

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

May 5, 2021

1. Introductions

As we are still meeting via Zoom, the introductions will be limited to those who are visitors, new members or members who are looking for a mentor, study group or to join a practice. Please feel free to look through your Zoom galleries to find old and new friends.

2. Approval of April 7, 2021 Minutes

3. Announcements

a. *Virtual Meetings.*

i. Please make sure if you are not speaking you are muted. If you are speaking make sure you are not muted.

b. *Email List.* If you did not receive the SRC materials in an email from Katie then you are not on the SRC email list. Email Dylan (dmetzner@joneskeller.com) and he'll add you to the email list.

4. Legislative Report

5. SRC Approved Proposals

a. Active Matters

b. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons

(i) Colorado Electronic Preservation of Abandoned Estate Planning Documents Act Subcommittee (Pete Bullard, Chair)ⁱ

6. Unapproved Matters under Consideration by SRC - Reports from Subcommittees

a. ADR Legislation (C. Jean Stewart, Chair)

b. Child Support in Probate Subcommittee (Pat Mellen, Chair)

c. Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Chairs)

- d. **Family Allowance (Michael Kirtland, Chair)**
- 7. **Inactive Matters**
 - a. **Witness Requirements in Advanced Directives (Carl Stevens, Chair)**
- 8. **Report from Elder Law Section**
- 9. **Report from Other Sections of the Bar**
- 10. **New Matters**
 - a. **Amendment to C.R.S. § 15-14-112 (Gordon Williams)**
- 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) (Gordon Williams)**
 - d. **~~Uniform Directed Trust Act Subcommittee (Kevin Millard, Co-Chair, and Kelly Cooper, Co-Chair)~~**

ⁱ Judicial (State Court Administrator) would only agree to become the sponsoring agency of this legislation if the seven separate categories under the definition of “original estate planning document” was pared down to the single category of “will documents.” This was insisted upon to minimize the size of the “pilot program” Judicial envisioned would be needed to initially implement the legislation in partnership with (and utilizing the technological resources of) the Colorado State Archives office. Once Judicial has completed it’s pilot program and the electronic document upload, storage, and retrieval system for “will documents” is operating as intended under the statute, the other six categories of “original estate planning documents” as they appear in § 15-23-103(14) in HB19-1229 as originally introduced on March 8, 2019 should be restored to the Act by amendment. See <https://leg.colorado.gov/bills/hb19-1229>.

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

April 7, 2021

1. Introductions

Chair, Lauren da Cunha, called the meeting to order at 1:31pm.

As we are still meeting via Zoom, the introductions will be limited to those who are visitors, new members or members who are looking for a mentor, study group or to join a practice. Please feel free to look through your Zoom galleries to find old and new friends.

2. Approval of March 3, 2021 Minutes

The minutes from the March 3, 2021 meeting were unanimously approved with no abstentions.

3. Announcements

a. *Virtual Meetings.* Expect virtual meetings through at least the end of the winter and to this end there are a couple of procedural points.

i. Handling questions/comments - Message the word "question" to the zoom group during a presentation. At the end of the presentation, Chair will open the floor for folks who messaged in the order the messages were received.

ii. Please make sure if you are not speaking you are muted. If you are speaking make sure you are not muted.

b. *Email List.* If you did not receive the SRC materials in an email from Katie then you are not on the SRC email list. Email Dylan (dmetzner@joneskeller.com) and he'll add you to the email list.

4. Legislative Report

Andy White presented the legislative report:

UFIPA (SB 171) and UTC Part 5 (SB 162) passed unanimously out of committee and the Senate. They are waiting for a hearing in the House which should occur on or after April 19, 2021. There are six weeks left in the session.

There are several other bills of interest to the Committee that are in various stages in the legislature.

- SB 195- Probate Instrument Execution Requirements, passed out of the committee in the Senate unanimously
- HB 1123- Concerning a CAP Check for Substantiated Cases of Mistreatment of an At-Risk Adult, the CBA took the position that this needed to be amended. Per the amendment, the information provided to the courts is not considered evidence. Andy is feeling more comfortable with the bill since this amendment.
- SB 75- Support Decision Making Agreements for Adults with Disabilities, the CBA took the position that this needed to be amended. Amendments are being considered now.
- SB 118- Concerning the Creation of an Alternative Response Pilot Program for County Departments of Human or Social Services to Address a Report of Mistreatment of At-Risk Adult, introduced in the Senate and Elder Law supports this bill.

