

COLORADO COMMISSION ON UNIFORM STATE LAWS

Annual Report for 2021

January 7, 2021

I. PREAMBLE

To the Honorable Governor, Jared Polis; the Chief Justice of the Colorado Supreme Court, Nathan B. Coats; the Chief Judge of the Colorado Court of Appeals, Steve Bernard; the President of the Senate, Leroy M. Garcia; the Speaker-elect 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 is convened 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. Donald E. Mielke
 - f. Thomas Morris
 - g. Charles W. Pike
 - h. Kerry Tipper, Representative
 - i. Sara Scott
 - j. Joseph Whitfield

- B. The ULC committee assignments for Commissioners from Colorado are:
- a. Drafting Committee on Collection and Use of Personally Identifiable Data Act
 - b. Drafting Committee on Economic Rights of Unmarried Cohabitants Act
 - c. Vice Chair, Drafting Committee on Public Meetings During Emergencies
 - d. Drafting Committee to Revise the Common Interest Ownership Act
 - e. Standby Committee on Uniform Automated Operation of Vehicles Act
 - f. Standby Committee on Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images 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 Parentage Act (2017)
 - j. Standby Committee on Pretrial Release and Detention Act
 - k. Standby Committee on Revised Uniform Athlete Agents Act
 - l. Standby Committee on Revised Uniform Unclaimed Property Act
 - m. Study Committee on Criminalization of Student Discipline
 - n. Study Committee on Cybercrime
 - o. Study Committee on Default Judgments in Debt Collection
 - p. Legislative Attorneys Committee
 - q. Legislative Committee
- C. Meetings held by the Colorado Commissioners in the year 2020 were:
- a. September 18, 2020
 - b. December 16, 2020
- E. Colorado Commissioners attending sessions of the ULC Annual Meeting online were:
- a. Alicia Duran
 - b. Claire B. Levy
 - c. Donald E. Mielke
 - d. Thomas Morris
 - e. Charles W. Pike
 - f. Kerry Tipper
 - g. Joseph Whitfield
- 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 Easement Relocation Act. An access easement gives the owner of one parcel of real estate the legal authority to travel across another person's property. Think of a driveway that runs from a public road across one property to access another. In many, but not all, states, the owners of both properties must consent to relocate an easement. When the owner of the burdened property asks to relocate an access easement to allow further development, an easement holder in a state that follows the mutual consent rule can withhold consent to prevent the development or demand a ransom payment before agreeing to the change. The Uniform Easement Relocation Act allows the burdened estate owner to obtain a court order to relocate an easement if the relocation does not materially impair the utility of the easement to the easement holder or the physical condition, use, or value of the benefited property. The burdened property owner must file a civil action, give other potentially affected real-property interest owners notice, and bear all the costs of relocation. These conditions build upon the rule contained in the Restatement (Third) of Property: Servitudes, whose approach to easement relocation has been fully or partially adopted in a number of states. The Uniform Easement Relocation Act excludes conservation easements and public-utility easements from its scope and contains a number of additional safeguards, not found in the Restatement, to protect the easement holder's interest in the use and enjoyment of the easement during and after the relocation.

Uniform Pretrial Release and Detention Act. Most states rely on cash bail as the mechanism to ensure that a defendant will appear in court. Individuals who cannot pay the bail set by the court are detained, placing a disproportionate burden on low-income defendants. Recent studies indicate that approximately two-thirds of the 740,000 people held in local jails are awaiting trial, and at least 27% of all pretrial defendants were unable to afford bail. The Uniform Pretrial Release and Detention Act (UPRDA) provides mechanisms for states to limit the use of pretrial detention. The Act does not aim to eliminate all pretrial detention, nor to eliminate all uses of bail. UPRDA provisions address: (1) the use of citations in lieu of arrest for minor offenses; (2) a time limit on when a hearing must be conducted for an individual who is arrested; (3) appointment of counsel; (4) a pretrial risk determination by a court to individualize release or detention; (5) review of a defendant's financial condition so that inability to pay a fee does not lead to detention; and (6) an obligation on the court to consider restrictive conditional release as an alternative to detention.

Uniform Public Expression Protection Act. The purpose of the Uniform Public Expression Protection Act is to provide a remedy for defendants involved in lawsuits called "Strategic Lawsuits Against Public Participation," or "SLAPPs." SLAPPs are abusive civil lawsuits that may be brought against individuals, corporate entities, or government officials. The topics of these lawsuits range from education and zoning to politics and the environment. Though the claim of the lawsuit may be defamation, tortious interference, invasion of privacy, or something else, the real goal of a SLAPP lawsuit is to entangle the defendant in expensive litigation that stifles the defendant's ability to engage in constitutionally protected activities. The Uniform Public Expression Protection Act creates a clear process through which SLAPPs can be challenged and their merits fairly evaluated in an expedited manner. The Act protects

individuals' rights to petition and speak freely on issues of public interest while, at the same time, protecting the rights of people and entities to file meritorious lawsuits for real injuries.

VIII. RECOMMENDATIONS FOR ENACTMENT AND FOR OTHER ACTION

The Colorado Commissioners held two meetings, in September and December of 2020, 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 benefit to Colorado and direction and feedback received from stakeholders, including representatives of the Colorado Bar Association and other business associations, the Commissioners recommend that the following Uniform and Model Acts be introduced for consideration during the 2021 legislative session:

- the *Uniform Easement Relocation Act*;
- the *Uniform Electronic Wills Act*;
- the *Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act*;
- the *Uniform Automated Operation of Vehicles Act*;
- the *Uniform Collaborative Law Act*;
- the *Uniform Revised Athlete Agents Act (2015) and 2019 Amendments*;
- the *Uniform Trust Act, Part 5*; and
- the *Uniform Fiduciary and Principal Act*.

Colorado Commissioners will continue to meet with stakeholders to discuss and decide whether the following uniform acts should move forward at some point in the future: the *Uniform Pretrial Release and Detention Act*, the *Uniform Public Expression Protection Act* and *Amendments to the Uniform Probate Code (2019)*.

Uniform acts introduced in Colorado during the 2020 legislative session:

Bill No.	Bill Topic	Final Status
HB20-1268	Uniform Criminal Records Accuracy Act	Postponed Indefinitely
HB20-1291	Uniform Collaborative Law Act	Postponed Indefinitely
HB20-1292	Uniform Parentage Act (2017)	Postponed Indefinitely
SB20-114	Registration of Canadian Money Judgments 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)
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)
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-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)
Uniform Trust Code, Colorado (2018)
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)