

**REPORT
OF THE ILLINOIS DELEGATION TO
THE NATIONAL CONFERENCE
OF COMMISSIONERS
ON UNIFORM STATE LAWS**



DECEMBER 2020



State of Illinois
LEGISLATIVE REFERENCE BUREAU
112 State House, Springfield, Illinois 62706-1300
Phone: 217/782-6625

December 22, 2020

The Honorable J.B. Pritzker
Governor
207 State House
Springfield, Illinois 62706

Dear Governor Pritzker:

On behalf of the Illinois delegation to the National Conference of Commissioners on Uniform State Laws, I submit the enclosed annual report for 2020.

Respectfully,

James W. Dodge
Executive Director

Enclosure

Copy to:

President of the Senate
Senate Minority Leader
Secretary of the Senate
COGFA Research Unit
Members of the Legislative Reference
Bureau Board
Illinois Commissioners on Uniform
State Laws

Speaker of the House
House Minority Leader
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**STATE OF ILLINOIS
REPORT OF THE ILLINOIS DELEGATION TO
THE NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS (NCCUSL)
December 2020**

PREAMBLE

To the Honorable J.B. Pritzker, Governor, and members of the One Hundred First General Assembly. The Legislative Reference Bureau, on behalf of the Illinois Commissioners on Uniform State Laws, respectfully submits this annual report.

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.

There is only one fundamental requirement for the more than 500 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 ULC.

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 may only propose uniform laws—no uniform law is effective in a state until the 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, the ULC is a genuine coalition of state interests. It has sought to bring uniformity to the divergent legal traditions of more than 50 sovereign jurisdictions and has done so with significant success.

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 commissioners 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, though their names are not as well known in legal affairs and the affairs of the U.S.

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, and the Uniform Child Custody Jurisdiction and Enforcement 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 complete 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 ULC 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.

DIVERSITY STATEMENT

Each member jurisdiction determines the number of Commissioners it appoints to the Uniform Laws Commission, the terms of Commissioners, and the individuals who are appointed from the legal profession of that jurisdiction. The Uniform Law Commission has no appointing authority. The ULC, however, does encourage the appointing authorities to consider, among other factors, diversity of membership in their Commissioners, including race, ethnicity, and gender in making appointments. The Commission does its best work when the Commissioners are drawn from diverse backgrounds and experiences.

PROCEDURES

The Uniform Laws Commission is convened as a body once a year. It typically meets for a period of eight days, usually in late July or early August. As a consequence of the pandemic, the meetings were conducted online over a period of three weeks in 2020. 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 ULC 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, which 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 arrangement, publication, legislative liaison, and general administrative services for the ULC.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which contributes a small 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 on-going and as-needed basis. Liaison and activities may be conducted with other associations as interests and activities necessitate.

ILLINOIS STATUTORY AND OTHER AUTHORITY

Support of the uniformity of legislation is included as a function of the Legislative Reference Bureau. The law (*infra.*) provides for a delegation to the ULC consisting of 5 members appointed by the Governor, 4 members appointed one each by the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate, and the Executive Director of the Legislative Reference Bureau. In addition, Section 2.4 of the Constitution of the ULC provides for the election of life members. Commissioners who, for example, have served for at least 20 years may become life members and continue to serve even if not appointed. Section 2.5 of that Constitution requires that each Commissioner be a member of the Bar.

ILLINOIS LAW GOVERNING PARTICIPATION IN THE COMMISSION

Section 5.07 of the Legislative Reference Bureau Act:

(25 ILCS 135/5.07) (from Ch. 63, par. 29.7)

Sec. 5.07. Uniform State Laws. The Legislative Reference Bureau shall examine all subjects on which uniformity is desirable with the laws of other states to ascertain the best means to effect uniformity in the laws of the States. The Legislative Reference Bureau shall supervise the participation of the State of Illinois in the National Conference of Commissioners on Uniform State Laws. To represent the State of Illinois on the National Conference of Commissioners on Uniform State Laws, there shall be 9 persons: 5 persons appointed by the Governor and one each by the President of the Senate, the Senate Minority Leader, the Speaker of the House, and the House Minority Leader, who shall hold office for the term of 4 years, respectively, and until their successors are appointed, and the Executive Director of the Legislative Reference Bureau, who shall be an ex-officio member of the National Conference. The Legislative Reference Bureau shall report to the Governor by December 31 of each year, and the Governor shall submit the report to the General Assembly with his or her recommendations, if any, in reference to the report. The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act and paragraph (t) of Section 7 of the State Library Act. (Source: P.A. 87-918.)

ILLINOIS COMMISSIONERS (year appointed, appointed by)

Harry D. Leinenweber (1976, life member)
 Howard J. Swibel (1976, Senate Democratic Leader—life member)
 Thomas J. McCracken, Jr. (1989, Senate Republican Leader)
 Steven G. Frost (2002, Governor)
 J. Samuel Tenenbaum (2004, House Republican Leader)
 James W. Dodge (2011, Legislative Reference Bureau)
 Susan Snyder (2015, Governor)
 William J. Quinlan (2016, Governor)
 Quinn Shean (2018, Governor)

Note that the House Democratic Leader's appointment is vacant, due to the death of Michael B. Getty on 23 November 2020. Judge Getty was first appointed to the Commission in 1977 and became a life member in 1997.

