

COLORADO COMMISSION ON UNIFORM STATE LAWS

Annual Report for 2021-22

January 1, 2022

I. PREAMBLE

To the Honorable Governor, Jared Polis; the Chief Justice of the Colorado Supreme Court, Brian D. Boatright; the Chief Judge of the Colorado Court of Appeals, Steve Bernard; the President of the Senate, Leroy M. Garcia; the Speaker of the House of Representatives, Alec Garnett; and the members of the Colorado General Assembly. The Colorado Commission on Uniform State Laws (CCUSL) respectfully submits this Annual Report.

II. OVERVIEW OF UNIFORM LAW COMMISSION

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, has worked for the uniformity of state laws since 1892. It is comprised of state commissions on uniform laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Each jurisdiction determines the method of appointment and the number of commissioners appointed. The statutory authority governing Colorado's uniform law commission can be found in part 6 of article 3 of title 2, Colorado Revised Statutes.

There is only one fundamental requirement for the more than 300 uniform law commissioners: that they are members of the bar. While some commissioners serve as state legislators and other state officials, most are practitioners, judges, and law professors. Uniform law commissioners serve for specific terms and receive no salaries or fees for their work with the Uniform Law Commission.

Commissioners study and review the law of the states to determine which areas of law should be uniform. The commissioners promote the principle of uniformity by drafting and proposing specific statutes in areas of the law where uniformity between the states is desirable. The ULC can only propose – no uniform law is effective until a state legislature adopts it.

The work of the ULC simplifies the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state. Representing both state government and the legal profession, it is a genuine coalition of state interests. It has sought to bring uniformity to the divergent legal traditions of more than 50 jurisdictions – and has done so with significant success.

III. HISTORY

On August 24, 1892, representatives from seven states – Delaware, Georgia, Massachusetts, Michigan, New York, New Jersey and Pennsylvania – met in Saratoga Springs, New York, to form what is now known as the Uniform Law Commission. By 1912, every state was participating in the ULC. The U.S. Virgin Islands was the last jurisdiction to join, appointing its first commission in 1988.

Very early on the ULC became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. In 1901, Woodrow Wilson became a member. This, of course, was before his more notable political prominence and service as President of the United States. Several persons, later to become Justices of the Supreme Court of the United States, have been members: former Justices Brandeis, Rutledge, and Souter, and former Chief Justice Rehnquist. Legal scholars have served in large numbers, including Professors Wigmore, Williston, Pound, and Bogert. Many more distinguished lawyers have served since 1892.

In each year of service, the ULC steadily increased its contribution to state law. Since its founding, the ULC has drafted more than 200 uniform laws on numerous subjects and in various fields of law, setting patterns for uniformity across the nation. Uniform Acts include the Uniform Probate Code, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Anatomical Gift Act, the Uniform Interstate Family Support Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and the Uniform Prudent Management of Institutional Funds Act.

Most significant was the 1940 ULC decision to attack major commercial problems with comprehensive legal solutions – a decision that set in motion the project to produce the Uniform Commercial Code (UCC). Working with the American Law Institute, the UCC took ten years to draft and another 14 years before it was enacted across the country. It remains the signature product of the ULC.

Today the ULC is recognized primarily for its work in commercial law, family law, the law of probate and estates, the law of business organizations, health law, and conflicts of law.

The Uniform Law Commission 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.

IV. DIVERSITY STATEMENT

Each member jurisdiction determines the number of uniform law commissioners it appoints to the Uniform Law Commission, the terms of uniform law commissioners, and the individuals who are appointed from the legal profession of that jurisdiction. The Uniform Law Commission encourages the appointing authorities to consider, among other factors, diversity of membership in their uniform law commissions, including race, ethnicity, and gender in making appointments. The Uniform Law Commission does its best work when the uniform law commissioners are drawn from diverse backgrounds and experiences.

V. PROCEDURES

The ULC convenes as a body once a year. It meets for a period of six or seven days, usually in late July or early August. In the interim period between these annual meetings, drafting committees composed of commissioners meet to supply the working drafts that are considered at the annual meeting. At each annual meeting, the work of the drafting committees is read and debated. Each Act must be considered over a substantial period of years. No Act becomes officially recognized as a Uniform Act until the Uniform Law Commission 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 ULC President. 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 ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which provides advisors to all ULC drafting committees and many ULC study committees. Liaison is also maintained with the American Law Institute, the Council of State Governments, the National Conference of State Legislatures, the National Association of Secretaries of State, the Conference of Chief Justices, and the National Center for State Courts on an ongoing basis and as-needed basis. Liaison and activities are conducted with other associations as interests and activities necessitate.

