

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

August 4, 2021

1. Introductions

2. Approval of May 5, 2021 Minutes

3. Announcements

a. *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 Jonathan (JHaskell@wadeash.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)**

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>.

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AGENDA**

May 5, 2021

1. Introductions

Chair, Lauren DaCunha, called the meeting to order at 1:32 pm.

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.

Penfield Tate has been a member of the Section for sometime, but this is his first SRC meeting. Welcome Penfield.

2. Approval of April 7, 2021 Minutes

Gordon Williams moved to approve and Patricia Rankin seconded. Minutes were unanimously approved with no abstentions.

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

Andy White reported.

On May 4, 2021, UFIPA (SB 171) and UTC Part 5 (SB 162) passed unanimously out of the House Judiciary Committee. Georgine Kryda reported that the hearing was short and sweet and the bills sailed through. DHS requested that implementation date for UTC Part 5 be pushed back to July 1 of 2022 to account for an antiquated computer system DHS has.

SB 195 Witness Requirements in Advanced Directives passed out of house and is on the governor's desk and we expect this will become law.

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)**

No report.

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

No report.

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

Subcommittee continues to make progress but no report at this time. Stan Kent reported that the Subcommittee will not be ready for introduction until 2022. Bette Heller reported that the uniform revisions anticipate that the state has enacted the Uniform Parentage Act, which Colorado has not adopted. This structure complicates review.

The Subcommittee welcomes new members. If you have an interest, please contact Co-Chairs, Bette Heller and Darla Daniels.

d. **Family Allowance (Michael Kirtland, Chair)**

Gordon Williams reported that we are still awaiting the ruling from the Court of Appeals.

7. **Inactive Matters**

a. **Witness Requirements in Advanced Directives (Carl Stevens, Chair)**

See legislative update.

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)**

Gordon Williams Reported. The proposed change is to subsection (4). The statute goes through the various options relating to a change of the fiduciary and the issue is that it would be nice for the Court to have eyes and ears on the ground. There is a question as to whether the Court has discretion to appoint a Visitor to investigate and the additional proposal is to clarify that the court may appoint a Visitor if it so chooses.

Stan Kent questioned whether it is wise to include subsection (4) in 15-14-112 because there is a possibility that the Court may interpret a statute which is silent as to whether a Court may appoint a Visitor as a prohibition. Dylan Metzner suggested that perhaps this may be better situated in 15-14-115, which gives the Court discretion at any time to appoint a GAL.

Initially this issue was brought to SRC's attention from a magistrate. Gordon Williams will discuss with the magistrate to pin down specific concerns. This topic will be added to the August Agenda.

SRC will circle back with Andy closer to August to see whether there is room in the 2022 session for this type of legislation.

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)
Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016) (Gordon Williams)**
Andy reported that this will be ready for the 2022 legislature.
- c.
- d. **~~Uniform Directed Trust Act Subcommittee (Kevin Millard, Co-Chair, and Kelly Cooper, Co-Chair)~~**

Chair, Lauren da Cunha adjourned the meeting at 2:10pm.

Respectfully Submitted

/s/ Dylan Metzner

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