

**WASHINGTON UNIFORM LAW COMMISSION
REPORT TO GOVERNOR INSLEE AND
WASHINGTON STATE LEGISLATURE
January 7, 2021**

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 composed 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 qualification required of 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 300 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 convenes 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 activities for Commissioners from Washington are:

Kathleen Buchli

- Health Care Decisions Act Study Committee, Observer

Dennis Cooper

- Parliamentary Practice Committee, Chair

Jamie Pedersen

- Executive Committee

Michele Radosevich

- Telehealth Committee, Chair
- Automated Operation of Vehicles Act

Anita Ramasastry

- Supply Chain Transparency Committee, Chair
- Uniform Commercial Code and Emerging Technologies Committee
- International Legal Developments Committee
- President of the ULC (2017-19)
- Executive Committee

C. Meetings held by the Washington Commissioners in the year 2019 were:

February 12, 2020 (telephone)

May 20, 2020 (telephone)

November 12, 2020 (Zoom video conference)

- D. The Uniform Law Commission 2020 Annual meeting began on July 10, 2020 and was held via videoconference. Commissioners attending the online conference were:

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

For a listing of Acts approved during the 2020 annual meeting, please see part VII.

- E. Legislative appearances by the Washington Commissioners in 2020 were led by Senator Jamie Pedersen. Senator Pedersen directs legislative activities, sponsors, and advocates for the Uniform Acts in Washington state.
- F. More information on the Washington Uniform Law Commission can be found at its [webpage](#). The Commission's webpage includes meeting dates, places, times, and minutes of past meetings.

VII. A SUMMARY OF NEW ACTS (approved during the ULC 2020 annual meeting)

Uniform Easement Relocation Act

In many, but not all, states, the owner of the burdened property and the holder of an easement must consent to relocate the easement, such as the legal right to use a driveway that runs from a public road across one property to access another. When the owner of the burdened property asks to relocate an easement to allow further development, an easement holder in a state that follows the mutual consent rule can withhold consent to prevent the development or demand a ransom payment before agreeing to the change. The Uniform Easement Relocation Act allows the burdened estate owner to obtain a court order to relocate an easement if the relocation does not materially impair the utility of the easement to the easement holder or the physical condition, use, or value of the benefited property. The burdened property owner must file a civil action, give other potentially affected real-property interest owners notice, and bear all the costs of relocation. These conditions build on the rule contained in the Restatement (Third) of Property: Servitudes, whose approach to easement relocation has been fully or partially adopted in a number of states. The Uniform Easement Relocation Act excludes conservation easements and public-utility easements from its scope and contains a number of additional safeguards, not found in the Restatement, to protect the easement holder's interest in the use and enjoyment of the easement during and after the relocation.

Uniform Pretrial Release and Detention Act

The Uniform Pretrial Release and Detention Act responds to the need for a comprehensive and balanced statute to guide courts in making pretrial release and detention decisions for the

millions of people charged with crimes each year in state court. The Act provides a comprehensive procedural framework for release and detention determinations. Provisions of the Act address many issues, including: (1) the use of citations in lieu of arrest for minor offenses; (2) a time limit on when a hearing must be conducted for an individual who is arrested; (3) appointment of counsel; (4) a pretrial risk determination by a court to individualize release or detention; (5) review of a defendant's financial condition so that inability to pay a fee does not lead to detention; and (6) an obligation on the court to consider restrictive conditional release as an alternative to detention.

Uniform Public Expression Protection Act

The purpose of the Uniform Public Expression Protection Act is to provide a remedy for defendants involved in lawsuits called "Strategic Lawsuits Against Public Participation," or "SLAPPs." SLAPPs are abusive civil lawsuits that may be brought against individuals, entities, or government officials. The topics of these lawsuits range from education and zoning to politics and the environment. Though the claim of the lawsuit may be defamation, tortious interference with business expectations, invasion of privacy, or something else, the real goal of a SLAPP lawsuit is to entangle the defendant in expensive litigation that stifles the defendant's ability to engage in constitutionally protected activities. The Uniform Public Expression Protection Act creates a clear process through which SLAPPs can be challenged and their merits fairly evaluated in an expedited manner. The Act protects individuals' rights to petition and speak freely on issues of public interest while, at the same time, protecting the rights of people and entities to file meritorious lawsuits for real injuries.

VIII. RECOMMENDATIONS FOR ENACTMENT 2021

The Washington Commissioners have recommended that these Uniform Acts be considered in the 2021 legislative session:

- Public Expression Protection Act
- Electronic Wills Act
- Fiduciary Income and Principal Act
- Powers of Appointment Act
- Pretrial Release and Detention Act

IX. ENACTMENT RECORD

The Washington Legislature enacted the following Acts during the 2020 Legislative Session:

- Directed Trust Act, [Chapter 303, Laws of 2020](#)
- Electronic Transactions Act, [Chapter 57, Laws of 2020](#)
- Revised Uniform Athlete Agents Act, [Chapter 157, Laws of 2020](#)

According to the records of the ULC, Washington state has enacted 148 Uniform and Model Acts.

X. UNIFORM LAW COMMISSION DUES

The ULC receives the major portion of its financial support from population-based state appropriations. Every jurisdiction is also asked to fund its commissioners' participation at the ULC's Annual Meeting, where acts are debated, amended, and voted upon for approval.

Fiscal Year 2020-2021 State Dues

Alabama	63,600	Nevada	37,950
Alaska	37,950	New Hampshire	37,950
Arizona	63,600	New Jersey	63,600
Arkansas	37,950	New Mexico	37,950
California	178,850	New York	178,850
Colorado	63,600	North Carolina	63,600
Connecticut	37,950	North Dakota	37,950
Delaware	37,950	Ohio	89,250
Dist. of Col.	37,950	Oklahoma	37,950
Florida	127,500	Oregon	37,950
Georgia	63,600	Pennsylvania	89,250
Hawaii	37,950	Puerto Rico	31,200
Idaho	37,950	Rhode Island	37,950
Illinois	89,250	South Carolina	63,600
Indiana	63,600	South Dakota	37,950
Iowa	37,950	Tennessee	63,600
Kansas	37,950	Texas	127,500
Kentucky	63,600	US Virgin Island	20,300
Louisiana	63,600	Utah	37,950
Maine	37,950	Vermont	37,950
Maryland	63,600	Virginia	63,600
Massachusetts	63,600	Washington	63,600
Michigan	63,600	West Virginia	37,950
Minnesota	63,600	Wisconsin	63,600
Mississippi	37,950	Wyoming	37,850
Missouri	63,600		
Montana	37,950		
Nebraska	37,950		