VI. ACTIVITIES OF THE COLORADO COMMISSIONERS

- A. The Colorado Commissioners are:
 - a. Alicia Duran
 - b. Bob Gardner, Senator

- c. Thomas T. Grimshaw
- d. Claire B. Levy
- e. Yelana Love (part of year)
- f. Anne McGihon
- g. Donald E. Mielke
- h. Thomas Morris (part of year)
- i. Charles W. Pike
- j. Sara Scott
- k. Kerry Tipper, Representative

B. The ULC committee assignments in 2021 for Commissioners from Colorado were:

- a. Committee to Monitor Developments in Technology
- b. Drafting Committee on Public Meetings During Emergencies
- c. Standby Committee on Amendments to the Common Interest Ownership Act
- d. Standby Committee on Uniform Automated Operation of Vehicles Act
- e. Standby Committee on Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act
- f. Standby Committee on Uniform Personal Data Protection Act
- g. Standby Committee on Uniform Emergency Volunteer Health Practitioners Act
- h. Standby Committee on Uniform Military and Overseas Voters Act
- i. Standby Committee on Uniform Commercial Real Estate Receivership Act
- j. Standby Committee on Uniform Parentage Act (2017)
- k. Standby Committee on Pretrial Release and Detention Act
- l. Standby Committee on Revised Uniform Athlete Agents Act
- m. Standby Committee on Revised Uniform Unclaimed Property Act
- n. Standby Committee on Uniform Easement Relocation Act
- o. Legislative Committee

C. Meetings held by the Colorado Commissioners in the year 2021 were:

- a. August 25, 2021
- b. December 3, 2021

E. Colorado Commissioners attending sessions of the ULC Annual Meeting in person or online were:

- a. Alicia Duran
- b. Bob Gardner, Senator
- c. Claire B. Levy
- d. Anne McGihon
- e. Donald E. Mielke
- f. Thomas Morris
- g. Charles W. Pike
- h. Kerry Tipper, Representative

- F. Lifetime Members of the Colorado Commission on Uniform State Laws are:
- a. Thomas T. Grimshaw
 - b. Donald E. Mielke
 - c. Charles W. Pike

VII. 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:

Uniform College Athlete Name, Image or Likeness Act. Until recently, college student athletes were not allowed to receive compensation for the use of their name, image or likeness (NIL) while still maintaining eligibility. The Uniform College Athlete Name, Image or Likeness Act allows college athletes to earn compensation for the use of their NIL while also providing reasonable protections to educational institutions, athletic associations, and conferences. The Act will provide a clear and uniform framework for states to allow college athletes to earn compensation for the use of their NIL while maintaining a level playing field across state lines.

Uniform Personal Data Protection Act. In an increasingly online world, the concept of privacy must be broadened to protect an individual's privacy both online and offline. The Uniform Personal Data Protection Act provides a reasonable level of consumer protection without incurring the compliance and regulatory costs associated with some existing state regimes. The Act recognizes that the collection and use of personal data are important features of our modern economy but raise significant issues of privacy and control. The Act outlines compatible, incompatible, and prohibited data practices and provides an enforcement mechanism to ensure compliance with the Act.

Uniform Restrictive Employment Agreement Act. This Act regulates restrictive employment agreements, which are agreements that prohibit or limit an employee or other worker from working after the work relationship ends. Uniformity in this area of the law benefits both employers and employees by enhancing clarity and predictability in our increasingly mobile society. The Uniform Restrictive Employment Agreement Act addresses the enforceability of these agreements, notice and other procedural requirements, choice of law issues, and remedies. The Act does not say anything about an agreement monitoring what a worker can or cannot do while employed.

Uniform Cohabitants' Economic Remedies Act. The rate of nonmarital cohabitation within the U.S. is increasing rapidly. Today, states have no consistent approach for addressing whether and how cohabitants can enforce contract and equitable claims against each other when the relationship ends. The Uniform Cohabitants' Economic Remedies Act does not create any special status for cohabitants. In most instances, the Act defers to other state law governing contracts and claims between individuals. The Act enables cohabitants to exercise the usual rights of individual citizens of a state to contract and to successfully maintain contract and equitable claims against others in appropriate circumstances. The Act affirms the capacity of each cohabitant to contract with the other and to maintain claims with respect to

"contributions to the relationship" without regard to any intimate relationship that exists between them and without subjecting them to hurdles that would not be imposed on litigants of similar claims. The Act ensures that the nature of the relationship of the parties is not a bar to a successful claim.

