

WASHINGTON UNIFORM LAW COMMISSION REPORT TO GOVERNOR
INSLEE AND WASHINGTON STATE LEGISLATURE
January 14, 2019

By Washington Uniform Law Commission

I. PREAMBLE

To the Honorable Jay Inslee and members of the Washington State Legislature. The Washington Commissioners on Uniform State Laws respectfully submit this annual report.

II. 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. It is comprised of state commissions on uniform laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Each jurisdiction determines the method of appointment and the number of commissioners appointed. The statutory authority governing Washington's Uniform Law Commission can be found at chapter 43.56 RCW.

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.

III. HISTORY

On August 24, 1892, representatives from seven states, Delaware, Georgia, Massachusetts, Michigan, New York, New Jersey and Pennsylvania, met in Saratoga Springs, New York, to

form what is now known as the Uniform Law Commission. By 1912, every state was participating in the ULC. The U.S. Virgin Islands was the last jurisdiction to join, appointing its first commission in 1988.

Very early on the ULC became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. In 1901, Woodrow Wilson became a member. This, of course, was before his more notable political prominence and service as President of the United States. Several persons, later to become Justices of the Supreme Court of the United States, have been members: former Justices Brandeis, Rutledge, and Souter, and former Chief Justice Rehnquist. Legal scholars have served in large numbers, including Professors Wigmore, Williston, Pound, and Bogert. Many more distinguished lawyers have served since 1892.

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.

The Uniform Law Commission arose out of the concerns of state government for the improvement of the law and for better interstate relationships. Its sole purpose has been, and remains, service to state government and improvement of state law.

IV. 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.

V. PROCEDURES

The ULC is convened as a body once a year. It meets for a period of six or seven days, usually in July or August. In the interim period between these annual meetings, 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 Uniform Law Commission is satisfied that it is ready for consideration in the state legislatures. It is then put to a vote of the states, during which each state caucuses and votes as a unit.

The governing body is the ULC Executive Committee, and is composed of the officers, certain ex-officio members, and members appointed by the ULC President. Certain activities are conducted by the standing committees. For example, the Committee on Scope and Program considers all new subject areas for possible Uniform Acts. The Legislative Committee superintends the relationships of the ULC to the state legislatures.

A small staff located in Chicago operates the national office of the ULC. The national office handles meeting arrangements, publications, legislative liaison, and general administration for the ULC.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which provides advisors to all ULC drafting committees and many ULC study committees. Liaison is also maintained with the American Law Institute, the Council of State Governments, the National Conference of State Legislatures, the National Association of Secretaries of State, the Conference of Chief Justices, and the National Center for State Courts on an on-going and as-needed basis. Liaison and activities are conducted with other organizations as interests and activities necessitate.

VI. ACTIVITIES OF THE WASHINGTON COMMISSIONERS

A. The Washington Commissioners are:

Marlin J. Appelwick
Kathleen Buchli
Dennis W. Cooper
Jamie Pedersen
Michele Radosevich
Anita Ramasastry

B. The ULC committee assignments for Commissioners from Washington are:

Marlin Appelwick

- Interstate Family Support
- Public Information

Kathleen Buchli

- Healthcare Law
- Spirits, Beer, and Wine

Dennis Cooper

- Parliamentary Practice
- Common Interest Ownership

Jamie Pedersen

- Legislative Committee
- Nonparental Child Custody and Visitation

Michele Radosevich

- Declarations of Quarantine
- Highly Automated Vehicles

Anita Ramasastry

- Academic Partnerships
- Executive Committee
- Foundation Relations
- Notarial Acts
- Prevention of and Remedies for Human Trafficking
- Unclaimed Property
- Uniform Commercial Code

C. Other ULC offices held by Commissioners from Washington are:

Professor Anita Ramasastry is the President of the National Uniform Law Commission. She is also the first commissioner from Washington state to hold this position.

