

# Colorado Commission on Uniform State Laws

c/o Office of Legislative Legal Services  
200 East Colfax Avenue Suite 091  
Denver, Colorado 80203-1716

Colorado General Assembly

Tel: 303-866-2045  
Email: ccusl.ga@state.co.us

## MINUTES

### Colorado Commission on Uniform State Laws

**January 11, 2019, 1:00 p.m.**

Committee Room: HCR 0112

Roll was taken and Commissioners Grimshaw and Wist were excused. Commissioners Gardner, Levy, McGihon, Mielke, Morris, Pike, and Steadman were present.

**1. Introduction of new commissioners and election of chair and vice-chair for 2019-20.**

House and Senate Leadership had not yet introduced the joint resolution appointing members for the 2019-20 Colorado Commission on Uniform State Laws. The commission confirmed that the two legislator-appointees had been chosen and introduced Representative Kerry Tipper as a new commission member. The commission decided not to elect a chair until the new commissioners have been appointed.

**2. Public comment regarding items not on the agenda.** There was no public testimony on this agenda item.

**3. Proposed 2019 legislative agenda:**

- a. **LLS 19-0157: Uniform Voidable Transactions Act.** *Andy Toft, Colorado Bar Association (CBA) Real Estate and Business Law sections*, stated that his sections oppose this act's introduction in Colorado. The primary objection continues to be the governing law section that allows another state to have jurisdiction over property in Colorado or having out-of-state judges interpreting and applying Colorado law. Judicial decisions interpreting Colorado law in other states will be more difficult to follow and to correct legislatively, and may not allow adequate and timely notice of litigation. The Business Law section also opposes authorizing protected series.

The commission pointed out that under existing law a balancing test is used to determine governing law and that the CBA's issues may already exist under current law. The governing law provision in the act could provide predictability in how these cases are determined and the commission proposed an updated summary for the bill to more accurately describe the act's bright-line rule. The commission also noted that the act has been adopted by 18 states and two additional states have decided to introduce the act in 2019. At some point,

Colorado's law may be inconsistent with the rest of the nation.

Commissioner Steadman then moved to table consideration of LLS 19-0157: Uniform Voidable Transactions Act. Commissioner Mielke seconded and the motion carried without objection.

- b. **LLS 19-0158: Revised Unclaimed Property Act.** *John Burrus, Independent Bankers of Colorado*, stated that most of his concerns had been addressed during the drafting process. His two remaining concerns deal with reasonable determination language in a couple of sections and contingency fee arrangements. He thanked the commission for working with him.

The commission noted that the Treasurer's office has used contingency fee auditors for out-of-state audits for some time and that the commission will need to keep the contingency fee arrangements in the act but will consider changes regarding his other concern. Commissioner Gardner, as the bill's sponsor, indicated that he will continue to work with stakeholders and that the bill could continue to change after introduction during the legislative process. The commission thanked Commissioners Gardner and Levy and Mr. Burrus for their work on the act.

- c. **LLS 19-0159: Uniform Athlete Agents Act.** There was no public testimony on this agenda item. The commission discussed Amendment #1, requested by the National Collegiate Athletic Association (NCAA) from the Uniform Law Commission (ULC) regarding the paying of student athlete expenses. The ULC will consider the amendment at the next annual meeting. In the meantime, the ULC has given state commissions permission to consider the amendment before then, if they would like.

Commissioner Steadman then moved that LLS 19-0159: Uniform Athlete Agents Act, as amended by Amendment #1, be introduced as a commission bill. Commissioner Mielke seconded and the motion carried without objection. The commission announced that Senator Todd has agreed to sponsor the bill and start it in the Senate.

- d. **LLS 19-0160: Uniform Regulation of Virtual Currencies.** *Eric Kintner, private attorney and member of the Colorado Blockchain Council and speaking for himself*, asked that the commission not introduce this act this year. He feels that the recent banking division regulations are sufficient to guide the industry for now. This is an emerging industry and the technology is still evolving; it may be better to start with regulatory guidance until large policy questions can be researched. *Scott Sanderson, private attorney and member of the Colorado Blockchain Council, also speaking for himself*, does not want to see the act introduced this year. The uniform act is overly complicated and may discourage businesses in Colorado. Specific concerns with the act included definitions and the applicability of the definitions. There is not an official council opinion regarding this act, but the consensus seems to be supportive of the guidance issued by the banking division regarding how virtual currency businesses fit under the money transmission act. The council is working

with the legislature this year, through Senator Tate, on a Digital Token Act dealing with token offerings under the Colorado securities act.

