



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Law

CIVIL DIVISION

P.O. Box 110300
Juneau, Alaska 99811
Main: 907.465.3600
Fax: 907.465.2520

November 29, 2017

The Honorable Pete Kelly, President
Alaska State Senate
State Capitol, Room 111
Juneau, AK 99801-1182

The Honorable Bryce Edgmon, Speaker
Alaska State Capitol
State Capitol, Room 208
Juneau, AK 99801-1182

Re: Alaska Annual Report on Activities of the National Conference of
Commissioners on Uniform State Laws

Dear President Kelly and Speaker Edgmon:

On behalf of Alaska's delegation to the National Conference of Commissioners on Uniform State Laws, I submit this year's annual report.

I. OVERVIEW OF UNIFORM LAW COMMISSION

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, has worked for the uniformity of state laws since 1892. The sole purpose of the ULC is to research, draft, and promote enactment of uniform state laws where uniformity is desirable and practical. Accordingly, the work of the ULC simplifies the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state. It has sought to bring uniformity to the divergent legal traditions of more than 50 sovereign jurisdictions, and has done so with significant success.

There is only one fundamental requirement for the more than 300 uniform law commissioners: that they are members of the bar. While some commissioners serve as state legislators and other state officials, most are practitioners, judges and law professors. Uniform law commissioners serve for specific terms, and receive no salaries or fees for their work with the Uniform Law Commission.

Commissioners study and review the law of the states to determine which areas of law should be uniform. The commissioners promote the principle of uniformity by drafting and proposing specific statutes in areas of the law where uniformity between the states is desirable. The ULC can only propose – no uniform law is effective until a state legislature adopts it.

The work of the ULC simplifies the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state. Representing both state government and the legal profession, it is a genuine coalition of state interests. It has sought to bring uniformity to the divergent legal traditions of more than 50 jurisdictions, and has done so with significant success.

In 2019, Alaskans will have the honor of hosting the ULC annual meeting in Anchorage, Alaska. The ULC commissioners look forward to the opportunities this presents to showcase the beauty and strong state spirit that is Alaska.

II. HISTORY OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

In August 1892, the first National Conference of Commissioners on Uniform State Laws (NCCUSL) convened in Saratoga, New York, three days preceding the annual meeting of the American Bar Association. By 1912, every state was participating in the ULC. The District of Alaska joined the conference that year.

In each year of service, the ULC steadily increased its contribution to state law. Since its founding, the ULC has drafted more than 200 uniform laws on numerous subjects and in various fields of law, setting patterns for uniformity across the nation. Uniform Acts include the Uniform Probate Code, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Anatomical Gift Act, the Uniform Interstate Family Support Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and the Uniform Prudent Management of Institutional Funds Act.

Most significant was the 1940 ULC decision to attack major commercial problems with comprehensive legal solutions – a decision that set in motion the project to produce the Uniform Commercial Code (UCC). Working with the American Law Institute, the UCC took ten years to draft and another 14 years before it was enacted across the country. It remains the signature product of the ULC.

Today the ULC is recognized primarily for its work in commercial law, family law, the law of probate and estates, the law of business organizations, health law, and conflicts of law.

III. DIVERSITY STATEMENT

Each member jurisdiction determines the number of uniform law commissioners it appoints to the Uniform Law Commission, the terms of uniform law commissioners and the individuals who are appointed from the legal profession of that jurisdiction. The Uniform Law Commission encourages the appointing authorities to consider, among other factors, diversity of membership in their uniform law commissions, including race, ethnicity and gender in making appointments. The Uniform Law Commission does its best work when the uniform law commissioners are drawn from diverse backgrounds and experiences.

IV. THE OPERATION OF THE ULC

Each member jurisdiction determines the number of uniform law commissioners it appoints to the Uniform Law Commission, the terms of uniform law commissioners, and the individuals who are appointed from the legal profession of that jurisdiction. The Uniform Law Commission encourages the appointing authorities to consider among other factors, diversity of membership in their uniform law commissions, including race, ethnicity and gender in making appointments. There is only one fundamental requirement for the more than 300 uniform law commissioners: that they are members of the bar.

The ULC is convened as a body once a year. It meets for a period of seven days, usually in mid-summer. In the interim, drafting committees composed of commissioners meet to supply the working drafts that are considered at the annual meeting. At each annual meeting, the work of the drafting committees is read and debated. Each Act must be considered over a substantial period of years. No Act becomes officially recognized as a Uniform Act until the ULC is satisfied that it is ready for consideration in the state legislatures. The ULC also is a reliable source of information and assistance to states considering adoption and modification of ULC Uniform and Model Acts.

The ULC maintains relationships with several sister organizations. Official liaison is maintained with the American Bar Association, which contributes an amount each year to the operation of the ULC. Liaison is also maintained with the American Law Institute, the Council of State Governments, and the National Conference of State Legislatures on an ongoing basis. Liaison and activities may be conducted with other associations as interests and activities necessitate.

