annual Meeting held July 8 - 14, 2016, were:

Robert S. Gardner, Thomas T. Grimshaw, Claire B. Levy, Anne L. McGihon, Donald E. Mielke, Thomas Morris, Charles W. Pike, Brandon C. Shaffer, Senator Pat Steadman, and Representative Yeulin Willett.

V. A SUMMARY OF NEW ACTS

The following are summaries of new acts adopted in final form by the ULC at the most recent ULC annual meeting:

Uniform Employee and Student Online Privacy Protection Act. The growing use of social media has implications in both employment and educational contexts. Employers and educational institutions now sometimes ask current and/or prospective employees and students to grant the employer or school access to social media or other name and password protected accounts. This act addresses both employers' access to employees or prospective employees' social media and other online accounts accessed via username and password or other credentials of authentication as well as educational institutions' access to students' or prospective students' similar online accounts.

Uniform Family Law Arbitration Act. State laws vary when it comes to arbitrating family law matters such as spousal support, division of property, child custody, and child

support. This act standardizes the arbitration of family law. It is based in part on the Revised Uniform Arbitration Act and is intended to create a comprehensive family law arbitration system for the states.

Revised Uniform Unclaimed Property Act. The ULC first drafted uniform state legislation on unclaimed property in 1954. Since then, revisions have been promulgated in 1981 and again in 1995. (Colorado enacted the Uniform Unclaimed Property Act in 1987.) Many technological developments in recent years as well as new types of potential unclaimed property, such as gift cards, are not addressed in the most current uniform act. This act updates provisions on numerous issues, including escheat of gift cards and other stored-value cards, life insurance benefits, securities, dormancy periods, and use of contract auditors.

Uniform Unsworn Domestic Declarations Act. This act builds upon the Uniform Unsworn Foreign Declarations Act, which covers unsworn declarations made *outside* the United States. This new Uniform Act permits the use of unsworn declarations made under penalty of perjury in state courts when the declaration was made *inside* the U.S. States that have already enacted the Uniform Unsworn Foreign Declarations Act (UUFDA) should enact this act. (Colorado enacted the Uniform Unsworn Foreign Declarations Act in 2009.)

Uniform Wage Garnishment Act. Currently, every state has a different wage garnishment law and process. This means that employers who do business across multiple states must know and abide by a different, and often complex, law for each jurisdiction. If employers make processing errors calculating garnishments, they may face civil penalties. This act seeks to simplify and clarify wage garnishments for employers, creditors, and consumers by standardizing how the wage garnishment process works and offering plain-language notice and garnishment calculation forms.

Amendment to the Revised Uniform Law on Notarial Acts. This act authorizes notaries public to perform notarial acts in the state in which they are commissioned for individuals who are located outside the United States. The amendment requires the use of audio- and video-technologies for real-time communication, and requires the notary to record the interaction. The act of the individual in making the statement or signing the record must not be prohibited in the foreign country in which the individual is physically located and the certificate affixed by the notary to the record must indicate that the notarial act took place while the individual was located in a foreign country.

VI. CCUSL RECOMMENDATIONS FOR ENACTMENT AND FOR OTHER ACTION

The Colorado commissioners met with representatives of the Colorado Bar Association in September and November of 2016 to discuss uniform acts and to consider recommendations that the Colorado Commissioners will make to the General Assembly. The commissioners will meet after the 2017-18 commission has been appointed by joint resolution, in January, 2017, to finalize these recommendations. The commissioners have voted to propose the

following acts for introduction in the General Assembly’s 2017 Regular Session: the *Register Athlete Agents Revised Uniform Act 2015*, *Revised Uniform Unclaimed Property Act*, *Uniform Unsworn Declarations Act Include Domestic*, *Uniform Wage Garnishment Act*, and *Revised Uniform Law on Notarial Acts*.

Colorado commissioners continue to meet with representatives of the Colorado Bar Association to discuss and decide whether the following uniform acts should move forward for introduction in Colorado in a future legislative session: the *Uniform Commercial Real Estate Receivership Act*, the *Uniform Employee and Student Online Privacy Protection Act*, the *Revised Uniform Residential Landlord and Tenant Act 2015*, and the *Uniform Trust Code*.

Uniform acts introduced in Colorado during the 2016 legislative session:

Bill No.	Bill Topic	Final Status
SB16-071	Revised Uniform Athlete Agents Act	Postponed Indefinitely
SB16-084	Uniform Recognition Of Substitute Decision-Making Documents Act	Postponed Indefinitely
SB16-085	Uniform Trust Decanting Act	Signed into Law
SB16-088	Uniform Fiduciary Access To Digital Assets	Signed into Law
SB16-103	Uniform Recognition And Enforcement Of Canadian Domestic Violence Protection Orders Act	Postponed Indefinitely

VII. ENACTMENT RECORD, TO DATE

Colorado has an enviable record for enacting Uniform Acts. More than one hundred individual acts have been adopted in Colorado. A complete listing of Uniform Acts adopted by Colorado is attached as Appendix A.

APPENDIX A

Uniform Acts Adopted by Colorado with the Year That *Colorado* Adopted the Act Designated in Parenthesis.