ORGANIZATION AND MEETINGS OF THE ILLINOIS DELEGATION

Due to the pandemic, the Illinois Delegation met in 2020 via Zoom, as a part of the first entirely online National Conference. Howard J. Swibel is Chair of the Delegation, and James W. Dodge is Secretary. The National Conference in 2021 will be held in Madison, Wisconsin.

UNIFORM AND MODEL ACTS ENACTED IN ILLINOIS

As of this writing, the National Conference of Commissioners on Uniform State Laws reports that 121 Uniform and Model Acts have been enacted by the State of Illinois.

FINANCIAL INFORMATION

The expenses of the participation by this State in NCCUSL consist of 2 components. One is the State's allocated contribution to the National Conference of Commissioners on Uniform State Laws, and the other is the expense of attendance at the annual meeting of the conference by the Illinois Commissioners. The combined contribution amount allocated by the NCCUSL to the State of Illinois for Fiscal Year 2021 is \$89,250.

SHORT SUMMARIES OF ULC-APPROVED UNIFORM ACTS AND AMENDMENTS

Note: these summaries indicate Uniform Acts and amendments to Uniform Acts approved for presentation to the States by the Uniform Laws Commission at its annual National Conference for the current year and the preceding years indicated. Information on the enactment of Uniform Acts by the State of Illinois during the 2020 calendar year appears after these summaries as “Illinois Legislative Activity in 2020.”

Complete texts and detailed summaries of listed Acts are available at: www.uniformlaws.org

2020 ACTS AND AMENDMENTS

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.

2019 ACTS AND AMENDMENTS

Uniform Automated Operation of Vehicles Act

The Uniform Automated Operation of Vehicles Act regulates important aspects of the operation of automated vehicles. This act covers the deployment of automated vehicles on roads held open to the public by reconciling automated driving with a typical state motor vehicle code. Many of the act's sections – including definitions, driver licensing, vehicle registration, equipment, and rules of the road – correspond to, refer to, and can be incorporated into existing sections of a typical vehicle code. This act also introduces the concept of automated driving providers (ADPs) as a legal entity that must declare itself to the state and designate the automated vehicles for which it will act as the legal driver when the vehicle is in automated operation. The ADP might be an automated driving system developer, a vehicle manufacturer, a fleet operator, or another kind of market participant that has yet to emerge. Only an automated vehicle that is associated with an ADP may be registered. In this way, the Automated Operation of Vehicles Act uses the motor vehicle registration framework that already exists in states – and that applies to both conventional and automated vehicles – to incentivize self-identification by ADPs. By harnessing an existing framework, the act also seeks to respect and empower state motor vehicle agencies.

Uniform Electronic Wills Act

The Uniform Electronic Wills Act permits testators to execute an electronic will and allows probate courts to give electronic wills legal effect. Most documents that were traditionally printed on paper can now be created, transferred, signed, and recorded in electronic form. Since 2000 the Uniform Electronic Transactions Act (UETA) and a similar federal law, E-SIGN have provided that a transaction is not invalid solely because the terms of the contract are in an electronic format. But UETA and E-SIGN both contain an express exception for wills, which, because the testator is deceased at the time the document must be interpreted, are subject to special execution requirements to ensure validity and must still be executed on paper in most states. Under the new Electronic Wills Act, the testator's electronic signature must be witnessed contemporaneously (or notarized contemporaneously in states that allow notarized wills) and the document must be stored in a tamper-evident file. States will have the option to include language that allows remote witnessing. The act will also address recognition of electronic wills executed under the law of another state. For a generation that is used to banking, communicating, and transacting business online, the Uniform Electronic Wills Act will allow online estate planning while maintaining safeguards to help prevent fraud and coercion.

Uniform Registration of Canadian Money Judgments Act

The Uniform Registration of Canadian Money Judgments Act ("Registration Act") creates an administrative procedure for the registration and enforcement of a Canadian money judgments in an enacting state. Once the Canadian judgment is successfully registered in the state, the judgment is enforceable in the same manner as a judgment rendered in that state. The Registration Act only applies to a Canadian judgment if it (1) grants or denies recovery of a sum of money; (2) is final,

conclusive, and enforceable in Canada; and (3) its recognition is sought in order to enforce the judgment. The Registration Act supplements the Uniform Foreign Country Money Judgments Recognition Act (“Recognition Act”) by providing an alternative method to seeking recognition and enforcement of a foreign judgment. If a state has not enacted the Recognition Act, it may enact this Act at the same time it adopts the Recognition Act as a companion Act. The Registration Act offers an efficient alternative to filing a lawsuit to recognize and enforce a Canadian money judgment in the United States.

Uniform Athlete Agents Act Amendment

The Revised Uniform Athlete Agents Act (RUAAA) updates the 2000 version of the act for the ever-evolving sports commercial marketplace and the increasing activity between athlete agents and student athletes. The RUAAA protects the interests of student athletes, academic institutions, and athlete agents by regulating the activities of athlete agents. The 2015 revision updates the definition of “athlete agent;” requires reciprocal agent licensing; creates a central licensing process; enhances notice requirements to educational institutions; and revised administrative remedies arising from damages resulting from improper athlete agent conduct. An Amendment to the Uniform Athlete Agents Act, approved in 2019, applies to changes that the NCAA made to its bylaws in August of 2018 to provide student athletes playing basketball with more freedom and flexibility to explore the possibility of going professional while retaining their college eligibility. Under the new NCAA bylaws, certified sports agents can cover limited expenses of prospective or enrolled college basketball players and their family for meals, hotel and travel in connection with the agent selection process. Because the NCAA bylaw changes were in conflict with the Athlete Agents Acts, the NCAA asked the ULC to amend the two Uniform Athlete Agents Acts so they will not conflict with the bylaw changes. The Section 14 Amendment was drafted to clear up the conflict; it was also drafted so that it applies beyond the current bylaws to ensure that the ULC will not have to go to state legislatures every time the NCAA broadens its bylaws. The amendment does, however, set forth appropriate safeguards so that it only applies if the NCAA makes further changes.

