

NOTICE OF MEETING
STATUTORY REVISIONS COMMITTEE

To: Trust and Estate Section — Statutory Revisions Committee

From: Hayley Lambourn, Marianne Luu-Chen

The next meeting will be December 6, 2023 from 1:30 p.m. to 3:15 p.m. in person and via Zoom.

Please join us in person!

MINUTES – November 1, 2023

- I. Welcome and Call to Order.
 - A. Attendance and Introductions.
 - B. Reminders. Please let Marianne Luu-Chen know if you did not receive meeting materials or if you would like to be removed from the email list.
(marianne.luuchchen@hbcboulder.com)
 - C. Approval of Minutes of October 4, 2023 meeting. Angela Rockwood moved to approve, and Lauren Dacunha seconded the motion. The minutes were approved with no objection.
- II. Chairperson's Report
- III. Legislative Liaison's Report
 - A. The report was made by Tyler Mounsey
 - 1. Lodged Wills. Rep. Soper (R) is looking for a Democrat to have bipartisan support before introducing this legislation.
 - 2. Uniform Health Care Decisions Act is delayed one year. Comments need to be ready by next fall.
 - 3. Uniform Non-Testamentary Electronic Estate Planning Documents Act is also pending.
 - 4. Elder Law Section is taking the lead to examine the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (UGCOPAA) and have met with The Arc of Colorado (ARC) and Disability Law Colorado. Letitia Maxfield and Andrew Rogers are co-chairing the subcommittee.

5. CBA Annual Legislative Reception is tentatively scheduled for January 23 from 4:30-7:30. RSVP.

IV. Announcements

V. Subcommittee Reports

A. Active Matters Pending Approval

1. Uniform Non-Testamentary Electronic Estate Planning Documents Act
 - a. Chair: Vacant (Stan Kent reporting)
 - b. Accepted by the Colorado Commissioners of the Uniform Law Commission
2. Colorado Uniform Electronic Wills Act, conforming amendments to C.R.S. §§ 15-12-406 and 15-12-303(3)
 - a. Chair: Letitia Maxfield (lmaxfield@wadeash.com)
 - b. Subcommittee continues to identify statutes that need conforming amendments and opportunities for new statutes to address infrastructure with e-wills. (*e.g.*, evidence needed by a proponent to validate an electronic will, whether witnessed, notarized, or self-proved), including the presumption of the existence of an electronic will. The Colorado State Court Administrator Connie Lind is retiring. Subcommittee may have proposals ready in April.
3. Uniform Health Care Decisions Act
 - a. Chair: Leia Ursery (lursery@goodspeedmerrill.com)
 - b. Subcommittee will create list of CRS sections affected by the Act and coordinate efforts with ULC Commissioners.
4. Amendment to CRS § 15-12-203(4) Personal Representative Priority Statute
 - a. Chair: Gordon Williams
 - b. It may not require a statutory change but instead a coordinated effort with Colorado court clerks.
 - c. *No report.*
5. Beneficiary Deed Statute

- a. Chair: Carl Stevens
- b. Carl will send out proposed language for insurable interests for consideration to members of the subcommittee.

B. Inactive Matters.

- 1. Approved, but not moving forward. Colorado Electronic Preservation of Abandoned Estate Planning Documents Act.
 - a. Chair: Bette Heller
 - b. The language approved by the committee was much broad (7 categories of estate planning documents) than the State Court Administrator was able to achieve (1 category, Wills). The State Court Administrator created a pilot program, which was scheduled to be implemented on February 1, 2023. This matter will remain inactive pending the pilot program. When the program is complete, the committee will consider whether to attempt to reincorporate the broader language to include the other 6 categories of estate planning documents (as described in HB 19-1229 as introduced on 3/8/2019) should be added to the Act by amendment.
- 2. Uniform Cohabitants Economic Remedies Act
 - a. Chair: Connie Eyster
 - b. Indefinitely on hold until taken up by the legislature.
- 3. Unapproved. Child Support in Probate
 - a. Chair: Pat Mellen

