

COLORADO COMMISSION ON UNIFORM STATE LAWS

Annual Report for 2023-24

January 2, 2024

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, Gilbert M. Román; the President of the Senate, Stephen Fenberg; the Speaker-elect of the House of Representatives, Julie McCluskie 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. Bob Gardner, Senator
 - b. Claire B. Levy

- c. Yelana Love
- d. Anne McGihon
- e. Donald E. Mielke
- f. Charles W. Pike
- g. Marc Snyder, Representative
- h. Kerry Tipper
- i. Joseph Whitfield

B. The ULC committee assignments in 2023 for Commissioners from Colorado were:

Bob Gardner

- Member, Technology Committee
- Member, Standby Committee on Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act

Claire Levy

- Member, Drafting Committee on Redaction of Personal Information from Public Records
- Member, Standby Committee on Uniform Pretrial Release and Detention Act
- Vice Chair, Standby Committee on Model Public Meetings During Emergencies Act
- Member, Standby Committee on Revised Uniform Unclaimed Property Act
- Member, Standby Committee on Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act
- Member, Standby Committee on Revised Uniform Parentage Act

Yelana Love

- Member, Legislative Attorneys Committee
- Member, Legislative Committee

Anne McGihon

- Member, Automated Technology Liability Committee
- Member, Standby Committee on Uniform Easement Relocation Act

Donald Mielke

- Member, Automated Technology Liability Committee
- Member, Enactment Committee on Uniform Athlete Agents Act
- Member, Standby Committee on Automated Operation of Vehicles Act
- Member, Standby Committee on Amendments to the Uniform Common Interest Ownership Act
- Member, Standby Committee on Uniform Electronic Estate Planning Documents Act

Charley Pike - No current committee assignments

Marc Snyder - No current committee assignments

Kerry Tipper

- Member, Standby Committee on Uniform Personal Data Protection Act

Joseph Whitfield

- Member, Drafting Committee on Cybercrime

C. Meetings held by the Colorado Commissioners in the year 2023 were:

- a. January 13, 2023
- b. October 20, 2023
- c. December 8, 2023

D. Colorado Commissioners attending sessions of the ULC Annual Meeting were:

- a. Bob Gardner, Senator
- b. Claire Levy
- c. Yelana Love
- d. Anne McGihon
- e. Donald Mielke
- f. Marc Snyder, Representative
- g. Charles Pike
- h. Joseph Whitfield

E. Lifetime Members of the Colorado Commission on Uniform State Laws are:

- a. Donald E. Mielke
- b. 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 Consumer Debt Default Judgments Act. Numerous studies report that default judgments are entered in more than half of all debt collection actions. The purpose of this Act is to provide consumer debtors and courts with the information necessary to evaluate debt collection actions. The Act provides consumer debtors with access to information needed to understand claims being asserted against them and identify available defenses; advises consumers of the adverse effects of failing to raise defenses or seek the voluntary settlement of claims; and makes consumers aware of assistance that may be available from legal aid organizations. The Act also seeks to provide a uniform framework in which courts can fairly, efficiently, and promptly evaluate the merits of requests for default judgments while balancing the interests of all parties and the courts.

Uniform Health-Care Decisions Act (2023). This Act is intended to supersede the 1993 Uniform Health-Care Decisions Act. This Act enables individuals to appoint agents to make health care decisions for them should they be unable to make those decisions for themselves, provide their health-care professionals and agents with instructions about their values and priorities regarding their health care, and to indicate particular medical treatment they do or do not wish to receive. It also authorizes certain people to make health-care decisions for

individuals incapable of making their own decisions but who have not appointed agents, thus avoiding the need to appoint a guardian or otherwise involve a court in most situations. In addition, it sets forth the related duties and powers of agents and healthcare professionals, and provides protection in the form of immunity to both under specified circumstances. This Act shares the goals of the 1993 Act but is revised to reflect changes in how health care is delivered, increases in non-traditional familial relationships and living arrangements, the proliferation of the use of electronic documents, the growing use of separate advance directives exclusively for mental health care, and other recent developments. The Act also seeks to improve upon the 1993 Act based on decades of experience and knowledge about how people make health-care decisions and about the challenges associated with creating and using advance directives.

Model Public-Health Emergency Authority Act. This Act is designed to improve the preparedness of states for public health emergencies. Specifically, the Act clarifies the powers of a governor to declare a public health emergency and to issue orders in response to that emergency. Simultaneously, the Act establishes measures to promote a governor's accountability to the Legislature and to the public at large. The goal of the Act is to empower a governor to act quickly and decisively while also clarifying substantive and procedural limitations to a governor's authority. The Model Act also imposes a sunset provision on every public-health emergency declaration and public-health emergency order, and it requires a governor to make a new record as a condition of renewing declaration or an order.

Uniform Special Deposits Act. A special deposit is an account at a bank that holds funds that may be paid upon the occurrence of one or more contingencies. Although such accounts are common, the legal protections afforded to them are uncertain and outdated in the context of modern banking. This uniform act minimizes these legal uncertainties by providing clear and executable rules. First, the Act sets forth several elements for when a deposit is considered a "special deposit." Second, the Act specifies that a special deposit is a debt owed to the beneficiary after determination of a stated contingency. Third, the Act clarifies that a special deposit is remote from a depositor's bankruptcy estate unless the depositor has a determined right to the special deposit in its capacity as a beneficiary. Finally, the Act reduces the vulnerability created by the prospect of the bank holding the special deposit exercising a right of set off against the special deposit for a mature debt of the depositor or a beneficiary. The Special Deposits Act gives banks and their customers legal certainty that the expectations of special deposit account users will be respected.

Uniform Unlawful Restrictions in Land Records Act. This Act allows property owners whose deed contains a discriminatory, prohibited restriction to record an amendment to the land records that effectively removes the restriction. Under the Act, individuals who own property in a common interest community that is subject to a prohibited restriction are empowered to record an amendment to the governing instruments that removes the restriction, either by majority vote of the members of the association or by sending a request to the governing body. The Act creates a path forward for property owners who want to correct the record on the often painful history of their homes.

VIII. RECOMMENDATIONS FOR ENACTMENT AND FOR OTHER ACTION

The Colorado Commission held a meeting on December 8, 2023, 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 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 2024 legislative session:

- *Uniform Consumer Debt Default Judgments Act (2023);*
- *Uniform Special Deposits Act (2023);*
- *Uniform Unlawful Restrictions in Land Records Act (2023);*
- *Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (2017); and*
- *Uniform Electronic Estate Planning Documents Act (2022);*

Uniform acts introduced in Colorado during the 2023 legislative session:

Bill No.	Bill Topic	Final Status
2023		
HB23-1157	Uniform Unregulated Child Custody Transfer Act	Signed into Law
SB23-089	Uniform Family Law Arbitration Act	Postponed indefinitely
SB23-090	Uniform Commercial Code 2022 Amendments	Signed into Law
SB-23-100	Unif Community Property Disposition At Death 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)
Commercial Code, 2022 Amendments (2023)
Common Interest Ownership Act (1991)
Common Trust Fund Act (1947)
Community Property Disposition at Death Act (2023)
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)

Probate Code, Rule Against Perpetuities (1991)
Probate Code, 2019 Amendments (2022)
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)
Unregulated Child Custody Transfer Act (2023)
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)