

**NOTICE OF MEETING**  
**STATUTORY REVISIONS COMMITTEE**

TO: Trust and Estate Section — Statutory Revisions Committee  
FROM: Jonathan Haskell, Hayley Lambourn

The Next Meeting will be March 1, 2023 - 1:30 – 3:15 p.m. in Person and via Zoom

**AGENDA – February 1, 2023**

**I. Welcome & Call to Order**

- A. *Attendance & Introductions*
- B. *Reminders*
  - 1. Please let Hayley Lambourn know if you did not receive meeting materials or if you would like to be removed from the email list. (hlambourn@wadeash.com)
- C. *Approval of Minutes: January 4, 2023 Meeting*

**II. Chairperson’s Report**

- A. Today’s meeting will adjourn at 2:45pm. The Trust and Estate Section will be hosting a Welcome Back Happy Hour beginning at 2:45pm at the CBA office (1290 Broadway, Suite 1700). Executive Council invites everyone to attend this event.

**III. Legislative Liaison Report**

**IV. Announcements**

**V. Subcommittee Reports**

- A. *ACTIVE MATTERS PENDING APPROVAL*
  - 1. Uniform Community Property Disposition at Death Act (Chair: Connie Eyster).
  - 2. Electronic Estate Planning Documents Act (No Chair, subcommittee: Stan Kent, Letitia Maxfield, Steve Brainerd, and Melissa Schwartz)
  - 3. Amendment to C.R.S. § 15-12-203(4) (Personal Representative Priority Statute) (Chair: Gordon Williams)
  - 4. Uniform Cohabitants Economic Remedies Act (Chair: Connie Eyster) Indefinite hold until taken up by legislature.
  - 5. Beneficiary Deeds Statute Update (Chair: Carl Stevens)
  - 6. Colorado Uniform Electronic Wills Act. Conforming amendments to C.R.S. §§ 15-12-406 and 15-12-303(3). (Letty Maxfield)

B. *INACTIVE MATTERS*

1. Approved

a. Disclosure of Fiduciary Fees, C.R.S. §§ 15-10-602 and 15-12-705

(1) Approved in 2015-2016. Jonathan Haskell forwarding approved language to Steve Brainerd and working with Gordon Williams for presentation to LPC.

2. Approved but not moving forward

a. Colorado Electronic Preservation of Abandoned Estate Planning Documents Act. (Chair: Pete Bullard)

(1) The language approved by the committee was much broader (7 categories of estate planning documents) than the State Court Administrator was able to achieve (one category-Wills). The State Court Administrator created a pilot program which will be implemented on January 1, 2023 (when funding comes in) and the pilot program will address only Wills.

(2) This matter will remain inactive pending the pilot program. When the pilot program is complete, the committee will consider whether to attempt to reincorporate the broad language and whether the 6 other categories of estate planning documents (as described in HB19-1229 as introduced on March 8, 2019) should be added to the Act by amendment.

3. Unapproved

a. Child Support in Probate (Chair: Pat Mellen)

**VI. Section Reports**

A. Elder Law

B. Other

**VII. New Matters**

**VIII. Approved Proposals for Inclusion in Omnibus bill or standalone legislation**

1. Lodged Wills Statutes C.R.S. §§ 15-12-304 15-12-402 and 15-10-305.5

2. C.R.S. §§15-5-103 (10)"Interested person" means a qualified beneficiary or other person having a property right in or claim against a trust estate, which right or claim may reasonably and materially be affected by a judicial proceeding pursuant to this code. The term also includes fiduciaries and other persons having authority to act under the terms of the trust. The meaning as it relates to particular

persons may vary from time to time and is determined according to the particular purposes of, and matter involved in, any proceeding.

**CBA TRUST AND ESTATE SECTION**  
**STATUTORY REVISIONS COMMITTEE**  
**MINUTES – January 4, 2023**

TO: Trust and Estate Section — Statutory Revisions Committee  
FROM: Jonathan Haskell, Hayley Lambourn

The Next Meeting will be February 1, 2023 - 1:30 – 3:15 p.m. in person and via Zoom.

**I. Welcome & Call to Order**

A. *Attendance & Introductions.* Jonathan F. Haskell called the meeting to order at 1:40 p.m.

B. Reminders. Please let Hayley Lambourn know if you did not receive meeting materials or if you would like to be removed from the email list.  
(hlambourn@wadeash.com)

C. Steve Brainerd made a motion to approve the meeting minutes from the December 7, 2022 meeting, and Lauren Da Cunha seconded the motion. No objections were raised. Minutes were approved.

**II. Chairperson’s Report.** No Report

**III. Legislative Liaison Report.**

A. Tyler Mounsey provided the report.

1. Legislative Session begins 1/9/2023.
2. Abandoned Wills program will be delayed and going into effect 2/1/23 rather than 1/9/2023. Bette Heller raised a concern re transmission of the information to Elder Law Section vs. Trusts and Estates Section via the relevant websites. Mr. Mounsey will check channels of communication to ensure information is posted on both Sections’ websites.
3. Difficult supermajority this session.
4. Tyler Mounsey encourages committee members to reach out to him re any concerns.
5. Legislative Council continues to search for attorney volunteers for their statutory revisions committee. Commitment is approximately an hour a month. Please contact Tyler Mounsey if you are interested.

