

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

November 4, 2020

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 October 7, 2020 Minutes

3. Announcements

a. *Virtual Meetings.* Expect virtual meetings through at least the end of the year 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. UTC Subcommittee Part 5 (Connie Eyster, Co-Chair)

- b. **Legislation Review Joint Subcommittee (Michael D. Holder, Chair)**
 - c. **ADR Legislation (C. Jean Stewart, Chair)**
 - e. **Uniform Fiduciary Income and Principal Act Subcommittee (Gene Zuspann, Chair and Georgine Kryda)**
 - f. **Child Support in Probate Subcommittee (Pat Mellen, Chair)**
 - g. **Uniform Electronic Wills Act (Letty Maxfield and Herb Tucker, Co-Chairs)**
 - h. **Witness Requirements in Advanced Directives (Carl Stevens)**
 - i. **Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Chairs)**
7. **Inactive Matters**
- a. **Changes to Conservator's Report (Lindsay Andrew)**
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 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
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October 7, 2020

1. Introductions

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Chair, Lauren da Cunha, called meeting to order at 1:32 p.m. As this was a zoom meeting, introductions were limited to new members or those seeking a mentor or a practice.

2. Approval of September 2, 2020 Minutes

The minutes from the September 2, 2020 meeting were unanimously approved. Molly moved to approve and Frank.

3. Announcements

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

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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.

Colorado Commission on Uniform State Laws met in September and is moving forward each of our proposals submitted to Commission from SRC.

In terms of legislative updates, the general assembly is planning to reconvene in January but there is some question as to whether 2021 will have a temporary adjournment. It is possible that general assembly will not reconvene until later in the spring.

The CBA is reconvening the Legislative Policy Committee in October. With respect to matters relating to CCUSL the LPC will probably get to these in November. In addition to SRC matters LPC is looking at corporate filing bills and some matters with regard to family law specifically with authority of trial court to modify support or child orders while issues are pending appeal.

Question to Andy -Any updates on Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S.

SRC Voted for advancing specific measures to move forward with disclosure of fiduciary fees. The sub committee members will need to prepare a summary and to report to LPC. Andy White will be in contact with SRC chair as to what LPC needs for the November meeting.

Gene asked about UFIPA and UTC Part 5- Commission voted to move forward with drafting so Andy is hopeful we'll have drafts of the bill meet the expectations of SRC. Staff member drafting has already been assigned a gentleman named Conrad.

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**
No report

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

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

Steve reported that this is one of the matters before ULC, Connie did a great job presenting to the commissioners and the commissioners were delighted to embrace part 5 to the UTC and Connie will be working with Conrad to make sure wrinkles are ironed out.

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

No report

c. Advance Legislative Response Team (Marco Chayet and Letty Maxfield, Co-Chairs)

No report

- d. ADR Legislation (C. Jean Stewart, Chair)**
No report

- e. Uniform Fiduciary Income and Principal Act Subcommittee (Gene Zuspann, Chair and Georgine Kryda)**
No report

- f. Child Support in Probate Subcommittee (Pat Mellen, Chair)**
No report

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

Letty Maxfield emailed the SRC Chair and Co-Chair asking that they share the following update with respect to the Uniform Electronic Wills Act and the status of remote notarization in Colorado:

The Colorado Commission on Uniform State Laws had its first meeting in late September. They support running the Uniform Electronic Wills Act and the proposed draft of the Colorado Uniform Electronic Wills Act was provided to the bill drafter. The bill is currently in drafting and LPC will be reviewing and voting on the UEWA in its draft form (which we anticipate will incorporate the language recommended by the T&E and ELS Sections) in November. The E-Wills subcommittee is continuing to meet at 12:30 on First Wednesdays to consider and review conforming amendments and remain engaged throughout the 2020-2021 legislative process.

Steve Brainerd wished to convey how well prepared and thoughtful Letty's testimony to the commissioners was.

Separately, as a reminder, the ability to remotely notarize wills under the temporary rules and regulations adopted by the Secretary of State expires on December 31, 2020. The Colorado Rules of Probate Procedure providing for remote witnessing of wills and other non-testamentary instruments continue to be effective as stated in the Rules (i.e. during any period where there is an Executive Order requiring social distancing, etc.). If attorneys or their staff are remotely notarizing wills they must do so in compliance with the SOS temporary rules, including but not limited to recording the remote notarial process.

- h. Witness Requirements in Advanced Directives (Carl Stevens)**

Carl Stevens reported that the committee is still working on and hopes to have a report in November.

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

Darla Daniels reported that the subcommittee met on Sept 24th and will meet again in October. Now moving to substantive changes.

7. Inactive Matters

a. Changes to Conservator's Report (Lindsay Andrew)

8. Report from Elder Law Section

No report

9. Report from Other Sections of the Bar

No report

10. New Matters

None

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)~~**

Laruen da Cunha adjourned the meeting at 2:00pm.

Respectfully Submitted

/s/ Dylan Metzner

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