The commission had questions regarding what entity currently has the legal authority to take action to protect consumers in regards to virtual currency complaints and the continuation of the Blockchain Council under the new Governor. It also noted that the September banking division guidance was termed an "interim regulatory guidance". The commission expressed concern at the lack of knowledge regarding the uniform act among potential stakeholders. Commission consensus was to not move forward with the Uniform Regulation of Virtual Currencies Act at this time. Representative Tipper volunteered to become the commission contact on the act for future discussions.

- e. **LLS 19-0161: Remote Notarization - Uniform Law.** There was no public testimony on this agenda item. The commission noted that some objections to the act offered at previous meetings remain and that continued discussions after the act's introduction are expected. The commission offered an amendment regarding a certificate of notarial act (Amendment #1).

Commissioner Gardner then moved that LLS 19-0161: Remote Notarization - Uniform Law, without Amendment #1, be introduced as a commission bill. Commissioner Pike seconded and the motion carried without objection. Commissioner Gardner agreed to sponsor the bill and start it in the Senate.

- f. **LLS 19-0162: Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images.** There was no public testimony on this agenda item. This act was approved for introduction as a commission bill at the October 15 meeting and just needs a sponsor. Commissioner Gardner agreed to either find a sponsor or sponsor the bill himself.

- g. **LLS 19-0340: Uniform Directed Trust Act.** *Kevin Millard, CBA Trusts & Estates Section*, stated that the CBA supports the act and made himself available to answer any commission questions on the CBA amendments. The commission thanked Mr. Millard and the CBA for their work on the act.

Commissioner Gardner then moved that LLS 19-0340: Uniform Directed Trust Act be introduced as a commission bill. Commissioner Mielke seconded and the motion carried without objection. Commissioner Steadman indicated that he is working on obtaining sponsorship.

- 4. **Status of other Uniform Acts:** There was no public testimony on this agenda item. The commission noted that the listed acts have not been drafted as commission bills. The commission decided to add the Uniform Voidable Transactions and the Uniform Regulation of Virtual Currency acts to this list for continued status monitoring.

- a. **Criminal Records Accuracy Act.** The act deals with correcting criminal records. The commission discussed varied state interests in this act and its possible fiscal note.

Commissioner Mielke then moved that the Criminal Records Accuracy Act be drafted for introduction as a commission bill. Commissioner Steadman seconded and the motion carried without objection. Commissioner Steadman agreed to be the commission point person on the act. The commission will try to find a bill sponsor prior to the introduction deadlines or may choose to pursue delayed status for its introduction.

- b. **Fiduciary Income and Principal Act.** There was no commission discussion on this agenda item.
  - c. **Nonparent Custody and Visitation Act and the Uniform Parentage Act (2017).** The commission would like to have a comparison of presumptions in the act to see what would change in Colorado law. The commission will keep it on the agenda. Colorado's laws may need updating regarding surrogacy and same sex parentage.
  - d. **Guardianship, Conservatorship, and Other Protective Arrangement Act.** There was no commission discussion on this agenda item.
5. **CCUSL Budget.** The commission discussed the proposed budget and noted that some expenses may be slightly higher for travel costs this year. Commissioners were encouraged to make meeting reservations and travel arrangements by June 30 to help defray costs.
6. **Other business.** The commission discussed "Joint Rule 25. Oversight Responsibilities of Committees" responsibilities and decided that Commissioners Morris, McGihon, and Steadman will make presentations at committees of reference joint meetings.
7. **Next meeting.** The commission decided to next meet during the ULC annual meeting scheduled from July 12–18, 2019, in Anchorage, Alaska. It was determined that the chair and vice-chair will be elected at the next Colorado Commission meeting.