

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

March 3, 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 February 3, 2021 Minutes

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

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)

- b. **ADR Legislation (C. Jean Stewart, Chair)**
 - c. **Child Support in Probate Subcommittee (Pat Mellen, Chair)**
 - d. **Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Chairs)**
 - e. **Family Allowance (Michael Kirtland, Chair)**
7. **Inactive Matters**
- a. **UTC Subcommittee Part 5 (Connie Eyster, Chair)**
 - b. **Uniform Fiduciary Income and Principal Act Subcommittee (Gene Zuspann, 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**
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) (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 its 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**

February 3, 2021

1. Introductions

Chair, Lauren DaCunha, called the meeting to order at 1:30pm. As we are still meeting via Zoom, the introductions were limited to new members or those seeking a mentor of practice.

Owen Davis is looking to enter the T&E practice.

Paige Hayes is now at Miller and Steinart

Taylor Gibson at Wilmer Hale and is looking to transition.

2. Approval of December 2, 2020 Minutes

The minutes from the December 2, 2020 meeting were unanimously approved with no abstentions. Carl Stevens moved to approve and Lori Kalata seconded.

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.

Legislative schedule- Legislature required by Constitution to convene before 1/13/2021, which they did. They met for a few days for prefatory matters so legislative leaders decided to put a pause in the calendar and are scheduled to reconvene February 16th and continue meeting until end of May but have the authority to meet through June if necessary.

CBA Agenda and Action items.

- E-Wills is one of the bills that was brought up in 1/13/2021 and passed by 1/15/2021. This was fast tracked to make sure that there was no gap between the temporary measures and the E-Wills Act. Effective as of January 31, 2021. Unanimous support in both chambers and this was the first bill passed in the legislative session. Gordon indicated that E-Wills is currently slated to go into Article Eleven but he thought it may be better to have this in Article Twelve, Andy suggested that it may be difficult in this year's session to make a change but that the E-Wills track paper wills and that may be why Article Eleven was chosen. Frank suggested that the "reviser of statutes" can submit this as a technical correction and Gordon will take the ball on this but the request needs to come through Andy and he suggested including Letti Maxfield and Herb Tucker. Gordon will follow up with Herb on this and will get back with SRC or Andy if something needs to be changed.
- UFIPA and UTC Part Five will be introduced during the 2/15/2021 session.
- Living Wills and Advanced Directives- waiting on administrative review by either Speakers office or President's office. The sponsors believe that once we get the administrative review, this bill should move relatively quickly.

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)**

No Report

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

No Report

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

No Report

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

Will be moved to Inactive Matters

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

Darla Daniels provided updated
1/25/2020 and will meet again end of this month and are making progress.

f. Family Allowance (Michael Kirtland, Chair)

Gordon Williams provided an update. Issue is whether 15-11-404 prohibits a surviving spouse from receiving family allowance unless the decedent left a minor/dependent children. Courts in Arapahoe County and Elbert County have taken the position that if there is no minor/dependent children there is no family allowance. One court even issued different rulings on same set of facts. This is in the process of appeal but the appellate court denied oral arguments. Waiting on ruling from the Appellate court.

7. Inactive Matters

a. UTC Subcommittee Part 5 (Connie Eyster, Chair)

b. Uniform Fiduciary Income and Principal Act Subcommittee (Gene Zuspann, Chair and Georgine Kryda, Co-Chairs)

c. Uniform Electronic Wills Act (Letty Maxfield and Herb Tucker, Co-Chairs)

8. Report from Elder Law Section

No Report

9. Report from Other Sections of the Bar

Michael Kirkland reported from Ethics Committee- Raven Case Ethics opinion 132 is being revised to account for the ruling in Raven. The proposed opinion is being drafted.

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) (Gordon Williams)

Chair, Lauren DaCunha and Andy White reported that the T&E Council minutes approving the Fiduciary Fee language, which was approved by SRC. Given the amount of bills being introduced for the 2021 session and that SRC has advanced 4 bills (E-wills, UFIPA, UTC Part 5 and Living Will/Advanced Directives) Andy White believes it is not feasible to advance this bill to the 2021 legislative succession but that this should be advanced for the 2022 legislative session.

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

Chair, Lauren DaCunha adjourned the meeting at 1:55 pm.

Respectfully Submitted

/s/ Dylan Metzner

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