D. Meetings held by the Washington Commissioners in 2018 were:

February 14, 2018 (telephone)
May 9, 2018 (telephone)
July 20-26, 2018 (Louisville, Kentucky)
October 10, 2018 (Seattle, Washington)

E. Commissioners attending the ULC Annual Meeting were:

Marlin J. Appelwick
Kathleen Buchli
Dennis. W. Cooper
Jamie Pedersen
Michele Radosevich
Anita Ramasastry

F. Legislative appearances by the Washington Commissioners in 2018 were led by Senator Jaime Pedersen. Senator Jamie Pedersen directs legislative activities, sponsors, and advocates for the Uniform Acts in Washington state.

G. More information on the Washington Uniform Law Commission can be found at its [web page](#). The Commission's web page includes meeting dates, places, times, and minutes of past meetings.

VII. A SUMMARY OF NEW ACTS

Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act

The Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act addresses an increasingly common form of abuse that causes immediate, and in many cases, irreversible harm. The act creates a cause of action for unauthorized disclosure of private, intimate images. The act also outlines procedures enabling victims to protect their identity in court proceedings. In addition, the act provides various remedies for victims, including actual damages, statutory damages, punitive damages, and attorney's fees.

Uniform Criminal Records Accuracy Act

The Uniform Criminal Records Accuracy Act is designed to improve the accuracy of criminal history records, commonly called a RAP sheet, that are frequently used in determining the eligibility of a person for employment, housing, credit, and licensing, in addition to law enforcement purposes. The Act imposes duties on governmental law enforcement agencies and

courts that collect, store and use criminal history records, to ensure the accuracy of the information contained in the rap sheet. The Act provides individuals the right to see and correct errors in their RAP sheet. Through use of a mistaken identity prevention registry, the Act also provides a mechanism by which an individual whose name is similar to and confused with a person who is the subject of criminal-history-record information, a means to minimize the possibility of a mistaken arrest or denial of housing, employment, credit, or other opportunities.

Uniform Fiduciary Income and Principal Act

The Uniform Fiduciary Income and Principal Act is an updated version of the Uniform Principal and Income Act, which has been adopted in 47 jurisdictions. The Act provides rules for allocating receipts and disbursements between income and principal accounts of a trust in accordance with the fiduciary duty to treat all beneficiaries loyally and impartially, unless the terms of the trust specify otherwise. This revision includes provisions allowing conversion of a traditional trust with income and principal beneficiaries into a total-return unitrust when all beneficiaries consent.

Revised Uniform Law on Notarial Acts (2018)

The Revised Uniform Law on Notarial Acts (2018) is designed to modernize and clarify the law governing notaries public, their responsibilities and duties, and to provide a stable infrastructure for the performance of notarial acts with respect to electronic records. In particular, the revised act recognizes the ascendance of electronic commerce and transactions in the public and private sectors, and brings the law governing electronic notarial acts on par with laws governing other forms of electronic transactions. The act was amended in 2018 to authorize notaries public to perform notarial acts in the state in which they are commissioned for remotely located individuals using audio-visual communication and identity-proofing technology regardless of where the individual may be located.

Uniform Nonparent Custody and Visitation Act (2018)

The Uniform Nonparent Custody and Visitation Act addresses the rights of third parties other than parents to custody of or visitation with a child. Those rights are also affected by the decision of the United States Supreme Court in *Troxel v. Granville*, 530 U.S. 57 (2000), which held that courts must give deference to decisions of fit parents concerning the raising of children, including concerning grandparents' visitation rights. The Act recognizes a right to seek custody or visitation for two categories of individuals: (1) nonparents who have served as consistent caretakers of a child without expectation of compensation, and (2) other nonparents who have a substantial relationship with a child and who demonstrate that denial of custody or visitation would result in harm to the child.

Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act (2018)

The Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act (the "Supplemental Act") is a follow-up to the Uniform Regulation of Virtual-Currency Businesses Act ("URVCBA"). The URVCBA establishes a regulatory framework for virtual-currency businesses to operate either by license or registration in a state and creates safeguards to protect consumers. As a regulatory act, the URVCBA provides numerous robust user protections based on commercial law principles but does not directly address the

commercial law rules for transactions and relationships between virtual-currency businesses and consumers. This Supplemental Act provides the commercial law rules using the time-tested duties and rights of customers of securities intermediaries under the Uniform Commercial Code. The Supplemental Act does this by incorporating Article 8 of the Uniform Commercial Code into the agreement made between a virtual-currency licensee or registrant and users.

