

**ANNUAL MEETING  
OF THE COMMITTEE ON SCOPE AND PROGRAM**

**UNIFORM LAW COMMISSION**

**Saturday, July 11, 2015,  
Sunday, July 12, 2015, and  
Monday, July 13, 2015  
Williamsburg, Virginia**

**Minutes**

The meeting of the Committee on Scope and Program was convened at 8:30 am on Saturday, July 11, 2015, at the Williamsburg Lodge in Williamsburg, Virginia, by Chair Anita Ramasastry. Committee members Pamela W. Bertani, Terry J. Care, Melissa Hortman, Raymond P. Pepe, Daniel Robbins, Battle Robinson, Steve Wilborn, and John T. McGarvey were present. Also present was Richard T. Cassidy, Chair of the Executive Committee. Staff members present included Liza Karsai, Executive Director; Katie Robinson, Deputy Legislative Director and Communications Officer, and Garrett Heilman, ULF Fellow. Attending for a portion of the meeting were Commissioners Kathy Patchel, Howard Swibel, Nora Winkelman, Jamie Pedersen, Barbara Atwood, Debra Lehrmann, Elisa White, Harry Tindall, Turney Berry, Vince Cardi, David Biklen, Connie Ring, Fred Miller, Boris Auerbach, Sandra Stern, Bill Henning, Pat Fry, Charlie Trost, Peter Langrock, E.M. Miller, Lyle Hillyard, Samuel Thumma, and Fred Stamp.

Chair Ramasastry welcomed the committee and discussed the agenda for the meeting. Upon a motion duly made, the minutes from the January 23, 2015, meeting of the Scope and Program Committee were unanimously approved.

**Study Committee Reports**

- Study Committee on **Harmonization of the Law of Canada, Caribbean Nations and the U.S. on Registration of Foreign Judgments**  
(Kathy Patchel, Chair) – Scope Liaison Steve Wilborn

Commissioner Patchel reported on the progress of this study committee. The Committee has contacted individuals in the Caribbean that might be interested in this project, and will continue its outreach. The committee requests that it be continued.

After discussion, the Committee on Scope and Program determined that the study committee be continued.

- Study Committee on **Harmonization of the Law of Caribbean Nations and the U.S. on Enforcement of Child Custody and Support Orders**  
(Howard Swibel, Chair) – Scope Liaison Battle Robinson

Commissioner Swibel reported on the progress of this committee. The Committee has contacted individuals in the Caribbean that might be interested in this project, and will continue its outreach. The committee requests that it be continued.

After discussion, the Committee on Scope and Program determined that the study committee be continued.

- Study Committee on **Compatible Search and Retrieval Systems for Land Records**  
(Nora Winkelman, Chair) Scope Liaison Melissa Hortman

Commissioner Winkelman reported on the progress of this study committee. The committee continues its survey to gather current data on state electronic searches and various states' procedures. The committee requests that it be continued.

After discussion, the Committee on Scope and Program determined that the study committee be continued.

- Study Committee on **State Regulation of Driverless Cars**  
(Pam Bertani, Chair) Scope Liaison Dan Robbins

Commissioner Bertani reported on the progress of this study committee. After developing an extensive issues memorandum, the committee held a stakeholders' meeting this spring to further vet the prospective issues for consideration. The committee requests that it be continued, at least for an additional year, so that the committee may gather additional information and continue its work at building stakeholder consensus.

After discussion, the Committee on Scope and Program determined that the study committee be continued.

- Study Committee on **Transfer and Recording of Consumer Debt**  
(Tom Buiteweg, Chair) Scope Liaison John McGarvey

Commissioner McGarvey reported on the progress of this study committee. The committee is currently waiting on information summarizing federal and state legislative activity in this area from the committee's reporter; once completed, an issues list will be drafted. The committee requests that it be continued.

After discussion, the Committee on Scope and Program determined that the study committee be continued.

- Study Committee on **Bad Faith Patent Demand Letters**  
(Dan Robbins, Chair) Scope Liaison Ray Pepe

Commissioner Robbins reported on the progress of this study committee. The committee has had two conference calls, and has begun its outreach to potential stakeholders. The committee requests that it be continued.

After discussion, the Committee on Scope and Program determined that the study committee be continued.

- Study Committee on **Revision to the Uniform Parentage Act**  
(Jamie Pedersen, Chair) Scope Liaison Battle Robinson

Commissioner Pedersen reported on the progress of this study committee. Given the recent Supreme Court decision in *Obergefell v. Hodges*, which legalized same-sex marriage, the committee recommends that a drafting committee be established to draft amendments to the Uniform Parentage Act and other ULC Acts that currently include gender-specific references to married spouses.