II. Section reports

- A. Elder law. UGCOPAA is a complete overhaul of Article 14 of Title 15. The reference to “incapacitated person” is found through Title 15, and UGCOPAA has eliminated this definition, so while the Elder Law section is spearheading the efforts, the Trust & Estate Section is creating a subcommittee to examine conforming amendments necessary if the Act is adopted in Colorado. There will no longer be a finding of incapacity but rather the trier of fact must determine specific circumstances in which the protected person is determined to be incapacitated. Judicial, State Court Administrator’s Office, the Office of Public

Guardianship are joining the subcommittee. ARC of Colorado is talking to other stakeholders. Letitia Maxfield and Leia Ursery are heading this subcommittee.

B. Other. No report.

III. New Matters. None.

IV. Announcements

Adjourned at 2:12 pm

Respectfully submitted by Marianne Luu-Chen

NOTICE OF MEETING
STATUTORY REVISIONS COMMITTEE

TO: Trust and Estate Section — Statutory Revisions Committee
FROM: Hayley Lambourn, Marianne Luu-Chen

The next meeting will be January 3, 2024 - 1:30 – 3:15 p.m. in person and via Zoom. Please join us in person.

AGENDA – December 6, 2023

I. Welcome and Call to Order.

- a. *Attendance and Introductions*
- b. *Reminders.* Please let Marianne Luu-Chen know if you did not receive meeting materials or if you would like to be removed from the email list.
(marianne.luuchen@hbcboulder.com)
- c. *Approval of Minutes:* November 1, 2023 Meeting

II. Chairperson’s Report.

III. Legislative Liaison’s Report

IV. Announcements

V. Subcommittee Reports

- a. *Active Matters Pending Approval*
 - i. Uniform Health-Care Decisions Act (Chair: Leia Ursery)
 - ii. Conforming Amendments to proposed Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (Chair: Leia Ursery)
 - iii. Electronic Estate Planning Documents Act (Chair: none)
 - iv. Colorado Uniform Electronic Wills Act, conforming amendments to C.R.S. §§ 15-12-406 and 15-12-303(3) (Chair: Letitia Maxfield)
 - v. Amendment to C.R.S. § 15-12-203(4), Personal Representative Priority Statute (Chair: Gordon Williams)
- b. *Inactive Matters*
 - i. **Approved.**
 - ii. **Approved, but not moving forward.** Colorado Electronic Preservation of Abandoned Estate Planning Documents Act. (Chair: Pete Bullard). The

language approved by the committee was much broad (7 categories of estate planning documents) than the State Court Administrator was able to achieve (1 category, Wills). The State Court Administrator created a pilot program, which was scheduled to be implemented on February 1, 2023. This matter will remain inactive pending the pilot program. When the program is complete, the committee will consider whether to attempt to reincorporate the broader language to include the other 6 categories of estate planning documents (as described in HB 19-1229 as introduced on 3/8/2019) should be added to the Act by amendment.

- iii. Uniform Cohabitants Economic Remedies Act (Chair: Connie Eyster). Indefinitely on hold until taken up by the legislature.
- iv. **Unapproved.**
 - 1. Child Support in Probate (Chair: Pat Mellen)
 - 2. Beneficiary Deeds Statute Update

VI. Section Reports

- a. *Elder Law*
- b. *Other*

VII. New Matters

VIII. Approved Proposals for Inclusion in Omnibus Bill or standalone legislation

- a. Lodged Wills Statutes, C.R.S. §§ 15-12-304, 15-12-402, and 15-10-305.5
- b. 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.
- c. Proposed change to UTC Termination of Trust §15-5-411 – Elder Law will advance.
- d. Disclosure of Fiduciary Fees, C.R.S. §§15-10-602 and 15-10-705. Approved in 2015-2016. Jonathan Haskell forwarded approved language to Steve Brainerd. Gordan Williams will work with Steve Brainerd on presentation to LPC.