

**CBA TRUST AND ESTATE SECTION  
STATUTORY REVISIONS COMMITTEE  
AGENDA**

**May 17, 2018**

- 1. Introductions**
- 2. Approval of April 19, 2018 Minutes**
- 3. Announcements**
- 4. SRC Approved Proposals**
  - a. Active Matters - Work to Finalize Required**
    - (i) Colorado Digital Preservation of Abandoned Estate Planning Documents Act (formerly Deposit of Original Documents) Subcommittee (Timothy Bounds, Co-Chair, and Peter W. Bullard, Co-Chair)**
    - (ii) UTC Subcommittee (Dennis N. Whitmer, Chair)**
  - b. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons**

None.
- 5. Legislative Report – Jeremy Schupbach**
- 6. Unapproved Matters under Consideration by SRC - Reports from Subcommittees**
  - a. Uniform Directed Trust Act Subcommittee (Kevin Millard, Co-Chair, and Kelly Cooper, Co-Chair)**
  - b. Legislation Review Joint Subcommittee (Michael D. Holder, Chair)**
  - c. Advance Legislative Response Team (Spencer J. Crona, Chair)**
  - d. ADR Legislation (C. Jean Stewart, Chair)**

- e. **Uniform Fiduciary Income and Principal Act Subcommittee (Eugene P. Zuspann, Chair)**
  - f. **Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act**
  - g. **Child Support in Probate Subcommittee (Jaime Schuler, Chair)**
7. **Inactive Matters**
- a. **Proposed Amendment to Comply with IRC 1.643(a)(3) (Eugene P. Zuspann, Chair)**
8. **Report from Elder Law Section – Nancy Peterson/Mallory Hasbrook**
9. **Report from Other Sections of the Bar**
10. **New Matters**
- a. **Rule Against Perpetuities - Eugene P. Zuspann**
11. **Passed Proposals for Inclusion in Omnibus Bill or Stand Alone Legislation**
- a. **Bankruptcy/Inherited IRAs (approved in 2015-2016)**
  - b. **Changes to the Uniform Power of Appointment Act (approved in 2015-2016)**
  - c. **Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016)**

**CBA TRUST AND ESTATE SECTION  
STATUTORY REVISIONS COMMITTEE  
MINUTES**

**April 19, 2018**

**1. Welcome and Introduction**

Leia Urserly called the meeting to order at 1:41 p.m. There were introductions from members present and on the phone. On the phone were Gordon Williams, Nora Roth, and Carl Stevens.

**2. Approval of Minutes**

The minutes from the March 15, 2018 meeting of SRC were unanimously approved.

**3. Announcements**

Leia gave an update on Lauren da Cunha's new lawyer subcommittee. The subcommittee meets on the first Thursday of each month.

Leia also reminded all subcommittee chairs to please let Elizabeth Akalin know if you will not need a room for Super Thursdays so that other subcommittees can use them.

**4. SRC Approved Proposals**

**a. Colorado Digital Preservation of Abandoned Estate Planning Documents Act (formerly Deposit of Original Documents) Subcommittee – (Pete Bullard and Tim Bounds, Co-Chairs)**

Pete Bullard gave an update to SRC on the status of the revised statute. The revisions deal with who can destroy an original estate planning document prior to creating a digital version for the Secretary of State to preserve in its electronic files. The revised statute should be ready for presentation to SRC in August 2018. Along with the revised statute, the Subcommittee will also present proposed amendments to the Rules of Professional Conduct re. disposing of client property.

**b. Public Administrator Subcommittee – (Melissa Schwartz, Chair)**

The new bill regarding Public Administrators has passed. There was no report for this Subcommittee.

c. **UTC Subcommittee** – (Darla Daniel, Co-Chair)

The CUTC bill has been approved by both the House and Senate is currently before the governor for signature.

5. **Legislative Update** – (Jeremy Schupbach)

Jeremy update SRC on the status of the Remote Notarization bill. The bill will be heard in committee next Tuesday, April 24<sup>th</sup>. There will be a uniform notary law introduced in the next legislative session (2019), so the stakeholders are hopeful that the current bill will die in committee, but the topic will resurface again when the uniform law is introduced. .