Act Regulating Traffic on Highways (1931)
Act to Secure the Attendance of Witnesses From Without a State in Criminal Proceedings (1939)
Adult Guardianship and Protective Proceedings Jurisdiction Act (2008)
Alcoholism and Intoxication Treatment Act (1973)
Anatomical Gift Act (1969) and (2007)
Arbitration Act (1975) and (2004)
Asset Freezing Orders Act (2013)
Athlete Agents Act (2008)
Certification of Questions of Law Act (1969)
Child Abduction Prevention Act (2007)
Child Custody Jurisdiction Act (1973)
Commercial Code (1965)
Commercial Code, Article 1 (2006)
Commercial Code, Article 2A (1991)
Commercial Code, Articles 3 & 4 (1994)
Commercial Code, Article 4A (1990)
Commercial Code, Article 4A (2012 Amendments) (2013)
Commercial Code, Article 5 (1996)
Commercial Code, Article 6 Repeal (1991)
Commercial Code, Article 7 (2006)
Commercial Code, Article 8 (1985 Amendments) (1996)
Commercial Code, Article 9 Amendments (1977)
Commercial Code, Article 9 (2001)
Commercial Code, Article 9 Amendments (2002)
Commercial Code, Article 9 Amendments (2012)
Common Interest Ownership Act (1991)
Common Trust Fund Act (1947)
Conflict of Law Limitations Act (1984)
Consumer Credit Code (1971)
Controlled Substances Act (1992)
Contribution Among Tortfeasors Act, Revised 1955 (1977)
Criminal Extradition Act (1953)
Debt-Management Services Act (2007)
Deceptive Trade Practices Act, Revised 1966 (1969)
Declaratory Judgments Act (1923)
Deployed Parents Custody and Visitation Act (2013)
Determination of Death Act (1981)
Disclaimer of Property Interests Act (2011)
Disposition of Community Property Rights at Death Act (1973)
Division of Income for Tax Purposes Act (1968)
Durable Power of Attorney Act (1973)
Duties to Disabled Persons Act (1973)
Probate Code, Guardianship & Protective Proceedings (2000)
Prudent Investor Act (1995)
Electronic Legal Material Act (2012)
Electronic Transactions Act (2002)
Emergency Volunteer Health Practitioners Act (2007)
Enforcement of Foreign Judgments Act, Revised 1964 (1969)
Estate Tax Apportionment Act (2011)
Facsimile Signatures of Public Officials Act (1969)
Federal Tax Lien Registration Act, 1966 (1969) Revised 1966 (1969)
Fiduciaries Act (1923)
Fiduciary Access To Digital Assets (2016)
Fraudulent Transfers (1991)
Foreign Money Claims Act (1990)
Foreign-country Money Judgments Recognition Act (2008)
Gifts to Minors Act, Revised 1966 (1967)
Insurers Liquidation Act (1955)
Interstate Arbitration of Death Taxes Act (1953)
Interstate Compromise of Death Taxes Act (1953)
Interstate Depositions and Discovery Act (2008)
Interstate Family Support Act (1993) (2015)
Judicial Notice of Foreign Law Act (1967)
Jury Selection and Service Act (1971)
Limited Cooperative Associations Act (2011)
Limited Partnership Act (1931)
Limited Partnership Act, Revised 1976 (1981)
Management of Institutional Funds Act (1973)
Mandatory Disposition of Detainers Act (1969)
Marriage and Divorce Act (1971)
Military and Overseas Voters Act (2011)
Motor Vehicle Operators' and Chauffeurs' License Act (1931)
Motor Vehicle Registration Act (1931)
Narcotic Drug Act (1935)
Negotiable Instruments Law (1897)
Nonprofit Association Act (1994)
Parentage Act (1977)
Partnership Act (1931) (1997)
Photographic Copies of Business and Public Records as Evidence Act (1955)
Powers of Appointment Act (2014)
Power of Attorney Act (2009)
Premarital and Marital Agreements Act (2013)
Principal and Income Act (1955) and (2000)
Principal and Income Act, Amendments (2009)
Probate Code (1973)
Probate Code, Amendments (1975) and (2009)
Probate Code, Article II, (1994)
Probate Code, Rule Against Perpetuities (1991)
Probate Code, Article VI, Amendments (1990)
Probate Code, Custodial Trust Act (1999)

Prudent Management of Institutional Funds Act
(2008)
Reciprocal Enforcement of Support Act (1951)
Reciprocal Enforcement of Support Act,
Amended 1958 (1961)
Reciprocal Enforcement of Support Act, Amended,
Revised 1968 (1971)
Reciprocal Transfer Tax Act (1943)
Recognition of Acknowledgments Act (1969)
Rendition of Accused Persons Act (1972)
Sales Act (1941)
Securities Act (1961)
Simplification of Fiduciary Security Transfers
Act (1959)
Simultaneous Death Act (1943)
Simultaneous Death Act, Amended 1953 (1967)
Statutory Construction Act (1973)
Statutory Form Power of Attorney Act (1992)
Stock Transfer Act (1927)
Trade Secrets Act (1983)
Trade Secrets Act, Amended 1985 (1986)
Transboundary Pollution Reciprocal Access (1984)
Transfer of Dependents Act (1937)
Transfers to Minors Act (1984)
Trust Decanting Act (2016)
Uniform Trust Code, 2010 Insurable Interest
Amendments (2011)
Unclaimed Property Act (1987)
Unsworn Foreign Declarations Act (2009)
Veteran's Guardianship Act (1929)
Veteran's Guardianship Act, Revised 1942 (1945)
Victims of Crime (1992)
Warehouse Receipts Act (1911)
Warehouse Receipts Act, Amended 1922 (1923)