

Colorado Commission on Uniform State Laws

Colorado General Assembly

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MINUTES

Colorado Commission on Uniform State Laws

August 13, 2018, 2:30 p.m.

Committee Room: HCR 0112

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

1. Proposed 2019 legislative agenda - newly approved by Uniform Law Commission (ULC) in 2018:

- a. [Criminal Records Accuracy Act](#) – There was no public testimony regarding this agenda item. The commission reported that the act is a complex piece of legislation and may need significant time for review, to compare against current Colorado law, and to obtain feedback from affected parties. After considering introducing the act as is to advance discussions and to obtain a fiscal note, it was decided to create a stakeholder group with members of the Commission on Criminal and Juvenile Justice (CCJJ), legislators with an interest in this area of law, and other interested parties. Commissioner Shaffer will talk to CCJJ and others to start the stakeholder process. The commission will send a letter to interested parties regarding the stakeholder group. The commission thanked Commissioner Shaffer for his work on the ULC drafting committee.
- b. [Fiduciary Income and Principal Act](#) – *Jeremy Schupbach, Colorado Bar Association (CBA) Director of Legislative Relations*, reported that the bar is looking at the act and expects to have information and feedback for the commission at its next meeting. The commission will keep the act on its 2019 legislative agenda.
- c. [Nonparent Custody and Visitation Act](#) – *Marie Avery Moses, Chair of the CBA Family Law Section Legislative Committee*, stated that the legislative committee does not support this act. Colorado already has a robust amount of case law in this area and believes that portions of the ULC act is more limiting on parties than current law. The commission asked about uniformity regarding custody across jurisdictions and acknowledged that the act is controversial. The commission will keep the act on the agenda and will continue to obtain additional input from members of the bar and other interested parties, including a judicial perspective on the act (if possible).
- d. [Unauthorized Disclosure of Intimate Images Act](#) – There was no public testimony regarding this agenda item. The commission emphasized that the act only deals with

civil remedies. There is a strong case for uniformity in this area of law because these images readily cross borders. The commission agreed to move forward with this act as part of its 2019 legislative agenda, to talk with legislators with an interest in this area of law, and directed a bill draft be prepared. The commission thanked Commissioner Levy for her work on the ULC drafting committee.

- e. [Revised Uniform Law on Notarial Acts, 2018 Amendments](#) – *Letitia Maxfield, CBA group working on this act*, reported that the bar has concerns regarding data privacy and the potential for data mining and would like to find the best way to work with the commission on language suggestions as this act moves forward. *Terry Jones, Legislative Chair of the Colorado Mortgage Lenders Association*, stated that his organization would like to see this bill pass in Colorado this year, but it also has concerns regarding the required recording of the transaction. Real estate transactions can include a significant amount of personal private and financial information and he would like the act to limit what could be included in the recording. *Robert Howe, President of the Title Company of the Rockies*, echoed support for the act and concerns with data storage and data selling. He believes that truncating the recording information should address these concerns. The commission shared that the ULC drafting committee discussed privacy issues and determined that these issues should be addressed through privacy laws. The commission also pointed out that the act does address privacy concerns through a rulemaking process. It asked what information is currently included in a notary log and whether truncating the recording would affect the uniformity of the act. The commission will keep this act on its 2019 legislative agenda and directed a bill draft be prepared. Commissioners Gardner and Wist will continue to meet with stakeholders and contact the Secretary of State’s office regarding rule-making requirements. The commission thanked the Commissioner Wist for his work on the ULC drafting committee.
 - f. [Supplemental Commercial Law for the Uniform Regulation of Virtual Currency Businesses Act](#) – *Jeremy Schupbach, CBA Director of Legislative Relations*, reported that the bar is looking into this act and there are a couple of sections with concerns. He hopes to have more specifics for the next commission meeting. Mr. Schupbach also noted that there were some bills passed last session regarding this area of law. *Ginny Brown, Legislative Liaison for the Department of Regulatory Agencies*, stated that the department is working on a briefing for the next commission meeting. The commission noted that future discussions would need to include the Regulation of Virtual Currency Act (agenda item 3.a.) in conjunction with the supplemental act. The commission will keep the act (along with the original act) as part of its 2019 legislative agenda and directed a bill draft combining 1.f. and 3.a. be prepared.
2. [Amendments to Uniform Commercial Code articles 1, 3, 8, and 9](#) (pending federal legislation) There was no public testimony regarding this agenda item. The amendments require implementation of federal legislation before the commission can consider the amendments