The ULC benefits Alaskans, since the enactment by Alaska and other states of Uniform and Model Acts aids interstate commerce and expeditious resolution of disputes between parties in different states. Alaska business benefits directly from the ULC work in making interstate transactions and procedures more predictable in nature. Such

uniformity has encouraged adoption in Alaska of 105 Uniform Acts drafted by the ULC and use of ULC Model Acts in drafting Alaska legislation.

V. PROCEDURES

At each annual meeting, the ULC considers, debates, and refines drafts of proposed uniform legislation. Additionally, proposals that Uniform Acts be drafted, received from many sources, are referred to the Committee on Scope and Program that makes an investigation, sometimes hears interested parties or recommends a further study, and reports to the ULC whether the subject is one on which it is desirable and feasible to draft a uniform law.

If the ULC decides to accept a subject, a special committee of commissioners is appointed to prepare a draft of an Act. In the case of the Uniform Commercial Code, representatives of the American Law Institute are appointed to the committee. The American Bar Association is invited to appoint an advisor to each drafting committee. Drafts are not submitted to the ULC until they have received extensive committee consideration.

A draft Act must be discussed and considered section by section by the entire ULC at normally not fewer than two annual meetings before the ULC may decide by a vote of states whether to promulgate the draft as a Uniform Act. Each state is entitled to one vote, and an Act is not promulgated unless a majority of the states represented at an annual meeting and at least 20 jurisdictions have approved the draft.

In addition, each Uniform Act may be submitted for consideration to the American Bar Association. The drafting committees of the ULC establish liaison with the American Bar Association and other interested groups throughout the drafting process.

VI. ANNUAL MEETING

The 2017 annual meeting of the ULC was held July 14 - 20, 2017 in San Diego, California. Summarized below are the Uniform Acts that were approved at the meeting and the proposed Acts that were discussed but which have not yet been approved.

UNIFORM ACTS AND AMENDMENTS TO UNIFORM ACTS APPROVED

1. Uniform Directed Trust Act

The Uniform Directed Trust Act (UDTA) addresses the rise of directed trusts. In a directed trust, a person other than a trustee has a power over some aspect of the trust's administration. Such a person may be called a "trust protector," "trust adviser," or in the

terminology of the UDTA, a “trust director.” The division of authority between a trust director and a trustee raises difficult questions about how to divide fiduciary power and duty. The Uniform Directed Trust Act provides clear, functional rules that allow a settlor to freely structure a directed trust while preserving key fiduciary safeguards for beneficiaries. The UDTA also provides sensible default rules for a variety of matters that might be overlooked in the drafting of a directed trust, including information sharing among trustees and trust directors, the procedures for accepting appointment as a trust director, the distinction between a power of direction and a nonfiduciary power of appointment, and many other matters.

2. Uniform Guardianship Conservatorship and Other Protective Arrangements Act

The Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act is an updated version of the Uniform Guardianship and Protective Proceedings Act, originally promulgated in 1969 as part of the Uniform Probate Code, and revised in 1982 and 1997. This new version is a comprehensive and modern guardianship statute that better protects the individual rights of both minors and adults subject to a guardianship or conservatorship order. The Act promotes person-centered planning to incorporate an individual’s preferences and values into a guardianship order, and requires courts to order the least-restrictive means necessary for protection of persons who are unable to fully care for themselves. The act includes a set of optional forms to help courts implement its provisions effectively.

3. Uniform Parentage Act (2017)

The Uniform Parentage Act (2017) is a revision of the Uniform Parentage Act (UPA) of 2000, which has been adopted in 11 states. The UPA covered several topics, including: the parent-child relationship; voluntary acknowledgments of paternity; registry of paternity; genetic testing; proceedings to adjudicate parentage of children of assisted reproduction. As a result of the Supreme Court decision in *Obergefell v. Hodges*, as well as other developments in the states, a revision to the Act became necessary. The revised Act addresses issues related to same-sex couples, surrogacy, the right of a child to genetic information, de facto parentage, and parentage of children conceived through sexual assault.

4. Uniform Protected Series Act

The Uniform Protected Series Act provides a comprehensive framework for the formation and operation of a protected series limited liability company. A protected series LLC has both “horizontal” liability shields, as well as the standard “vertical” liability shield. All modern business entities provide the traditional, “vertical” shield –

protecting the entity's owners (and their respective assets) from automatic, vicarious liability for the entity's debts. A "series" limited liability company provides "horizontal" shields – protecting each protected series (and its assets) from automatic, vicarious liability for the debts of the company and for the debts of any other protected series of the company. A horizontal shield likewise protects the series limited liability company (and its assets) from creditors of any protected series of the company. The Act integrates into any existing LLC Act, whether it is the Uniform Limited Liability Company Act or not.

