

Colorado Commission on Uniform State Laws

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Colorado General Assembly

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MINUTES

January 14, 2022, 9:30 a.m.

Committee Room: HCR 0107

Roll was taken and Commissioners Duran, Grimshaw, Scott, and Tipper were excused. Commissioners Gardner, Levy, Love, McGihon, Mielke, and Pike were present. Commissioner Tipper was present after the roll call.

1. Overview of bills previously approved for the 2022 legislative agenda:

- a. **Amendments to the Uniform Probate Code.** Commissioner Gardner informed the commission that the bill was drafted and ready for introduction and noted that the drafter was present to answer any questions. There were no questions asked. Commissioner Gardner and the commission thanked Ms. Daniel of the Colorado Bar Association (CBA), her section, and the LLS drafter, Conrad Imel, for their work on the draft.

Commission McGihon noted for the record that the act was approved for introduction at the December meeting and no further motion was needed.

- b. **Uniform Cohabitants' Economic Remedies Act.** Commissioner McGihon announced that Representative Snyder agreed to sponsor the bill for the commission. There were no other questions or comments.

Commission McGihon noted for the record that the act was approved for introduction at the December meeting and no further motion was needed.

- c. **Uniform Prevention of and Remedies for Human Trafficking Act.** Commissioner McGihon announced that Representative Carver agreed to sponsor the bill for the commission. Commissioner McGihon has been in contact with Representative Carver and prosecutors, through the Denver District Attorney's office, on the act and said that prosecutors are ready to adopt the uniform act.

Commission McGihon noted for the record that the act was approved for introduction at the December meeting and no further motion was needed.

2. Finalizing 2022 legislative agenda:

- a. **Uniform Parentage Act.** *Jeremy Ramp, CBA Family Law Section and Legislative Policy Committee*, shared similar objections as in previous testimony from the section, including the redefining of the presumption of parentage, limiting the number of potential parents who can assert a claim, and creating a registry. Mr. Ramp noted that the CBA does not oppose the provisions regarding assisted reproduction technology and that surrogacy provisions similar to those in the act were enacted last session in a separate bill.

Commissioner Levy noted that the Uniform Law Commission (ULC) has indicated that the registry provisions could be eliminated and that the ULC is working on a compromised draft of the act that may be of interest. She added that there is value to

Colorado law in incorporating the gender neutral and some of the parentage language. She added that if provisions in the act were to move forward it would need significant stakeholder involvement. Commissioner McGihon asked the CBA to assist the commission in convening a working group.

Tyler Mounsey, Director of Legislative Relations for the CBA, introduced himself to the commission and agreed to help establish the workgroup. The commission thanked Mr. Ramp for his testimony and Mr. Mounsey for his assistance.

Commission consensus was that the **Uniform Parentage Act** would not move forward this legislative session.

- b. **Uniform College Student Athlete Name, Image, or Likeness Act.** Commissioner McGihon referenced an email from the Office of Legislative Legal Services (OLLS) comparing the uniform act to Senate Bill 20-123. Her impression was that the uniform act fills in blanks left by SB20-123 and because of this, the uniform act is worth considering. She indicated that she has tried to contact the 2020 bill's sponsor, Senator Coleman, to see if he would be interested in moving the act forward.

Commissioner Mielke noted that this is a nationwide issue as students move across the country to attend universities and student athletes have indicated that this issue is highly relevant to their college choice decisions. It is also important to be uniform across the states to protect the students. Commissioner Gardner shared concerns with the commission moving too quickly to undo recently enacted law and that this act might not make sense to pursue at this time unless the prior bill's sponsor was involved. The commission concurred with approaching the 2020 bill sponsors.

Commissioner Love asked for clarification regarding the bill's status if there is no sponsor by the introduction deadline. It was determined that the bill could remain active past that point since once a sponsor was found that person could request delayed authorization to introduce the bill later in session.

Commissioner Gardner moved that the commission proceed with drafting and seeking sponsors for the introduction of the **Uniform College Student Athlete Name, Image or Likeness Act**. Commissioner Mielke seconded and the motion passed without objection.

- c. **LLS 22-0691: Uniform Unregulated Child Custody Transfer Act.** Commissioner Love summarized that at the last meeting Commissioner Scott was opposed to moving the act forward and it was decided to allow time for her and Commissioner Duran to contact interested parties from child protection and adoption agencies on the act. Commissioner McGihon indicated that the U.S. State Department is very interested in having the act adopted among the states to help it address some of the child protection issues it encounters.

Commissioner Gardner suggested the commission move the act forward to focus more attention on it to engage interested parties. Commissioner Levy recalled that at the December meeting the CBA Family Law Section stated that it did not have an interest in the act as it did not affect their area of law. She agreed with moving the act forward as it addresses some pressing child protection issues. In addition, the act was not considered controversial at the annual meeting.

Commissioner Gardner moved the commission proceed with drafting and seeking sponsors for the introduction of the **Uniform Unregulated Child Custody Transfer Act**. Commissioners Levy and Love seconded and the motion passed without objection.

- d. **LLS 22-0692: Uniform Voidable Transactions Act.** Commissioner Gardner referenced a memo sent to the commission by Mr. Lidstone from the CBA, outlining some proposed changes to the uniform act. Commissioner Levy noted that the commission voted to drop the series provisions and change the choice of law at the December meeting.

Herrick Lidstone, Chair of the CBA Business Law Section's Business Entities Committee, confirmed that the commission bill draft does not include the series provisions and does change the choice of law. He also indicated that he does have a few lingering minor issues that he could discuss with the bill sponsor and drafter and that the provisions in the draft can accomplish some good things for the State of Colorado.

Steve Mulligan, Legislative Liaison for the CBA Business Law Section, stated that he had no further comments or concerns regarding the commission bill draft. He did indicate that there may be some litigation regarding the definition as to when a transfer ensues under the act, but it was not a concern. Commissioner Gardner confirmed with Mr. Mulligan that there was not a legislative fix available to prevent this possible litigation.

The commission expressed appreciation to Mr. Lidstone, Mr. Mulligan, and the CBA Business Law Section for their work on this act and the years of testimony and discussion, by both the CBA and the commission, leading to the compromises found in order to proceed forward with the act.

Commissioner Gardner moved that the commission proceed with introducing the **Uniform Voidable Transactions Act**, as drafted and with the changes discussed, as a commission bill. Commissioner Levy seconded and the motion passed without objection.

- e. **LLS 22-0690: Restrictive Employment Agreement Act.** *Jeffrey Ruebel, practicing attorney and member of Colorado Defense Lawyers Association and the Legal Advisory Board of the Colorado Civil Justice League,* testified that neither of these organizations have taken a position on the act, but question whether the act is needed in Colorado. Colorado has had law that covers much of the substance of this act since 1905, and much of the case law interpreting it covers much of the material included in the act. The legislature has amended portions of the existing statutes to adapt and to balance the right-to-work with the needs of businesses and others to protect intellectual property. The uniform act would require repealing certain statutes and case law, such as in section 8-2-113, C.R.S. Such a repeal may spawn uncertainty and lead to litigation. There is much overlap between current law and the uniform act, and while there are some provisions in the act to consider for Colorado, there are some provisions to avoid.

Commissioner Tipper asked for confirmation that the motion at the December meeting included the authorization to introduce the act. The commission confirmed that the act was approved for introduction at that meeting, and that, for the record, Commissioner Gardner, was a no vote on that motion. The commission thanked Mr. Ruebel for his testimony.

3. **Public comments on other items and other business.** There was no public testimony on this agenda item. The commission discussed noting on its agendas what items were for commission discussion only and what items were open to public testimony.