Uniform Probate Code Amendments

The promulgation of the Uniform Parentage Act (2017) has necessitated amendments to the Uniform Probate Code’s intestacy and class-gift provisions. The 2019 Amendments to the Uniform Probate Code provide a more consistent formula for determining intestate shares within blended families, remove outdated terminology, and incorporate the concept of de facto parentage. The intestacy formulae will also account for the possibility that a child may have more than two parents, and therefore more than two sets of grandparents.

2018 ACTS AND AMENDMENTS

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.

Commissioner Dodge served as a member of the Drafting Committee for the Uniform Fiduciary Income and Principal Act.

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.

2017 ACTS AND AMENDMENTS

Uniform Regulation of Virtual Currency Businesses Act

The Uniform Regulation of Virtual Currency Businesses Act 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. The act includes provisions on licensing requirements; reciprocity; consumer protection; cybersecurity; anti-money laundering; and supervision of licensees.

Uniform Directed Trust Act

An increasingly common practice in contemporary estate planning and asset management is the naming of a trustee that is given custody of the trust property, but with one or more of the investment, distribution or administration functions of the trusteeship being given to a person or persons who are not formally designated as trustees. This is the problem of *divided trusteeship*. Much uncertainty exists about the fiduciary status of non-trustees who have control or potential control over a function of trusteeship and about the fiduciary responsibility of trustees with regard to actions taken by such non-trustees. The Uniform Directed Trust Act addresses the division of a trustee’s traditional responsibilities among several specialists. The Act clarifies the duties and responsibilities of both directed trustees and those who have the power to direct them.

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 modern guardianship statute that better protects the individual rights of both minors and adults subject to a guardianship or conservatorship order. The act encourages courts to use the least-restrictive means possible and includes a set of optional forms to help courts implement its provisions effectively.

Uniform Parentage Act (2017)

The Uniform Parentage Act (2017) is a revision of the Uniform Parentage Act (UPA) of 2000, which had 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.

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. About 15 jurisdictions have some kind of series statute, but they vary widely. The Act integrates into any existing LLC Act, whether it is the Uniform Limited Liability Company Act or not.

Model Veterans Treatment Court Act

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. 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.

2016 ACTS AND AMENDMENTS

Uniform Employee and Student Online Privacy Protection Act

Today, most individuals have online accounts of some type. These include social media accounts, bank accounts, and email accounts, among others. Generally, when someone asks for access to the login information for, or content of, a personal online account, an individual is free to say no. But that is less true in the employment and educational contexts. Indeed, employers and educational institutions now sometimes ask current and/or prospective employees and students to grant the employer or school access to social media or other name and password protected accounts. The Uniform Employee and Student Online Privacy Protection Act addresses both employers’ access to employees or prospective employees’ social media and other online accounts accessed via username and password or other credentials of authentication as well as educational institutions’ access to students’ or prospective students’ similar online accounts.

Uniform Family Law Arbitration Act

States’ laws vary when it comes to arbitrating family law matters such as spousal support, division of property, child custody, and child support. The Uniform Family Law Arbitration Act standardizes the arbitration of family law. It is based in part on the Revised Uniform Arbitration Act, though it departs from the RUAA in areas in which family law arbitration differs from

commercial arbitration, such as: standards for arbitration of child custody and child support; arbitrator qualifications and powers; protections for victims of domestic violence. This Act is intended to create a comprehensive family law arbitration system for the states. It is an overlay statute meant to work together with the state's existing choice-of-law rules and contractual arbitration law.

Revised Uniform Unclaimed Property Act

The ULC first drafted uniform state legislation on unclaimed property in 1954. Since then, revisions have been promulgated in 1981 and again in 1995. Many technological developments in recent years as well as new types of potential unclaimed property, such as gift cards, are not addressed in the most current uniform act. The Revised Uniform Unclaimed Property Act updates provisions on numerous issues, including escheat of gift cards and other stored-value cards, life insurance benefits, securities, dormancy periods, and use of contract auditors. The Revised Act provides a comprehensive and extensive set of revisions, including provisions related to: when property is presumed abandoned; which state has custody of property; the recovery of unclaimed property from states by owners; the powers and responsibilities granted to state unclaimed property administrators; and the rights of holders to seek administrative and judicial review of examinations conducted by administrators.

Uniform Unsworn Domestic Declarations Act

The Uniform Unsworn Domestic Declarations Act builds upon the Uniform Unsworn Foreign Declarations Act, which covers unsworn declarations made *outside* the United States. This new Uniform Act permits the use of unsworn declarations made under penalty of perjury in state courts when the declaration was made *inside* the U.S. States that have already enacted the Uniform Unsworn Foreign Declarations Act (UUFDA) should enact this act.

Uniform Unsworn Declarations Act

The Uniform Unsworn Declarations Act builds upon the Uniform Unsworn Foreign Declarations Act (UUFDA), which covers unsworn declarations made outside the boundaries of the United States, and the Uniform Domestic Declarations Act (UDDA), which covers unsworn declarations made inside the U.S.