VIII. RECOMMENDATIONS FOR ENACTMENT

Acts recommended by the commissioners for discussion during the 2019 Legislative session include acts introduced but not passed during the 2018 session:

- Limited Cooperative Associations (SB 5002);
- Unsworn Declarations (SB 5017);
- Unclaimed Property.

New acts recommended by the commission for discussion during the 2019 Legislative session include:

- Faithful Presidential Electors Act;
- Guardianship, Conservatorship, and Other Protective Arrangements Act;
- Recognition and Enforcement of Canadian Domestic Violence Protection Orders;
- Directed Trust Act;
- Fiduciary Income and Principal Act.

IX. ENACTMENT RECORD TO DATE

Number of Uniform and Model Acts Enacted in Each State (As of November 1, 2018)

ALABAMA - 107	NEBRASKA - 116
ALASKA - 106	NEVADA - 147
ARIZONA - 117	NEW HAMPSHIRE - 97
ARKANSAS - 122	NEW JERSEY - 92
CALIFORNIA - 105	NEW MEXICO - 155
COLORADO - 129	NEW YORK - 78
CONNECTICUT - 112	NORTH CAROLINA - 103
DELAWARE - 103	NORTH DAKOTA - 174
DISTRICT OF COLUMBIA - 109	OHIO - 88
FLORIDA - 88	OKLAHOMA - 135
GEORGIA - 81	OREGON - 122
HAWAII - 141	PENNSYLVANIA - 116

IDAHO - 138
 ILLINOIS - 118
 INDIANA - 106
 IOWA - 106
 KANSAS - 117
 KENTUCKY - 99
 LOUISIANA - 87
 MAINE - 112
 MARYLAND - 120
 MASSACHUSETTS - 93
 MICHIGAN - 120
 MINNESOTA - 145
 MISSISSIPPI - 88
 MISSOURI - 84
 MONTANA - 152

PUERTO RICO - 30
 RHODE ISLAND - 104
 SOUTH CAROLINA - 89
 SOUTH DAKOTA - 130
 TENNESSEE - 105
 TEXAS - 97
 US VIRGIN ISLANDS - 86
 UTAH - 143
 VERMONT - 100
 VIRGINIA - 111
 WASHINGTON - 139
 WEST VIRGINIA - 108
 WISCONSIN - 142
 WYOMING - 103

X. UNIFORM LAW COMMISSION DUES

State Dues – Fiscal Year 2019
 Totals \$2,937,350

State	Amount to be Billed	State	Amount to be Billed
Alabama	60,600	Nebraska	36,200
Alaska	35,250	Nevada	36,200
Arizona	58,600	New Hampshire	36,200
Arkansas	36,200	New Jersey	60,600
California	170,250	New Mexico	36,200
Colorado	60,600	New York	170,250
Connecticut	36,200	North Carolina	60,600
Delaware	36,200	North Dakota	36,200
Dist. of Col.	35,350	Ohio	84,950
Florida	121,400	Oklahoma	36,200
Georgia	60,600	Oregon	36,200
Hawaii	36,200	Pennsylvania	84,950
Idaho	36,200	Puerto Rico	30,000
Illinois	84,950	Rhode Island	36,200
Indiana	60,600	South Carolina	60,600
Iowa	36,200	South Dakota	36,200
Kansas	36,200	Tennessee	60,600
Kentucky	60,600	Texas	121,400
Louisiana	60,600	US Virgin Islands	19,400
Maine	36,200	Utah	36,200

Maryland	60,600	Vermont	35,250
Massachusetts	60,600	Virginia	60,600
Michigan	60,600	Washington	60,600
Minnesota	60,600	West Virginia	36,200
Mississippi	36,200	Wisconsin	60,600
Missouri	60,600	Wyoming	34,350
Montana	36,200		