Uniform Community Property Disposition at Death Act. Community property acquired by a married couple retains its character as community property even when the couple relocates to reside in a non-community property state. This result creates potential distribution problems at the death of the first spouse but also creates potential estate planning opportunities. However, the probate court in a non-community property state may not recognize the status of community property in a decedent's estate. The Uniform Community Property Disposition at Death Act provides clear default rules to ensure the proper disposition of community property in any state.

Uniform Unregulated Child Custody Transfer Act. In some cases, parents find that, after the birth or adoption of their child, they experience considerable difficulty or even inability in caring for or effectively managing the child's behavior, which sometimes leads to families transferring a child to another person outside of the courts and the child welfare system. Without specific regulations directed at these types of unregulated transfers, a transfer of custody might go unnoticed within the child welfare system. The Uniform Unregulated Child Custody Transfer Act addresses the transfer of children in these types of cases.

Amendments to the Uniform Common Interest Ownership Act. The Uniform Common Interest Ownership Act governs the formation, management, and termination of common interest communities, including condominiums, homeowner associations, and real estate cooperatives. The 2021 amendments to the act update it to address recent legal and technological developments.

VIII. RECOMMENDATIONS FOR ENACTMENT AND FOR OTHER ACTION

The Colorado Commission held two meetings, in August and December of 2021, to discuss this year's ULC-approved acts, as well as continue discussions regarding ULC-approved acts from prior years, in order to make legislative recommendations to the General Assembly. The Commission will meet again on January 14, 2022 to finalize its 2022 Legislative Agenda.

The Commission is considering, based on benefit to Colorado and direction and feedback received from stakeholders, including representatives of the Colorado Bar Association, other business associations, and governmental entities, the following Uniform and Model Acts for introduction during the 2022 legislative session:

- *Amendments to the Uniform Probate Code (2019);*
- *Uniform Cohabitants' Economic Remedies Act;*
- *Uniform College Student Name, Image, or Likeness Act;*
- *Uniform Parentage Act (2017);*
- *Uniform Prevention of and Remedies for Human Trafficking Act (2013);*

- *Uniform Restrictive Employment Act*;
- *Uniform Unregulated Child Custody Transfer Act*; and
- *Uniform Voidable Transactions Act (2014)*.

Colorado Commissioners will continue to meet with interested stakeholders next interim to discuss and decide whether the following uniform acts should move forward at some point in the future: the *Uniform Community Property Disposition at Death Act* and the *Revised Uniform Unincorporated Nonprofit Association Act*.

Uniform acts introduced in Colorado during the 2021 legislative session:

Bill No.	Bill Topic	Final Status
HB21-1004	Colorado Uniform Electronic Wills Act	Signed into Law
HB21-1179	Canadian Domestic Violence Protection Orders	Deemed Lost
SB21-143	Uniform Collaborative Law Act	Signed into Law
SB21-162	Colorado Uniform Trust Code Part 5	Signed into Law
SB21-164	Uniform Easement Relocation Act	Postponed Indefinitely
SB21-171	Uniform Fiduciary Income and Principal Act	Signed into Law

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

Act Regulating Traffic on Highways (1931)
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)
Attendance of Out of State Witnesses (1939)
Certification of Questions of Law Act (1969)
Child Abduction Prevention Act (2007)
Child Custody Jurisdiction Act (1973)
Child Custody Jurisdiction and Enforcement Act (2000)
Collaborative Law Act (2021)
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)
Directed Trust Act (2019)
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)
Electronic Wills Act (2021)
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)
Fiduciary Income and Principle Act (2021)
Foreign-country Money Judgments Recognition Act
(2008)
Foreign Money Claims Act (1990)
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)
Registration of Canadian Money Judgments Act (2020)
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 Code, Colorado (2018), Part 5 (2021)
Trust Decanting Act (2016)
Unauthorized Disclosure of Intimate Images Act (2019)
Unclaimed Property Act (1987), Revised (2019)
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)