States that have not enacted the Uniform Unsworn Foreign Declarations Act should enact this Act, which essentially combines both the UUFDA and the UDDA into one comprehensive Act.

Uniform Wage Garnishment Act

Currently, every state has a different wage garnishment law and process. This means that employers who do business across multiple states must know and abide by a different, and often complex, law for each jurisdiction. If employers make processing errors calculating garnishments, they may face civil penalties. The Uniform Wage Garnishment Act seeks to simplify and clarify wage garnishments for employers, creditors, and consumers by standardizing how the wage garnishment process works and offering plain-language notice and garnishment calculation forms. The UWGA creates a standard system for wage garnishments that is largely removed from the courts, operates efficiently thereby reducing costs, and provides employees with plain-language notification of their rights and obligations as well as providing them with other protections. The UWGA applies only to what is sometimes called a "debt garnishment," meaning a garnishment by a creditor with a money judgment.

Amendment to Revised Uniform Law on Notarial Acts (2016)

The Amendment to the Revised Uniform Law on Notarial Acts authorizes notaries public to perform notarial acts in the state in which they are commissioned for individuals who are located outside the United States. The amendment is optional for the states. The amendment requires the use of audio- and video-technologies for real-time communication, and requires the notary to record the interaction. It authorizes the commissioning agency to regulate the technologies used. The act of the individual in making the statement or signing the record must not be prohibited in the foreign state in which the individual is physically located. The certificate affixed by the notary to the record must indicate that the notarial act took place while the individual was located in a foreign country.

2015 ACTS AND AMENDMENTS

The Revised Uniform Athlete Agents Act (2015)

The Revised Uniform Athlete Agents Act (2015) is an update of the Uniform Athlete Agents Act of 2000, which has been enacted in 42 states. The 2000 Act governs relations among student athletes, athlete agents, and educational institutions, protecting the interests of student athletes and academic institutions by regulating the activities of athlete agents. The Revised Act makes numerous changes to the original act, including expanding the definition of “athlete agent” and “student athlete;” providing for reciprocal registration between states; adding new requirements to the signing of an agency contract; and expanding notification requirements.

The Uniform Commercial Real Estate Receivership Act

Receivership is an equitable remedy allowing a court to oversee the orderly management and disposition of property subject to a lawsuit. Although the remedy is not new, there is no standard set of receivership rules and the courts of different states have applied widely varying standards. This Uniform Commercial Real Estate Receivership Act applies to receiverships involving commercial real estate, and provides a standard set of rules for courts to apply. It will result in greater predictability for litigants, lenders, and other parties doing business with a company subject to receivership.

The Revised Uniform Fiduciary Access to Digital Assets Act (2015)

A fiduciary is a person appointed to manage the property of another person, subject to strict duties to act in the other person’s best interest. Common types of fiduciaries include executors of a decedent’s estate, trustees, conservators, and agents under a power of attorney. The Revised Uniform Fiduciary Access to Digital Assets Act (2015) is an update of the 2014 Uniform Fiduciary Access to Digital Assets Act, and extends the traditional power of a fiduciary to manage tangible property to include management of a person’s digital assets. The Act allows fiduciaries to manage digital property like computer files, web domains, and virtual currency, in the same manner as more traditional forms of property, but restricts a fiduciary’s access to electronic communications such as email, text messages, and social media accounts unless the original user consented in a will, trust, power of attorney, or other record.

The Uniform Home Foreclosure Procedures Act

The recent wave of residential foreclosure actions revealed flaws in the foreclosure system, particularly in states where court systems were overwhelmed. The Uniform Home Foreclosure Procedures Act provides a balanced set of rules and procedures to standardize and streamline the foreclosure process. The Act protects homeowners by requiring adequate notice and documentation before a foreclosure action can proceed. The Act protects lenders by precluding contrary municipal ordinances and expediting foreclosure of abandoned properties. Finally, the Act includes rules for pre-foreclosure resolutions and negotiated transfers to encourage non-judicial solutions.

The Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act

The Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act provides for the enforcement of domestic violence protection orders issued by Canadian courts. Reflecting the friendship between the United States and Canada, citizens move freely between the two countries, freedom that in certain limited circumstances can work against victims of domestic violence. Canada has granted recognition to protection orders of the United States and other countries in the Uniform Enforcement of Canadian Judgments and Decrees Act. By this Act, enacting states accord similar recognition to protection orders from Canada.

The Revised Uniform Residential Landlord and Tenant Act (2015)

The Revised Uniform Residential Landlord and Tenant Act is an updated version of the Uniform Residential Landlord and Tenant Act, which was first promulgated in 1972 and last amended in 1974. The purpose of the original Act was to eliminate all elements of outmoded common law from the landlord-tenant relationship and base all phases of the rental agreement on contract law. The Revised Act includes new articles covering the disposition of tenant property, lease termination in case of domestic violence or sexual assault, and security deposits. The Revised Act also includes an appendix for states that only want to enact the updated provisions.

The Uniform Trust Decanting Act

“Decanting” is the term used to describe the distribution of assets from one trust into a second trust, like wine is decanted from the bottle to another vessel. Decanting can be a useful strategy for changing the outdated terms of an otherwise irrevocable trust, but can also be abused to defeat the intent of the settlor (the creator of the trust). The Uniform Trust Decanting Act allows a trustee to reform an irrevocable trust document within reasonable limits that ensure the trust will achieve the settlor’s original intent. The Act prevents decanting when it would defeat a charitable or tax-related purpose of the settlor.