5. Uniform Regulation of Virtual Currency Business Act

The Uniform Regulation of Virtual-Currency Businesses Act (URVCBA) creates a statutory framework for regulating virtual currency business activity, which includes businesses engaged in the exchange of virtual currencies for cash, bank deposits, or other virtual currencies; the transfers of virtual currency between customers; and certain custodial or fiduciary services. Under the Act, "virtual currency" is a digital representation of value that is used as a medium of exchange, unit of account, or store of value and is not legal tender. This technology-neutral definition covers as many types of virtual currency as possible. The URVCBA's unique, three-tiered structure clarifies whether an individual or company engaging in virtual currency business activity is (1) exempt from the act; (2) must register; or (3) must obtain a license. The URVCBA also contains numerous consumer protections.

6. Model Veterans Treatment Court Act and Rules

Veterans' courts have been created in many judicial districts around the United States to ensure that veterans in the criminal justice system receive the treatment and support necessary to rehabilitate them into being productive members of society. Very few states have legislation on veterans' courts, but many local judicial districts have effectively created veterans' courts by rule or practice. The Model Veterans Treatment Court Act provides guidelines for the establishment of veterans' courts while permitting substantial local discretion necessary to accommodate circumstances in different communities. Some of the issues that the model act and rules address include: what subset of veterans are entitled to diversion into a veterans' court; for what type of offenses is diversion into a veterans' court appropriate; what rights should victims have to participate in proceedings in veterans' courts; and how, in general, should veterans' courts be organized and operated. The Act provides that participation in the veterans' treatment program requires approval of the prosecutor, but expressly reserves to the court all power regarding punishment including probation, conditions of probation, and consequences of violation of terms of participation in the treatment program. This Act can also be implemented as a set of court rules.

VII. ACTIVITIES OF THE ALASKA COMMISSIONERS

A. The Alaska Commissioners serving during the 2017 annual report period were:

- The Honorable Craig F. Stowers (Chief Justice of Alaska Supreme Court)
- Susan R. Pollard (lawyer, Chief Assistant Attorney General, Legislation and Regulations Section)
- Terry L. Thurbon (lawyer) (resigned November 16, 2017)

B. Current Alaska life members of the National Conference of Commissioners on Uniform State Laws:

- W. Grant Callow (lawyer, private practice)
- Deborah Behr (retired lawyer)
- Arthur H. Peterson (retired lawyer)

C. The Alaska associate member is:

- Douglas D. Gardner (lawyer, Director of Division of Legislative Legal and Research Services)

D. The present ULC committee assignments for Commissioners and Life Members from Alaska are:

- The Honorable Craig Stowers, member of the Drafting Committee for the Nonparental Child Custody and Visitation Act and member of the Scope and Program committee.
- Deborah E. Behr, member of the Committee on Style and Uniform Law Commission History Committee;
- W. Grant Callow, member of the Committee to Review Conference Acts,; member of the committee to draft a ULC act harmonizing the law of Canada and the United States concerning the registration of foreign judgments.
- Terry L. Thurbon, member of the Legislative Committee and Model Veterans Court Act; drafting committee;
- Arthur H. Peterson, member of the Drafting Committee for the Nonparental Child Custody and Visitation Act;

- Susan R Pollard, member of the Technology Committee, Criminal Justice Reform Committee and the drafting committee for amendments to the Revised Uniform Laws on Notarial Acts.

E. Alaska Commissioners and Life Members hold regular telephone conference meetings during the year.

F. Alaska Commissioners and Life Members attending the 2017 Annual ULC conference were:

- Deborah E. Behr
- Arthur H. Peterson
- Susan R. Pollard
- The Honorable Craig Stowers
- Terry Thurbon

G. 2019 Annual meeting, Anchorage

In 2019, the Uniform Law Commission will hold the annual meeting in July in Anchorage. The Alaska delegates look forward to the opportunities this presents to showcase the beauty and strong state spirit of our state.

VIII. RECOMMENDATIONS FOR PASSAGE

The Alaska Uniform Law commissioners and Life Members are recommending passage of the Uniform Environmental Covenants Act (currently pending in the 30th Alaska State Legislature as SB 64).

The Alaska Uniform Law commissioners and Life Members recommend that the Unsworn Foreign Declarations Act (domestic judgments only) be considered by the Alaska Supreme Court for promulgation as a court rule.

Sincerely,



Susan R Pollard
Alaska Uniform Law Delegation

Hon. Pete Kelly and Hon. Bryce Edgmon
Re: Alaska Annual Report on Uniform State Laws

November 29, 2017
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cc (via email): **Anita Ramasastry, President, National Conference of**
 Commissioners on Uniform State Laws
 Legislative Office, Office of the Governor
 Alaska Uniform Law Commissioners and Life Members