After discussion, the Committee on Scope and Program recommended that two drafting committees be appointed, the first to draft amendments to ULC acts impacted by the Supreme Court decision, and the second to revise the Uniform Parentage Act.

The Committee on Scope and Program approved the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a coordinating committee be formed to amend any relevant provisions of ULC Acts to comply with the U.S. Supreme Court decision *Obergefell v. Hodges* relating to same sex marriage. The committee should identify and report on any policy issues for further consideration by the Executive Committee. The membership of the committee shall include, among others, members of the relevant Joint Editorial Boards.**

*On July 13, 2015, the Executive Committee approved this resolution.*

The Committee on Scope and Program also approved the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a drafting committee to Revise the Uniform Parentage Act be formed, and that the drafting committee, as its first task, be directed to develop a memorandum describing the issues and the scope of the draft that the committee recommends. The memorandum shall be reviewed by the Executive Committee to further clarify the scope of the committee's charge.**

*On July 13, 2015, the Executive Committee did not approve this resolution. Instead, the study committee is continued, and the study committee is charged with developing a memorandum describing the issues and the scope of the draft that the committee recommends.*

- Study Committee on **Declarations of Quarantine**  
(Elisa White, Chair) Scope Liaison Pam Bertani

Commissioner White reported on the progress of this study committee. The committee is currently reviewing the current status of state laws, and will soon begin its outreach to potential stakeholders. The committee requests that it be continued.

After discussion, the Committee on Scope and Program determined that the study committee be continued.

### **Joint Editorial Board Written Reports and Recommendations**

- JEB – **Uniform Family Law**  
(Barbara Atwood, Chair) – Scope Liaison Battle Robinson

There was no proposal from the JEB, and no new report of the JEB to be considered.

- JEB – **Uniform Trust and Estate Acts**  
(Tom Gallanis, Executive Director) – Scope Liaison Pam Bertani

Commissioner Turney Berry reported on the proposal from the JEB to Revise the Uniform Principal and Income Act. Originally enacted in 1931 and revised in 1962, the UPAIA was last comprehensively revised in 1997. The 1997 version has been enacted in 46 states.

The JEB recommends two categories of revisions. The first would be to add a unitrust provision to UPAIA. The second would be to consider suggested revisions from stakeholders, including the American College of Trust and Estate Counsel, the ABA's Section on Real Property, Trust and Estate Law, and the Trust Division of the American Bankers Association. The JEB unanimously recommends the appointment of a drafting committee.

After discussion, the Committee on Scope and Program recommended that a drafting committee be appointed.

The Committee on Scope and Program approved the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee to Revise the Uniform Principal and Income Act be formed.**

*On July 13, 2015, the Executive Committee approved this resolution.*

- **JEB – Uniform Real Property Acts**  
(Wilson Freyermuth, Executive Director) – Scope Liaison Melissa Hortman

There was no proposal from the JEB, and the report of the JEB was accepted.

- **JEB – International Law**  
(Michael Houghton, Co-Chair) – Scope Liaison Dan Robbins

There was no proposal from the JEB, and no new report of the JEB to be considered.

- **JEB – Unincorporated Organization Acts**  
(Daniel Kleinberger, Director of Research) – Scope Liaison Ray Pepe

There was no proposal from the JEB. At its 2015 midyear meeting, the Committee on Scope and Program requested that the JEB give further consideration to public benefit corporations, and provide further information and rationale to Scope as to whether this should be a topic for the ULC to pursue.

The JEB did address this issue at its most recent meeting, and again recommends that no study or drafting committee for a Uniform Public Benefit LLC Act be authorized. The Uniform Limited Liability Company Act already provides that an LLC may have any lawful purpose, regardless of whether for profit. Approximately half the states have adopted public benefit for flexible purpose corporation acts, but the ULC does not draft in the area of corporate law.

After discussion, the report of the JEB on public benefit corporations was accepted.

- **PEB – Uniform Commercial Code**  
(Neil Cohen, Director of Research) – Scope Liaison John McGarvey

There was no proposal from the PEB, and Commissioner McGarvey reported briefly on the recent activities of the PEB.

### **New or Pending Proposals**

- Proposal – **Regulation of Involuntary Pornography Websites**  
(Commissioner Vince Cardi) Scope Liaison Dan Robbins

Commissioner Cardi reported on this proposal. Involuntary pornography websites are sites that post explicit or sexual photos without the consent of the person photographed. So far, 16 states have begun to attempt to criminalize nonconsensual pornography websites, though

many of these statutes have faced challenges, including in both Texas and Arizona, where their revenge porn laws have been challenged on the basis of constitutionality.