2014 ACTS AND AMENDMENTS

The Uniform Fiduciary Access to Digital Assets Act

The Uniform Fiduciary Access to Digital Assets Act is an important update for the Internet age. A generation ago, files were stored in cabinets, photos were stored in albums, and mail was delivered by a human being. Today, we are more likely to use the Internet to communicate and store our information. This act ensures account-holders retain control of their digital property and can plan for its ultimate disposition after their death. Unless the account-holder instructs otherwise, legally appointed fiduciaries will have the same access to digital assets as they have always had to tangible assets, and the same duty to comply with the account-holder’s instructions.

The Uniform Recognition of Substitute Decision-Making Documents Act

The Uniform Recognition of Substitute Decision-Making Documents Act is a joint endeavor of the Uniform Law Commission and the Uniform Law Conference of Canada. The project was undertaken to promote the portability and usefulness of substitute decision-making documents for property, health care, and personal care, without regard to whether the documents are created within or outside of the jurisdiction where a substitute decision is needed. Common examples of substitute decision-making documents include powers of attorney and proxy delegations for personal decision making.

2014 Amendments to the Uniform Voidable Transactions Act

The Uniform Voidable Transactions Act, formerly named the Uniform Fraudulent Transfer Act, strengthens creditor protections by providing remedies for certain transactions by a debtor that are unfair to the debtor's creditors. The 2014 amendments to the Uniform Voidable Transactions Act address a small number of narrowly-defined issues, and are not a comprehensive revision of the act.

2014 Amendments to the Uniform Common Interest Ownership Act

The 2014 amendments to Section 3-116 of the Uniform Common Interest Ownership Act are narrowly focused, and concern only the six-month "limited priority" lien for unpaid common expense assessments owed to community associations.

2013 ACTS AND AMENDMENTS

The Uniform Act on Prevention of and Remedies for Human Trafficking

The 2013 Uniform Act on Prevention of and Remedies for Human Trafficking is a comprehensive new law directed against human trafficking. The federal Trafficking Victims Protection Act of 2000 identifies two primary forms of human trafficking: sex trafficking and labor trafficking. The Uniform Act provides the three components necessary for ending human trafficking: comprehensive criminal provisions; provisions for victim services; and the establishment of a coordinating body to help government and non-government organizations coordinate their human trafficking activities. A comprehensive uniform act will enable federal, state, and local agencies to better identify victims, provide needed services, and facilitate prosecution.

The Uniform Powers of Appointment Act

The objective of the 2013 Uniform Powers of Appointment Act is to codify the law of powers of appointment. A power of appointment is the authority, acting in a non-fiduciary capacity, to designate recipients of beneficial ownership interests in, or powers of appointment over, the appointive property. An owner, of course, has this authority with respect to the owner's property. By creating a power of appointment, the owner typically confers this authority on someone else. The power of appointment is a staple of modern estate-planning practice.

The Harmonization of Business Entity Acts

The objective of the 2013 Harmonization of Business Entity Acts is to harmonize, to the extent possible, the language in the ULC's business entity acts (including the Model Entity Transactions Act, Uniform Partnership Act, Uniform Limited Partnership Act, Uniform Limited Liability Company Act, Uniform Statutory Trust Entity Act, Uniform Limited Cooperative Associations Act, Uniform Unincorporated Nonprofit Association Act, and the Model Registered Agents Act) so that the language in the provisions that are common in one or more of the acts are identical. Amendments to the various Business Entity Acts include some technical corrections which need to be made since the Harmonization of Business Entity Acts' initial promulgation in 2011.

2013 Amendments to the Uniform Child Custody Jurisdiction and Enforcement Act Pertaining to International Proceedings

The 2013 Amendments to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Pertaining to International Proceedings were drafted as part of the effort to implement the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children. Although the ULC approved the Amendments to the UCCJEA Pertaining to International Proceedings at its annual meeting in 2013, because federal implementing legislation has not yet been drafted, the ULC does not intend to present the Amendments for state enactment at this time.

2012 ACTS AND AMENDMENTS

The Uniform Asset Freezing Orders Act

The 2012 Uniform Asset Freezing Orders Act creates a uniform process for the issuance of asset freezing orders, which are *in personam* orders freezing the assets of a defendant, and imposing collateral restraint on nonparties such as the defendant's bank, in order to preserve assets from dissipation, pending judgment. The Act provides clarity in the aftermath of the U.S. Supreme Court's decision in Grupo Mexicano de Desarrollo v. Alliance Bond Fund, Inc., 527 U.S. 308 (1999), which called into question the viability of asset-freezing orders. In the wake of that decision, some state supreme courts concluded that courts in their state lacked the authority to issue asset freezing orders, while at least one state supreme court concluded the opposite. This Act is designed to remedy this current lack of uniformity on the question of whether courts have the power to issue and recognize asset-freezing orders by providing states with a uniform act that authorizes the issuance of asset-freezing orders and provides for the recognition and enforcement of asset-freezing orders by other states and courts outside the United States.

