

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

February 15, 2018

- 1. Introductions**
- 2. Approval of January 18, 2018 Minutes**
- 3. Announcements**
- 4. SRC Approved Proposals**
 - a. Active Matters - Work to Finalize Required**
 - (i) Deposit of Original Documents Subcommittee (Timothy Bounds, Co-Chair, and Peter W. Bullard, Co-Chair)**
 - (ii) Public Administrator Subcommittee (Melissa R. Schwartz, Chair)**
 - (iii) 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)**

7. **Inactive Matters**
 - a. **Proposed Amendment to Comply with IRC 1.643(a)(3) (Eugene P. Zuspann, Chair)**
8. **Report from Elder Law Section – Arlene Barringer**
9. **Report from Other Sections of the Bar**
10. **New Matters**
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**

January 18, 2018

1. Welcome and Introduction

Leia Urserly called the meeting of the Statutory Revisions Committee to order at 1:38 p.m. on Thursday, January 18, 2018. There were introductions from those in attendance (Jennifer Spitz, Carl Stevens, Bette Heller, Nora Roth, Clara Brown Shaffer and Joe Hodges appeared by phone).

2. Approval of Minutes

The minutes from December 21, 2017 meeting were unanimously approved.

3. Announcements

Leia Urserly reminded subcommittee chairs who have room reservations on Super Thursdays to please let Elizabeth Alakin at the CBA know if the room will not be needed for a particular month. Leia also asked anyone who would like to participate in the new lawyers call on the first Thursday of every month to let Mark Masters know so he can add them to the call list.

4. SRC Approved Proposals

a. Deposit of Original Documents Subcommittee – Pete Bullard and Tim Bounds (Co-Chairs)

Pete indicated that the likely name of the proposed legislation would be the “Colorado Abandoned Estate Planning Documents Act.” The Subcommittee is not seeking a vote from the Committee this month; it will likely request for a vote in February 2018 and written materials will be provided ahead of time. The Subcommittee is still determining how to proceed on one issue. The current version of the proposed legislation allows attorneys, professional fiduciaries and banks to act; since the custodian will likely need to be the person or entity destroying the document, it may need to be limited to attorneys. Also, no matter how the proposed legislation turns out, we will likely need a new ethics rule to cover the destruction process.

b. Public Administrator Subcommittee – (Melissa Schwartz - Chair)

Melissa presented on the proposed statutory revisions approved by the Probate Advisory Workgroup on December 15, 2017 and the draft guidelines. The Legislative Audit Committee will be sponsoring the legislation. The changes are designed to address issues raised by the recent audit. Issues covered will include an increase in bod, availability of

fee statements even in small estate and standardized reports going forward. The proposed legislation will run this year so, if there are any questions or concerns, Melissa should be notified in the next week. The guidelines will likely be approved as a Chief Justice Directive. The Probate Advisory Workgroup will meet next on February 9, 2018.

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

The legislation is ready and it will be presented to the Legislative Policy Committee in the next two to three weeks. After much discussion, it appears that the proposed effective date will be January 1, 2019.

5. Legislative Update – Jeremy Schupbach

Not much on the horizon for our Section at this point. Recently, there was a suggestion to change the Colorado definition of “disability” so that it is independent from the Federal definition. Jeremy is not sure if this will gain any traction.

Outside of the Colorado Trust Code, we will likely see legislation on remote notary (although a draft is not available yet at this time). There are a few items relating to the Courts (e.g. increases filing fees, increased cap for small claims court, funding for a Courthouse in Archuleta County).

There will not be additional judge positions this year but there will be a survey of compensation for judges around the state.

6. Unapproved Matters Under Consideration by SRC & Subcommittee Reports

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

Susan Boothby and Kelly reported that the Subcommittee continues its review of the Act and good progress is being made. Kelly indicated that the Committee may have something to review in the fall.

b. Legislative Review Joint Subcommittee (Mike Holder - Chair)

As of yesterday, there is a total of 122 bills, which is relatively small. Outside of the items noted above, he does not see anything of particular interest for our Section.

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

There was no report for this subcommittee.

d. ADR Legislation – (Jean Stewart, Chair)

There was no report for this subcommittee.

7. Inactive Matters

a. Proposed Amendment to Comply with IRC 1.643(a)(3) – (Eugene Zuspann, Chair)

There was no report for this subcommittee.

8. Report from Elder Law Section – (Arlene Barringer)

Nancy Peterson and Mallory Hasbrook are the new co-liaisons; Catherine Seal will serve as a back-up as needed.

The Elder Law Retreat will take place in Vail on August 24-26, 2017.

There was a good amount discussion this morning on the potential remote notary bill. While it is not desired, it is probably coming. Also, once the bill is available, there will not likely be much time to process and respond.

The Elder Law Section is considering new committees as a way of involving new members.

Catherine Seal provided an updated on the Office of Public Guardian. Legislation is in the works so the next step is to look for funding. If anyone has connections with hospital foundations, please let Carl Glatstein know.

Cate also reported on the new Uniform Guardianship and Protective Proceedings Act. The letter from the Uniform Law Commission to authorize and request a formal working group came in. At this time, interest groups are being identified for the working group but the goal would be to have a good work product going before the working group starts meeting.

9. Report from Other Sections

Michael Kirkland announced that the ABA is holding an online CLE on January 24, 2018 at 2:00 p.m. about represented clients with diminished capacity, which will be largely based on Ethics Opinions 126 and 131. Also, Ethics Opinion 132 has been published, which pertains to confidentiality issues with decedents.

10. New Matters

There were no new matters.

Leia Ursery adjourned the meeting at 2:25 p.m.

Respectfully submitted,
Leia Ursery