

COLORADO COMMISSION ON UNIFORM STATE LAWS

2018 Annual Report

January 1, 2018

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, Kevin Grantham; the Speaker of the House of Representatives, Crisanta Duran; 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 fourteen 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, Member of the State Senate

- Technology Committee

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
- Standby Committee on Uniform Parentage Act
- Study Committee on Declarations of Quarantine
- Drafting Committee on the Revised Uniform Parentage Act
- Drafting Committee on Unauthorized Disclosure of Intimate Images

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
- Chair, Study Committee on the Garnishment of Wages in Bank Accounts

Donald E. Mielke, Private Law Practice

- Life Member of Uniform Laws Commission
- 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
- Drafting Committee on Highly Automated Vehicles

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

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

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

- Drafting Committee on Criminal Records Accuracy
- Committee to Monitor Criminal Justice Reform

Pat Steadman, Private Law Practice

- Study Committee on the Garnishment of Wages in Bank Accounts

Cole Wist, Member of the State House of Representatives

- Vice Chair of the Colorado Commission on Uniform State Laws
- Drafting Committee on Amend Law on Notarial Acts

C. Colorado commissioners attending the ULC Annual Meeting held July 14 - 20, 2017, were:

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

V. A SUMMARY OF NEW ULC ACTS

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

- The **Uniform Regulation of Virtual Currency Businesses Act** creates a statutory framework for regulating virtual currency business activity. The act covers businesses engaged in the exchange of virtual currencies for cash, bank deposits, or other virtual currencies; the transfers of virtual currency between customers; and certain custodial or fiduciary services. It also includes provisions on licensing requirements;

reciprocity; consumer protection; cybersecurity; anti-money laundering; and supervision of licensees.

- The **Uniform Directed Trust Act** addresses the division of a trustee’s traditional responsibilities regarding estate planning and asset management among several specialists. This act clarifies the duties and responsibilities of both directed trustees and those who have the power to direct them.
- The **Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act** is an updated version of the Uniform Guardianship and Protective Proceedings Act, originally promulgated in 1969 as part of the Uniform Probate Code. This new version is a modern guardianship statute intended to protect the individual rights of both minors and adults subject to a guardianship or conservatorship order.
- The **Uniform Parentage Act (2017)** is a revision of the Uniform Parentage Act (UPA) of 2000, which was adopted in 11 states. The UPA covered several topics including the parent-child relationship, voluntary acknowledgments of paternity, registry of paternity, genetic testing, and proceedings to adjudicate parentage of children of assisted reproduction. This revised act addresses issues related to same-sex couples, surrogacy, the right of a child to genetic information, de facto parentage, and parentage of children conceived through sexual assault.
- The **Uniform Protected Series Act** provides a comprehensive framework for the formation and operation of a protected series limited liability company (LLC). A protected series LLC has both “horizontal” liability shields, as well as the standard “vertical” liability shield. About 15 jurisdictions have some kind of series statute, but they vary widely.
- The **Model Veterans Treatment Court Act** provides guidelines for the establishment of veterans’ courts. Veterans’ courts have been established in various states, including Colorado, to ensure that veterans in the criminal justice system receive the treatment and support necessary for successful rehabilitation. Although these courts already exist in many judicial districts, very few states have legislation on veterans’ courts.

VI. CCUSL RECOMMENDATIONS FOR ENACTMENT AND FOR OTHER ACTION

The Colorado commissioners held two hearings in September and November of 2017 to discuss this year’s ULC-approved acts, as well as continue discussions regarding ULC-approved acts from prior years, in order for the Colorado commissioners to make legislative recommendations to the General Assembly. Based on feedback received from stakeholders and other interested parties, including representatives of the Colorado Bar Association, the CCUSL will not be introducing any of the ULC’s newly approved acts this session, but may introduce some of them in the future after additional discussion with interested parties.

The Colorado commissioners have voted to introduce the following acts during the General Assembly’s 2018 Regular Session: the *Revised Uniform Unclaimed Property Act*¹ and the *Colorado Uniform Trust Code*², both of which have been under consideration for a couple of years.