After discussion, the Committee on Scope and Program recommended that a study committee be appointed.

The Committee on Scope and Program approved the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to study the need for and feasibility of state legislation to provide remedies for people who are victimized by involuntary pornography.**

*On July 13, 2015, the Executive Committee approved this resolution.*

- Proposal – **Electronic Data Recorders in Cars**  
(Commissioner David Biklen.) Scope Liaison Steve Wilborn

Commissioner Biklen reported on this proposal to regulate the use of event data recorders in cars. These EDRs record information such as the car's speed, the occupants' use of seatbelts, the car's location, and brake usage. A number of questions have arisen about the accuracy of the information gathered, how the information is used, and who has access to that information.

After discussion, the Committee on Scope and Program referred the proposal to the appropriate Technology Law Committee for further review and consideration, and report back to Scope with any updated information.

- Proposal – **Interim Relief Enforcement and Recognition**  
(Steve Richman, ABA International Law Section) Scope Liaison Dan Robbins

Commissioner Robbins reported on this proposal to address a mechanism for recognition and enforcement of non-final, interim orders in both domestic and foreign cross-border disputes. It addresses both judicial and arbitral orders. This proposal had originally been considered at the January 2013 meeting of Scope as well as the July 2014 meeting of Scope. In both instances, Scope had deferred action on the proposal, in order to evaluate the reception of the Uniform Asset Preservation Orders Act (UAPOA) at the ABA 2013 Midyear meeting, and during the 2014 and 2015 state legislative sessions. To date, no state has adopted the UAPOA.

After discussion, the Committee on Scope and Program concluded to take no action at this time.

- Proposal – **Registry Act for Residential Mortgage Notes**  
(Commissioners Connie Ring, Fred Miller, Kathy Patchel, and Boris Auerbach)  
Scope Liaison John McGarvey

Commissioners Ring, Miller, Patchel, and Auerbach reported on this proposal to appoint a drafting committee to draft a uniform act creating a state-law based electronic residential mortgage note registry to supplement the current paper-based state law rules with regard to the transfer and enforcement of residential mortgage notes.

After discussion, the Committee on Scope and Program recommended that a committee be appointed.

The Committee on Scope and Program approved the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends that the Executive Committee establish a committee to develop a framework for a uniform electronic registry for residential mortgage notes that will be national in its effect, taking into account *inter alia* the appropriate relationship between the registry and other law. The ULC is committed to this field.**

*On July 13, 2015, the Executive Committee did not approve this resolution, and instead approved the following amended resolution:*

**RESOLVED, that the Committee on Scope and Program recommends that the Executive Committee establish a drafting committee to develop a framework for a uniform electronic registry for residential mortgage notes that will be national in its effect, taking into account *inter alia* the appropriate relationship between the registry and other law. The ULC is committed to this field.**

- Proposal – **Identity Management in Electronic Commerce**  
(Commissioner Henry Gabriel) Scope Liaison Terry Care

Commissioners Bill Henning and Pat Fry reported on this proposal to appoint a study committee for a Uniform Act on Identity Management in Electronic Commerce. Identity management is a set of processes to manage the identification, authentication, and authorization of individuals, legal entities, devices or other subjects in online and other electronic contexts. A Uniform Law of Identity Management in Electronic Commerce may not only reduce significant risks in electronic commerce, but also provide a basis for further growth of trustworthy electronic commerce.

After discussion, the Committee on Scope and Program referred the proposal to the appropriate Technology Law Committee for further review and consideration, and report back to Scope with any updated information.

- Proposal – **Uniform Escheat Act**  
(Commissioner Charlie Trost) Scope Liaison Ray Pepe

Commissioner Trost reported on this proposal to appoint a study committee to review the status of state escheat laws and determine if there is a need to draft a uniform act on the subject, and if so, whether the Act be a stand-alone act or if it should be an addition to the Uniform Unclaimed Property Act. Escheat laws are not to be confused with unclaimed property laws, in which the state takes custody of abandoned property to hold for the benefit of the owner. In an escheat the state succeeds to legal ownership of the property.

After discussion, the Committee on Scope and Program referred the proposal to the Drafting Committee to Revise the Uniform Unclaimed Property Act to consider possible inclusion of relevant escheat issues in the Revised Act, and to report back to Scope on the feasibility of including relevant escheat issues in the Revised Act, or if it is not feasible, whether there is a need to take a different approach.

- Proposal – **Financial Support of Young Adults in Foster Care**  
(James Bristol, Esq.) Scope Liaison Steve Wilborn

Commissioner Wilborn reported on this proposal to appoint a study committee to research the laws in the various states governing the provision of financial support for young adults in foster care who have attained majority age, as well as federal laws that provide funding. The purpose of the study committee would be to determine the efficacy of a uniform law to address the financial support that is funded by states for youth services and foster care.

