

COLORADO COMMISSION ON UNIFORM STATE LAWS

Annual Report for 2019

December 27, 2018

I. PREAMBLE

To the Honorable Governor, John Hickenlooper; the Chief Justice of the Colorado Supreme Court, Nathan B. Coats; 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. 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. Robert S. Gardner, Senator
 - b. Thomas T. Grimshaw
 - c. Claire B. Levy

- d. Anne L. McGihon
- e. Donald E. Mielke
- f. Thomas Morris
- g. Charles W. Pike
- h. Brandon C. Shaffer
- i. Pat Steadman
- j. Cole Wist, Representative

- B. The ULC committee assignments for Commissioners from Colorado are:
- a. Committee to Monitor Criminal Justice Reform
 - b. Drafting Committee on the Economic Rights of Unmarried Cohabitants
 - c. Drafting Committee on Highly Automated Vehicles
 - d. Drafting Committee on the Relocation of Non-Utility Easements
 - e. Standby Committee on Commercial Real Estate Receivership Act
 - f. Standby Committee on Criminal Records Accuracy
 - g. Standby Committee on Law on Notarial Acts, Amend
 - h. Standby Committee on Military and Overseas Voters Act
 - i. Standby Committee on the Revised Uniform Agents Act
 - j. Standby Committee to Revise the Uniform Unclaimed Property Act
 - k. Standby Committee on Unauthorized Disclosure of Intimate Images
 - l. Standby Committee on Uniform Parentage Act (2017)
 - m. Standby Committee on Wage Garnishment Act
 - n. Study Committee on Declarations of Quarantine
 - o. Study Committee on the Garnishment of Wages in Bank Accounts
 - p. Healthcare Law Committee
 - q. Technology Committee
 - r. ULC Committee of Legislative Attorneys

- C. Meetings held by the Colorado Commissioners in the year 2018 were:
- a. August 13, 2018
 - b. October 15, 2018

- E. Colorado Commissioners attending the ULC Annual Meeting were:
- a. Robert S. Gardner
 - b. Claire B. Levy
 - c. Anne L. McGihon
 - d. Donald E. Mielke
 - e. Thomas Morris
 - f. Charles W. Pike
 - g. Brandon C. Shaffer
 - h. Pat Steadman
 - i. Cole Wist

- 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:

- The **Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act** addresses an increasingly common form of abuse that causes immediate, and in many cases, irreversible harm. The act creates a cause of action for unauthorized disclosure of private, intimate images. The act also outlines procedures enabling victims to protect their identity in court proceedings. In addition, the act provides various remedies for victims, including actual damages, statutory damages, punitive damages, and attorney's fees.
- The **Uniform Criminal Records Accuracy Act** is designed to improve the accuracy of criminal history records, commonly called a RAP sheet, that are frequently used in determining the eligibility of a person for employment, housing, credit, and licensing, in addition to law enforcement purposes. The Act imposes duties on governmental law enforcement agencies and courts that collect, store and use criminal history records, to ensure the accuracy of the information contained in the RAP sheet. The Act provides individuals the right to see and correct errors in their RAP sheet. Through use of a mistaken identity prevention registry, the Act also provides a mechanism by which an individual whose name is similar to and confused with a person who is the subject of criminal-history-record information, a means to minimize the possibility of a mistaken arrest or denial of housing, employment, credit, or other opportunities.
- The **Uniform Fiduciary Income and Principal Act** is an updated version of the Uniform Principal and Income Act, which has been adopted in 47 jurisdictions. The Act provides rules for allocating receipts and disbursements between income and principal accounts of a trust in accordance with the fiduciary duty to treat all beneficiaries loyally and impartially, unless the terms of the trust specify otherwise. This revision includes provisions allowing conversion of a traditional trust with income and principal beneficiaries into a total-return unitrust when all beneficiaries consent.
- The **Revised Uniform Law on Notarial Acts (2018)** is designed to modernize and clarify the law governing notaries public, their responsibilities and duties, and to provide a stable infrastructure for the performance of notarial acts with respect to electronic records. In particular, the revised act recognizes the ascendance of electronic commerce and transactions in the public and private sectors, and brings the law governing electronic notarial acts on par with laws governing other forms of electronic transactions. The act was amended in 2018 to authorize notaries public to perform notarial acts in the state in which they are commissioned for remotely located

individuals using audio-visual communication and identity-proofing technology regardless of where the individual may be located.

- The **Uniform Nonparent Custody and Visitation Act** addresses the rights of third parties other than parents to custody of or visitation with a child. Those rights are also affected by the decision of the United States Supreme Court in *Troxel v. Granville*, 530 U.S. 57 (2000), which held that courts must give deference to decisions of fit parents concerning the raising of children, including concerning grandparents' visitation rights. The Act recognizes a right to seek custody or visitation for two categories of individuals: (1) nonparents who have served as consistent caretakers of a child without expectation of compensation, and (2) other nonparents who have a substantial relationship with a child and who demonstrate that denial of custody or visitation would result in harm to the child.
- The **Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act** (the "Supplemental Act") is a follow-up to the Uniform Regulation of Virtual-Currency Businesses Act ("URVCBA"). The URVCBA establishes a regulatory framework for virtual-currency businesses to operate either by license or registration in a state and creates safeguards to protect consumers. As a regulatory act, the URVCBA provides numerous robust user protections based on commercial law principles but does not directly address the commercial law rules for transactions and relationships between virtual-currency businesses and consumers. This Supplemental Act provides the commercial law rules using the time-tested duties and rights of customers of securities intermediaries under the Uniform Commercial Code. The Supplemental Act does this by incorporating Article 8 of the Uniform Commercial Code into the agreement made between a virtual-currency licensee or registrant and users.

VIII. RECOMMENDATIONS FOR ENACTMENT AND FOR OTHER ACTION

The Colorado Commissioners held two meetings, in August and October of 2018, 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. The commissioners will meet after the 2019-20 Colorado Commission has been appointed by joint resolution, in January 2019, to finalize these recommendations.

Based on feedback received from stakeholders and other interested parties, including representatives of the Colorado Bar Association, the CCUSL has voted to propose the following acts for introduction in the General Assembly's 2019 Regular Session: the *Revised Unclaimed Property Act* and the *Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act*.

Colorado Commissioners will continue to meet with stakeholders to discuss and decide whether the following uniform acts should move forward for introduction during the 2019 Legislative Session: the *Uniform Directed Trust Act*, the *Uniform Voidable Transactions Act*, the

Uniform Athlete Agents Act, the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act, and the Revised Uniform Law on Notarial Acts (2018).

Uniform acts introduced in Colorado during the 2018 legislative session:

Bill No.	Bill Topic	Final Status
SB18-180	Colorado Uniform Trust Code	Signed into Law
SB18-240	Revised Uniform Unclaimed Property Act	Postponed Indefinitely

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)
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)
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)
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)