Uniform Deployed Parents Custody and Visitation Act

The 2012 Uniform Deployed Parents Custody and Visitation Act addresses the difficult child custody issues raised by the deployment of service members that profoundly affect both children's welfare and service members' ability to serve their country efficiently. Because a significant proportion of service members are single parents, the Department of Defense indicates that problems related to child custody and visitation while the parent is deployed detrimentally impact the overall war effort and can impact the ability for service members to complete assigned missions. The only existing federal statutory protection for single-parent service members is the Servicemembers Civil Relief Act ("SCRA"), which governs the general legal rights of a deploying service member. Under the SCRA, judges must grant stays of legal proceedings, including custody

proceedings, when military service materially affects the service member's ability to participate in the proceedings. Such stays are mandatory only for the first 90 days after deployment. After that time passes, entry of such stays are discretionary and are often overridden by the interests of the affected children in having custody issues resolved. While some states have attempted to address these problems, the current situation varies considerably among states when it comes to the treatment of deploying parents, with deploying parents being at times penalized for their service without clear gains for their children. Because of the mobile nature of military service, and because a child's other parent will often live in or move to a different state than the deployed service member, bringing the child with them, there are many times that custody issues relating to the child of a service member will involve two or more states.

Uniform Manufactured Housing Act

The 2012 Uniform Manufactured Housing Act gives clarity to the often confusing status of manufactured homes as person or real property, by providing that manufactured homes are personal property until the owner follows a simple procedure to reclassify the home as real property: 1) "locate" the home on a particular parcel of land, and 2) file a certificate of location with the county recorder's office in the county where the home is located. By definition, the home is "located" when the towing hitch, wheels, and axles have been removed, and the home is connected to utilities. If the home is subsequently moved, it becomes personal property by operation of law, and the owner is required to file a certificate of relocation with the same recorder's office.

Premarital and Marital Agreements Act

Currently every state allows at least some divorce-focused premarital agreements to be enforced, though the standards for regulating those agreements vary greatly from state to state. The Uniform Premarital Agreement Act was promulgated in 1983, and has been adopted by twenty-six jurisdictions. The 2012 Uniform Premarital and Marital Agreements Act replaces the 1983 Act, and brings clarity and consistency regarding the enforceability and interstate recognition of a range of agreements between spouses and those who are about to become spouses. The focus of the 2012 Act is on agreements that purport to modify or waive rights that would otherwise arise at the time of the dissolution of the marriage or the death of one of the spouses. The general approach of this Act is that parties should be free, within certain broad limits, to choose the financial terms of their marriage. Those limits are due process in formation, on the one hand, and certain minimal standards of substantive fairness, on the other. Because a significant minority of states authorize some form of fairness review based on the parties' circumstances at the time the agreement is to be enforced, states can choose to insert an option refusing enforcement based on a finding of substantial hardship at the time of enforcement. And because some states put the burden of proof on the party seeking enforcement of these agreements, the Act also presents alternative language to reflect that burden of proof. The Act also allows for terms waiving or modifying rights at divorce and for terms waiving or modifying rights at the death of the other spouse.

2011 ACTS AND AMENDMENTS

Certificate of Title for Vessels Act

The 2011 Certificate of Title for Vessels Act provides a standardized certificate of title (similar to the certificate of title for motor vehicles) covering all boats and other vessels of at least 16 feet in length and all vessels propelled by an engine of at least 10 horsepower. The Act is applicable to vessels used principally on the waters of the State of Illinois, but does not apply to seaplanes, amphibious vehicles for which a certificate of title is issued pursuant to a motor vehicle

titling act, watercraft that operate only on a permanently fixed, manufactured course, certain houseboats, lifeboats used on another vessel, and watercraft owned by the United States, a State, or a foreign government. The Act includes a novel branding requirement: where the integrity of a vessel's hull has been compromised by an accident, the certificate will note "hull damaged." The Act also provides a framework for the perfection and enforcement of security interests, consistent with those in Article 9 of the Uniform Commercial Code.

Uniform Electronic Legal Materials Act

The 2011 Uniform Electronic Legal Material Act (UELMA) provides standards for the authentication and preservation of electronic legal material published by state government. UELMA provides outcome-based standards for records storage and access, to ensure the integrity and continuing usability of the material, but does not require the use of any particular technology. The Act has no special requirements if a state chooses to preserve its legal material in print format, and it allows each state to determine which categories of legal information will be included in the Act's coverage. The UELMA is designed not to interfere with the contractual relationship between a state and a commercial publisher with which the state contracts for the production of its legal material, and tracks with the record-keeping requirements of the Uniform Commercial Code.

Model Protection of Charitable Assets Act

The 2011 Model Protection of Charitable Assets Act will articulate and confirm the broad role of the state Attorney General in protecting charitable assets. The Act will provide the Attorney General with at least an inventory of basic information without overburdening the charities or the Attorney General with excessive reporting requirements. The Act specifies which transactions and legal proceedings require notice to the Attorney General and provides for registration and annual reports for some charities. The Act does not cover governmental entities and businesses, except to the extent that those non-charities hold charitable assets. A charity covered by the registration section must register with the Attorney General within a specified period of time after the charity receives property, and provide basic information about the charity (name, address, statutory agent, federal identification number, and contact person) and a copy of the charity's organizing documents (articles of incorporation and bylaws or trust instrument). Charities with assets above a minimum amount will file an annual report with the Attorney General. The annual report will provide basic information and will require that the charity attach a copy of any report the charity files with the Internal Revenue Service (e.g., a Form 990 or a Form 990-EZ).

Harmonized Uniform Business Organizations Code

The primary purposes of the 2011 Harmonized Uniform Business Organizations Code (also known as the Harmonization of Business Entity Acts) are to (1) harmonize the language of all of the uniform unincorporated entity acts (Uniform Partnership Act, Uniform Limited Partnership Act, Uniform Limited Liability Company Act, Model Entity Transactions Act, Model Registered Agents Act, Uniform Limited Cooperative Association Act, Uniform Unincorporated Nonprofit Association Act, and Uniform Statutory Trust Entity Act) and (2) revise the language of each of those Acts in a manner that permits their integration into a single code of entity laws. The only substantive changes to the constituent Acts within the Code were made to facilitate their harmonization.