**IV. Announcements**

A. Leia Ursery volunteered to serve as co-legislative liaison.

**V. Subcommittee Reports**

A. *ACTIVE MATTERS PENDING APPROVAL*

1. Electronic Estate Planning Documents Act. The committee will meet 1/25/2023 at 1:30pm. They will review the uniform act that the ULC plans to run this year. ULC would like to send the Act to legislative drafting and are requesting drafting recommendations as soon as possible. Subcommittee will develop comments and recommendations to provide feedback now, and the larger statutory revisions committee will have additional time to comment if the bill is dropped. However, if you would like to contribute please attend subcommittee meetings. There is fairly big national push to ensure that all types of estate planning documents are captured in law relating to electronic execution. If you would like to be added to the subcommittee listserve, please contact [hlambourn@wadeash.com](mailto:hlambourn@wadeash.com).
2. Amendment to C.R.S. § 15-12-203(4) (Personal Representative Priority Statute) (Chair: Gordon Williams). No Report.
3. Uniform Cohabitants Economic Remedies Act (Chair: Connie Eyster). Indefinitely on hold.
4. Beneficiary Deeds Statute Update (Chair: Carl Stevens). No Report.
5. Uniform Community Property Disposition at Death Act (Chair: Connie Eyster). Connie Eyster reported that the subcommittee has completed their review. Connie will circulate a redline to the subcommittee and anticipates ½ hour to make report to the committee. Ms. Eyster will email Tyler Mounsey the update draft as soon as the subcommittee confirms, perhaps by the end of the week. Steve Brainerd reported the ULC meeting where the Act is scheduled to be discussed is scheduled on 1/13/23 at 1pm. Ms. Eyster will be available for the meeting, Mr. Brainerd will be available as backup.
6. Colorado Uniform Electronic Wills Act. Conforming amendments to C.R.S. §§ 15-12-406 and 15-12-303(3). (Letty Maxfield). Letty Maxfield reached out to Tyler Mountsey re the reference in the above-referenced statutes. Would like to confirm if the statutory revisions committee agrees that a conforming amendment is needed and will make a correction and delete references to § 15-11-503 in the above-referenced statutes. Stan Kent agrees that we failed to make conforming amendments when enacting UTC. Stan Kent and Letty Maxfield agree the reference should be to 504 not 503 – a revisor’s error to fix a technical error.

**VI. Inactive Matters.** Steve Brainerd will take changes to Disclosure of Fiduciary Fees, C.R.S. §§ 15-10-602 and 15-12-705 to LPC for approval.

**VII. Approved But Not Moving Forward.** Colorado Electronic Preservation of Abandoned Estate Planning Documents Act will be delayed until 2/1/2023. When it is up and running will only cover wills.

## VIII. Section Reports

- A. Elder Law. Rose Zapor reported the committee continues to consider changes to statutes restricting access to ward/protected persons. Likely in final phases of review.
- B. Other. No reports.

## IX. New Matters.

A. Eric Solem reported during the process of passing the Uniform Trust Code, a proposed revision to C.R.S. 15-5-411(2), to exclude disability trusts from being terminated by a court or individual, but the change has not made. Mr. Solem had a client who had a validly approved disability trust and went off Medicaid. Medicaid regulations say Medicaid can seek to terminate a disability trust and recover payments made on the person's behalf. Federal Judge Martinez remanded the case to state court in El Paso County, and the Magistrate said regulations were incorporated and terminated the trust. *In the Matter of Estate of Brockman*, pending cert. Mr. Solem made a proposal to amend statute to say that disability trusts can only be terminated by consent of owner or by court order after a finding the termination is in the best interests of the beneficiary. The current statute violates federal law because Medicaid is not entitled to lifetime recovery of benefits paid by Medicaid unless there is an overpayment.

1. Mr. Solem reports Legislators Jeff Bridges and David Ortiz are interested in running this legislation.
2. Elder Law Section is interested in making the revision and SRC recommended Mr. Solem speak to the Elder Law Section.
3. Connie Eyster confirmed the change was recommended to the UTC subcommittee. 15-5-411(2), C.R.S. as adopted excluded Medicaid trusts. Then at Eric's request the exclusion was deleted.
4. Mr. Solem also recommends an additional revision directing how the trust corpus is distributed if a disability trust is terminated. Connie Eyster added that Elder law would be the experts in this area.
5. Stan Kent recommends adding a subsection (6) to the statute as to not disturb the language of the uniform law.
6. Mr. Solem's proposed statute should reference all validly created disability trusts.
7. Medicaid subcommittee is meeting next week.
8. HCPF will likely oppose the change.

Respectfully submitted by Hayley Lambourn.