Mike Holder discussed House Bill 1233 regarding an amendment to Title 5 of the Colorado Revised Statutes. The bill expands the ability to stop dissemination of credit reports for protected persons to fiduciaries. Mike said the language of the bill is not perfect, but does not seem to have a negative impact on the Probate Code provisions dealing with protected persons.

Jeremy also discussed two new bills that were recently introduced (“late-bill status”). The first, House Bill 1390, deals with a non-profit organization that assists families in crisis with child placement. A cease and desist order was issued against the organization for failure to follow proper procedures for child placement. The bill, as proposed, would insert language into the Probate Code regarding the procedures for a “custodial power of attorney.” A motion to oppose the bill was unanimously approved by SRC. Leia Ursery will discuss SRC’s position on the bill with Executive Council.

The second bill deals with exemption to the mandatory reporting requirements. The proposed bill would exempt person and their staff who provide “legal assistance” to persons from mandatory reporting requirements. A motion to support the bill in concept was approved unanimously by SRC. John DeBruyn offered suggested language.

House Bill 252 proposes an amendment to the process for competency evaluations. Spencer Crona’s ALRT subcommittee will review the bill.

6. **Unapproved Matters Under Consideration by SRC & Subcommittee Reports**

a. **Uniform Directed Trust Act** – (Kelly Dickson Cooper and Kevin Millard, Co-Chairs)

Susan Boothby said the Subcommittee will give a report in August or September.

**b. Legislative Review Joint Subcommittee – (Mike Holder, Chair)**

There was no further report for this Subcommittee.

**c. Advance Legislative Response Team – (Spencer Crona, Chair)**

Spencer Crona gave a report to SRC on House Bill 1390 regarding the “custodial power of attorney” created by a non-profit organization for placing children in crisis cases. There was further discussion about the House Bill regarding the mandatory reporting requirement exemption. Spencer also asked if anyone is interested in taking over as chair of ALRT.

**d. ADR Legislation – (Jean Stewart, Chair)**

There was no report, although Peggy Gardner did update SRC that she has joined the ADR subcommittee as Orange Book liaison.

**e. Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act**

Spencer Crona gave an update that the stakeholder group has reviewed the statute and adopted amendments to the notice provisions. The group has until November 2018 to return feedback to the Uniform Law Commission. The group currently meets on Super Thursday between 11:30 a.m. and 1:00 p.m. See Catherine Seal and Brooke Brestel for more information.

**f. Uniform Fiduciary Income and Principal Act – (Eugene P. Zuspann, Chair)**

The Subcommittee meets at 10:30 a.m. in the Capitol Room on Super Thursdays. The Act will be promulgated in the fall. The draft is currently on its second reading. Gene believes the Act will likely have support from his Subcommittee.

**7. Report from Elder Law Section – (Nancy Peterson/Mallory Hasbrook)**

The Executive Council is looking for candidates for an at-large and young lawyer position. There is also a position open for organizing CLEs for the Colorado Lawyer. The Mentoring Subcommittee is also looking for a chairperson. Those interested should contact Letty Maxfield or Arlene Barringer.

The Section made a \$1,000 gift to the Office of Public Guardianship. The Medicaid Subcommittee will be under new leadership from Claire Dineen. There will also be a new joint subcommittee with the Trust and Estates Section to be a liaison to the Ethics Committee.

Helping Hands will be having presentation on May 8<sup>th</sup>

## **8. Report from Other Sections**

John DeBruyn gave an update from the business law section. The section is working on a business trust exclusion under the Probate Code that will mirror the provisions in the Colorado Trust Code.

## **9. New Matters**

Gene Zuspann has prepared draft language for the change to the Rule Against Perpetuities and will ask SRC to vote on the proposed language in August.

Leia and Jaime Schuler requested that a subcommittee be formed to look at issues involving claims for child support as part of probate proceedings. Jamie made a formal motion to SRC for creation of the subcommittee. SRC unanimously approved formation of the subcommittee. Jaime will reach out to the family law section and other potential stakeholders regarding the possibility of a legislative fix.

Leia Ursery adjourned the meeting at 2:47 p.m.

Respectfully submitted,  
Timothy D. Bounds