2010 ACTS AND AMENDMENTS

Uniform Military and Overseas Voters Act

The 2010 Uniform Military and Overseas Voters Act (UMOVA) establishes reasonable, standard timetables for application, registration, provision of ballots, and election information for

covered voters, and submission of ballots, and provides for the determination of the address that should be used for active-duty military and overseas voters. The Act simplifies and expands, in common sense fashion, the class of covered voters and covered elections. UMOVA allows voters to make use of electronic transmission methods for applications and receipt of registration and balloting materials, tracking the status of applications, and it expands use of the Federal Post Card Application and Federal Write-In Absentee Ballot. Finally, UMOVA obviates non-essential requirements that could otherwise invalidate an overseas ballot. The new Act uses and builds upon the key requirements of UOCAVA and MOVE, and extends the important protections and benefits of these Acts to voting in applicable state and local elections.

2010 Amendments to Article 9 of the Uniform Commercial Code

The 2010 amendments to Article 9, which governs secured transactions in personal property, address filing issues as well as other matters that have arisen in practice following over a decade of experience with the revised Article 9 (last revised in 1998 and enacted in all states and the District of Columbia). Of most importance, the 2010 amendments provide greater guidance as to the name of an individual debtor to be provided on a financing statement. The amendments also improve the system for filing financing statements. More detailed guidance is provided for the debtor's name on a financing statement when the debtor is a corporation, limited liability company or limited partnership and when the collateral is held in a statutory or common law trust or in a decedent's estate. Some extraneous information currently provided on financing statements will no longer be required. In addition, the amendments provide greater protection for an existing secured party having a security interest in after-acquired property when its debtor relocates to another state or merges with another entity. Finally, the amendments also contain a number of technical changes that respond to issues arising in the marketplace and a set of transition rules.

Uniform Electronic Recordation of Custodial Interrogations Act

The Uniform Electronic Recordation of Custodial Interrogations Act addresses difficult problems that accompany interrogations conducted by law enforcement officials. These issues include false confessions and frivolous claims of abuse that ultimately waste court resources. By requiring law enforcement to electronically record custodial interrogations, the Act promotes truth-finding and judicial efficiency and further protects the rights of law enforcement and those under investigation. The Act is carefully drafted to avoid undue burdens and technical pitfalls for law enforcement officials and prosecutors. The Act does not require law enforcement to make recordings that are unfeasible or that would endanger confidential informants, nor does it punish law enforcement for equipment failures. A uniform statute governing the electronic recordation of custodial interrogations will provide consistent rules among the states and improve the administration of justice.

Uniform Faithful Presidential Electors Act

The Uniform Faithful Presidential Electors Act (UFPEA) addresses the problem of a presidential elector who decides to vote inconsistently with the way they were elected to vote by the people of the state. The UFPEA creates a procedure that assures that states attempting to appoint a complete complement of electors will succeed and maintains the sanctity of the electoral process. Under the UFPEA, electors take a pledge of faithfulness. A vote in violation of that pledge constitutes resignation from the office of elector. Correspondingly, the Act provides a mechanism for filling a vacancy created because of this constructive resignation. The UFPEA disallows faithless voting and assures that faithful votes are substituted for faithless ones. In doing so, it provides the voters of the state with the confidence that the votes they have cast will be honored when the Electoral College meets.

Uniform Partition of Heirs Property Act

The Uniform Partition of Heirs Property Act (UPHPA) establishes a hierarchy of remedies for use in those partition actions involving heirs' property. The remedies are designed to help those who own heirs' property to maintain ownership of that property when possible or to ensure at the very least that any court-ordered sale of the property is conducted under commercially reasonable circumstances that will protect the owners from losing substantial wealth upon the sale of their property. Courts use the Act's guideline to determine if tenancy in common property is heirs property that must be partitioned in accordance with the Act. UPHPA provides the procedures by which notice is provided to cotenants, and appraisers and brokers are hired. The Act also mandates that any commissioners, referees, or partitioners that are appointed by the court must be disinterested. Importantly, UPHPA incorporates an option and statutory procedure for cotenants to buy-out the interests of those other cotenants seeking partition by sale. In those instances in which a buy-out does not resolve the action, the Act retains the widespread current preference for a partition in kind but outlines specific criteria a court must consider in determining whether a partition by sale may be justified. The UPHPA provides a supplementary mechanism for existing state partition law to help preserve the character and integrity of family-owned property and to protect a family's property-based wealth while still allowing a fair partition action to proceed.

Uniform Protection of Genetic Information in Employment Act

The need for regulation of genetic information and the desirability of uniformity in the area was recognized at the federal level with the enactment of the Genetic Information Nondiscrimination Act (GINA) of 2008. However, much in the same way that states have supplemented federal employment nondiscrimination Acts with their own fair employment Acts, there is a role for states in the regulation of genetic information in the workplace. The Uniform Act is designed to eliminate the preemption problems created by GINA for existing state statutes. It thus incorporates the key definitions and concepts of GINA. It also complements and supplements GINA with additional provisions that are more protective of employees, following the pattern of many state fair employment laws that supplement Title VII and other federal statutes. The Act comprehensively regulates acquisition, use, retention, and disclosure of genetic information in the employment setting.