Colorado commissioners will continue to meet with stakeholders, including 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 Directed Trust Act*, the *Guardianship, Conservatorship, and Other Protective Arrangements Act*, the *Uniform Parentage Act*, and the *Uniform Wage Garnishment Act*.

The Colorado Commission voted at its November meeting to send a letter to the General Assembly’s Committee on Legal Services requesting that, on a prospective basis, the practice of publishing ULC official comments in the Colorado Revised Statutes be discontinued. Instead, the Commission will ask the Committee to direct the revisor of statutes to include in the statutes cross references that would refer the reader to the ULC’s website where the applicable official comments would be found. This proposed change would be prospective only; no comments currently published in the statutes would be removed. Nor is the change intended to have any effect on how the statutes are construed.

Uniform acts introduced in Colorado during the 2017 legislative session:

Bill No.	Bill Topic	Final Status
SB17-023	Register Athlete Agents Revised Uniform Act 2015	Postponed Indefinitely
SB17-131	Uniform Wage Garnishment Act	Postponed Indefinitely
SB17-132	Revised Uniform Law On Notarial Acts	Signed into Law
SB17-154	Uniform Unsworn Declarations Act Include Domestic	Signed into Law

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.

¹ The ULC approved the **Revised Uniform Unclaimed Property Act** in 2016 in order to update various provisions, including gift cards and other stored-value cards, life insurance benefits, securities, dormancy periods, and the use of contract auditors.

² The **Uniform Trust Code** (UTC) was first approved by the ULC in 2000, last amended in 2010, and has been approved in more than half the states. The Colorado Bar Association (CBA) undertook the task of adapting the UTC to Colorado law and is assisting in the bill drafting process. Because the uniform act adopted in Colorado will include amendments to fit within current Colorado law, the Colorado version will be called the **Colorado Uniform Trust Code**.

APPENDIX A

Uniform and Model Acts adopted by Colorado with the year that *Colorado* adopted the act designated in parenthesis.

Act Regulating Traffic on Highways (1931)
Attendance of Out of State Witnesses (1939)
Adult Guardianship and Protective Proceedings
Jurisdiction Act (Probate Code) (2008)
Alcoholism and Intoxication Treatment Act (1973)
Anatomical Gift Act (1969) and (2007)
Arbitration Act (1975) and (2004)
Athlete Agents Act (2008)
Certification of Questions of Law Act (1969)
Child Abduction Prevention Act (2007)
Child Custody Jurisdiction Act (1973)
Child Custody Jurisdiction and Enforcement Act (2000)
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) and (2007)
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)
Custodial Trust Act (1999)
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 (Probate Code) (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 Persons with Medical ID Devices Act (1973)
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 (Probate Code) (2011)
Facsimile Signatures of Public Officials Act (1969)
Federal Lien Registration Act, Revised 1966 (1969)
Fiduciaries Act (1923)
Fiduciary Access To Digital Assets (2016)
Foreign Money Claims Act (1990)
Foreign-country Money Judgments Recognition Act
(2008)
Fraudulent Transfers (1991)
Gifts to Minors Act, Revised 1966 (1967)
Guardianship & Protective Proceedings Act (Probate
Code) (2000)
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), (2003), and (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)
Notarial Acts, Revised (2017)
Parentage Act (1977)
Partnership Act (1931)
Partnership Act, Revised 1994 (1997)
Photographic Copies of Business and Public Records
as Evidence Act (1955)
Power of Attorney Act (2009)
Powers of Appointment Act (2014)
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 Amendments (1994)
Probate Code, Article VI Amendments (1990)
Prudent Investor Act (1995)
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)
Rule Against Perpetuities (Probate Code) (1991)
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)
TOD Security Registration Act (Probate Code) 1994
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 Code, 2010 Insurable Interest Amendments (2011)
Trust Decanting Act (2016)
Unclaimed Property Act (1987)
Unincorporated Nonprofit Association Act (1994)
Unsworn Declarations Act (2017)
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)