as part of a legislative agenda.

3. Proposed 2019 legislative agenda - previously approved by ULC:

- a. [Regulation of Virtual Currency Businesses Act](#) – See agenda item 1 (f). There was no public testimony regarding this agenda item. The commission will keep the act (along with with the supplemental act) as part of its 2019 legislative agenda and directed a bill draft combining 1.f. and 3.a. be prepared.
- b. [Revised Athlete Agents Act \(2015\)](#) - There was no public testimony regarding this agenda item. The commission will keep the act on its 2019 legislative agenda and directed a bill draft be prepared.
- c. [Revised Unclaimed Property Act](#) – There was no public testimony regarding this agenda item. Commissioner Levy is working with stakeholders and would like to move forward on the act. The commission will keep the act on its 2019 legislative agenda and directed a bill draft be prepared.
- d. [Voidable Transactions Act Amendments \(2014\)](#) – *Jeremy Schupbach, CBA Director of Legislative Relations*, reported that the bar is looking into this and that there are sections with concerns. He hopes to have more specifics for the next commission meeting. The commission would like to include past emails and other consultations with the ULC regarding the act in future discussions of the act. The commission will keep the act on its 2019 legislative agenda and directed a bill draft be prepared.

4. ULC requests regarding comparison of Colorado law with the Uniform Real Property Electronic Recording Act and the Uniform Wage Garnishment Act. The commission is planning to ask the ULC to provide a comparison of these two acts to Colorado statutes to help address Colorado concerns with the acts.

5. Joint Rule 25 hearings in 2019. The commission directed Commissioner Morris to find a time in January for commissioners to meet with joint committees of reference regarding the ULC, CCUSL, and potential uniform law legislation.

6. Status of CBA study group on Guardianship, Conservatorship, and Other Protective Arrangements. *Letitia Maxfield, CBA Elder Law Section*, summarized the bar’s involvement with the study group over the past few months and that the prevailing concern with the act is cost. She also pointed out that Maine is the only state that passed the updated act and that Colorado is one of seven states that passed the original uniform guardianship act. *Rikke Liska, in charge of the stakeholders group*, reported that the group has had two meetings and has three more scheduled. She indicated that the bar has emphasized to the stakeholders that they are looking for stakeholder opinion, not bar opinion, and have obtained some judicial participation. *Brooke Brestel, in charge of the CBA Elder Law Section subcommittee*, stated that the subcommittee provided an in-depth comparison of the act to current law to provide stakeholders with context regarding current law, proposed changes, and any available comments. The conclusion to date is that existing Colorado law is more comprehensive than the uniform act. Colorado has been building on the original uniform guardianship act and already includes

much of what is proposed in the new act. *Jeremy Schupbach, CBA Director of Legislative Relations*, added that there may be some aspects of the act that would be beneficial for Colorado to adopt, but to do so may not result in a uniform law. The commission asked for more specifics regarding costs and asked about added benefits. Costs included enactment costs to revise the 100 or so current forms used and bring organizations up to date on the new process, increased costs in some protective staff and judges as the act increases the ability and need to access the courts and revisit issues, and increased paperwork and representation in court proceedings. The commission thanked the bar for all of its hard work and the commission looks forward to hearing from the stakeholder group again.

7. **Next CCUSL meeting.** The next meeting was scheduled for 11:00 a.m. Monday, October 15.