Model State Administrative Procedure Act

The Model State Administrative Procedure Act (MSAPA) was first promulgated by the ULC in 1946. The MSAPA has since been revised three times: 1961, 1981 and the most recent revision was completed and adopted by the ULC in July of 2010. The 2010 MSAPA maintains continuity with the provisions of the 1961 Act and, to a lesser degree, the 1981 Act. This Act returns to the external hearing rights approach followed in the 1961 Act, but also includes constitutionally required hearings in the mix of sources of hearing rights law. This Act is designed especially for adoption by states that currently have the 1961 Act, but would like to replace that Act with a more modern up to date Administrative Procedure Act. The Act is composed to ensure fairness in administrative proceedings, increase public access to the law administered by agencies, and promote efficiency in agency proceedings by providing for extensive use of electronic technology by state governments. The Act has been drafted to be less detailed and less comprehensive than the 1981 Act. Consistent with both the 1961 MSAPA and the 1981 MSAPA, the Act provides for a uniform minimum set of procedures to be followed by agencies subject to the Act. The Act creates only procedural rights and imposes only procedural duties. Throughout the Act there are provisions that refer generally to other state laws governing related topics. When specific state laws are inconsistent with the provisions of the Act, those specific state laws will be controlling.

Revised Uniform Law on Notarial Acts

The 2010 Revised Uniform Law on Notarial Acts (RULONA) comprehensively revises and replaces the earlier 1982 Uniform Law on Notarial Acts (ULONA). Since the original

promulgation of ULONA, society and technology have advanced considerably, requiring notarial officers and their practice to adapt. In particular, RULONA recognizes the ascendance of electronic commerce and electronic transactions in the public and private sectors, and it brings the law governing electronic notarial acts on par with laws governing other forms of electronic transactions. RULONA continues to focus on preservation of the integrity of the notarial transaction, whether tangible or electronic. References to the notarial seal are replaced with an “official stamp”, and RULONA provides for affixing an official stamp to a notarial certificate for tangible documents or logically associating it with an electronic one. RULONA provides minimal standards for commissioning notarial officers and handles recognition of notarial acts from other states and certain foreign equivalents. Finally, the revised Act addresses deceptive and fraudulent practices and advertising, transactions in which the notary or a spouse is a party or has an interest, and prohibitions on unauthorized practice of law.

Insurable Interest Amendments to the Uniform Trust Code

Personal life insurance trusts are a key component of most modern estate plans, and trust and estate planners create them routinely. The trustee is typically designated as the owner, and usually also as the beneficiary, of one or more insurance policies held on the life of the trust’s creator (i.e., the “grantor” or “settlor”). These trusts are extremely useful devices for ensuring that life insurance proceeds are managed competently for the beneficiaries of the trust, and, in the case of irrevocable life insurance trusts (“ILITs”), for removing life insurance proceeds from an insured’s gross estate. A recent federal district court decision (*Chawla ex rel. Giesinger v. Transamerica Occidental Life Insurance Co.*, *aff’d* in part, *vac’d* in part, 440 F.3d 639 (4th Cir. 2006)) inserted doubt into the estate planning world by stating in *dicta* that a trust did not have an insurable interest in the life of the insured who was the settlor and the creator of the trust. The amendment attempt to clarify, with respect to trusts, what constitutes an “insurable interest” for purposes of insurance law, while at the same time allowing for the transfer of interest in insurance as property.

Uniform Collateral Consequences of Conviction Act

The Uniform Collateral Consequences of Conviction Act, promulgated by the ULC in 2009 and subsequently amended in 2010, improves the understanding of penalties that attach when an individual is convicted of an offense, and in appropriate circumstances, offers a mechanism to provide partial relief from the disabilities. The Act facilitates notification of collateral consequences before, during, and after sentencing. Under the provisions of the Act, states are to create a collection of all collateral consequences, with citations and descriptions of the relevant statutes. Individuals will be advised of the particular collateral consequences associated with the offense for which they are charged at or before arraignment. Notice is also to be given at the time of sentencing, and if an individual is sentenced to prison, at the time of release. The Act mandates the essential elements of disclosure and discussion between prospective parties in order to guarantee that all parties enter into the collaborative agreement with informed consent. Amendments approved in 2010 responded to the Supreme Court decision in *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010). This decision mandated that defense counsel must advise a defendant of certain collateral consequences associated to the crime. The need for attorney to provide clear and impartial descriptions of the options available to the party prior to deciding upon a course of action is stressed throughout the Act. The Act provides mechanisms for relieving collateral sanctions imposed by law. The Act creates an Order of Limited Relief, designed to relieve an individual from one or more collateral consequence based on a showing of fitness for reentry. The Order does not automatically remove the consequence, but does remove the automatic disqualification imposed by law. A state agency remains able to disqualify an individual on a case by case basis. The Act also creates a Certificate of Restoration of Rights. The Certificate is granted to individuals who demonstrate a substantial period of law-abiding behavior consistent with successful reentry and desistance from crime.

Issuance of a Certificate facilitates reintegration of those individuals who have demonstrated an ability to live a lawful life.

ILLINOIS LEGISLATIVE ACTIVITY IN 2020

With the cancellation of much of the 2020 Spring Session and all of the 2020 Veto Session due to the pandemic, no Uniform Acts or Model Acts were introduced or acted upon by the Illinois General Assembly in 2020

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Respectfully submitted,

James W. Dodge, Executive Director
Legislative Reference Bureau
On behalf of the Commissioners of the Illinois Delegation