5. SRC Approved Proposals

a. Active Matters

b. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons

- (i) **Colorado Electronic Preservation of Abandoned Estate Planning Documents Act Subcommittee (Pete Bullard, Chair)ⁱ**

6. Unapproved Matters under Consideration by SRC - Reports from Subcommittees

~~a. Legislation Review Joint Subcommittee (Michael D. Holder, Chair)~~

As noted in the March 3, 2021 minutes, this subcommittee will be removed from the agenda.

b. ADR Legislation (C. Jean Stewart, Chair)

No report at this time, but Jean has asked that this subcommittee remain on the agenda.

c. Child Support in Probate Subcommittee (Pat Mellen, Chair)

No report.

d. Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Chairs)

Darla Daniels reported the committee is making good progress and their next meeting is on April 12.

e. Family Allowance (Michael Kirtland, Chair)

No report.

7. **Inactive Matters**

- a. **UTC Subcommittee Part 5 (Connie Eyster, Chair)**
- b. **Uniform Fiduciary Income and Principal Act Subcommittee (Gene Zuspahn, Chair and Georgine Kryda, Co-Chairs)**
- c. **Uniform Electronic Wills Act (Letty Maxfield and Herb Tucker, Co-Chairs)**
- d. **Witness Requirements in Advanced Directives (Carl Stevens, Chair)**

8. **Report from Elder Law Section**

No report.

9. **Report from Other Sections of the Bar**

No report.

10. **New Matters**

Leia Ursery raised a concern with common law marriages, specifically that she felt more clarification was needed in what it takes to be married under common law. It seems like it is easy to establish now and she has seen an increase this issue particularly in the last year or two.

Frank Hill noted that this is the same issue that was raised in SRC about five years ago and that there is a lot of division within the Bar and among the Specialty Bars about this issue. Kim Willoughby noted that the Family Law Section is not interested in doing away with it. Catherine Seal pointed out that not everyone would benefit from getting rid of it, especially those in low income situations.

Kathy Seidel noted that there was a free CLE on February 10 on three recent cases dealing with common law marriage.

Leia Ursery will research further.

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) (Gordon Williams)**
- d. **~~Uniform Directed Trust Act Subcommittee (Kevin Millard, Co-Chair, and Kelly Cooper, Co-Chair)~~**

Chair, Lauren da Cunha adjourned the meeting at _____ pm.

Respectfully Submitted

/s/ Lauren da Cunha

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C.R.S Title 15. Probate, Trusts, and Fiduciaries § 15-14-112. Termination of or change in guardian's or conservator's appointment

(1) The appointment of a guardian or conservator terminates upon the death, resignation, or removal of the guardian or conservator or upon termination of the guardianship or conservatorship. A resignation of a guardian or conservator is effective when approved by the court. A parental appointment as guardian under an informally probated will terminates if the will is later denied probate in a formal proceeding. Termination of the appointment of a guardian or conservator without a decree of discharge does not affect the liability of either for previous acts or the obligation to account for money and other assets of the ward or protected person.

(2) A guardian or conservator may petition for permission to resign. A petition for removal of a guardian or conservator shall be governed by the provisions of section 15-10-503. A petition for removal or permission to resign may include a request for appointment of a successor guardian or conservator.

(3) The court may appoint an additional guardian or conservator at any time, to serve immediately or upon some other designated event, and may appoint a successor guardian or conservator in the event of a vacancy or make the appointment in contemplation of a vacancy, to serve if a vacancy occurs. An additional or successor guardian or conservator may file an acceptance of appointment at any time after the appointment, but not later than thirty days after the occurrence of the vacancy or other designated event. The additional or successor guardian or conservator becomes eligible to act on the occurrence of the vacancy or designated event, or the filing of the acceptance of appointment, whichever occurs last. A successor guardian or conservator succeeds to the predecessor's powers, and a successor conservator succeeds to the predecessor's title to the protected person's assets.

Proposed Amendment:

(4) The court may appoint a visitor to investigate the termination or change in the guardian's or conservator's appointment as the court directs.