After discussion, the Committee on Scope and Program requested that Mr. Bristol, with the assistance of ULC staff if possible, further review the current status of state law on the subject, reach out to relevant experts, and report back any findings at the January 2016 meeting of the Scope and Program Committee.

- Proposal – **Uniform Equal Rights Act**  
(Commissioners Harry Tindall and Peter Langrock) Scope Liaison Melissa Hortman

Commissioners Tindall and Langrock reported on this proposal to appoint a study committee to consider a Uniform Equal Rights Act. The scope of the study committee would be to deal comprehensively with discrimination in all areas of human activity, including: race, religion, sex, color, nationality, age, disability, and sexual orientation.

After discussion, the Committee on Scope and Program recommended, by a vote of 5 to 4, that a study committee be appointed.

The Committee on Scope and Program approved the following resolution:



**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to study the need for and feasibility of model state legislation on a comprehensive equal rights act.**

*On July 13, 2015, the Executive Committee approved this resolution.*

- **Proposal – Peter Falk’s Law**  
(Catherine Falk) Scope Liaison Steve Wilborn

Commissioner Wilborn reported on this proposal to appoint a study committee to study the feasibility of a state law which would create a legal process for the adult children of parents to petition the courts for visitation in situations where no conservatorship exists and the caretaker of the parent is denying visitation.

After discussion, the Committee on Scope and Program referred the proposal to the Drafting Committee to Revise the Guardianship and Protective Proceedings Jurisdiction Act to consider possible inclusion of this issue in the Revised Act, and to report back to Scope on the feasibility of including such a legal process in the Revised Act, or if it is not feasible, whether there is a need to take a different approach.

### **Potential Future Projects**

The following topics were discussed and evaluated by Scope so as to determine if Scope should recommend further research or review on the particular topic.

- **Chip & PIN Technology to Prevent Data Security Breach**  
(Forwarded by Commissioner Susan Nichols) Scope Liaison Ray Pepe

Commissioner Pepe reported on this proposal to study the need for and feasibility of drafting state law setting database security standards and consumer notification requirements. Chip and PIN technology uses a small chip embedded in each card (rather than a magnetic strip) that creates a new code for each transaction. This makes it nearly impossible to counterfeit cards and significantly decreases fraud.

After discussion, the Committee on Scope and Program concluded to take no action at this time.

- **Putative Father Registry**  
(Forwarded by Commissioner Lyle Hillyard) Scope Liaison Melissa Hortman

Commissioner Hortman reported on this topic. In 2015, the Utah Legislature passed a Joint Resolution urging Interstate Sharing of Putative Father Registry Information, which states: “This resolution urges the Uniform Law Commission to develop model state laws that promote the interstate sharing of putative father registry information.”

After discussion, the Committee on Scope and Program referred the proposal to the JEB/Uniform Family Law for further review, with the request that the JEB report back its findings at the January 2016 meeting of the Scope and Program Committee. The proposal is also referred to the Study Committee to Revise the Uniform Parentage Act for the purpose of considering this issue for possible inclusion in the Revised Act.

- **Regulatory Boards and Antitrust Law**  
(Forwarded by Commissioner Steve Wilborn) Scope Liaison John McGarvey

Commissioner Wilborn reported on this topic. In 2015, the Supreme Court handed down a decision in *North Carolina Board of Dental Examiners vs. Federal Trade Commission*, which held that when a controlling number of the decision makers on a state licensing board are active participants in the occupation the board regulates, the board can invoke state-action immunity only if it is subject to active supervision by the states. Seeing the danger that boards may be left without the expertise needed to regulate their professions, a study committee may be warranted to study the feasibility of drafting appropriate guidelines to deal with the issues raised by the Supreme Court decision.

After discussion, the Committee on Scope and Program requests that ULC staff continue to monitor the topic, and report back to Scope at its January 2016 meeting.

- **Central State Agency to deal with Identity Theft**  
(Forwarded by Commissioner Steve Wilborn) Scope Liaison Terry Care

Commissioner Wilborn reported on this proposal to authorize a study committee to determine if the creation of a central state agency (either stand-alone or as part of another agency such as the Attorney General's office) with authority to assist individuals who have been impacted by identity theft.

After discussion, the Committee on Scope and Program concluded to take no action at this time.

- **Lie Detector Tests for Arresting Officers**  
(Darrell Saaj) Scope Liaison Terry Care

Commissioner Care reported on this proposal to mandate that every law enforcement officer be given a lie detector test in the event of a defendant being found not guilty in a criminal proceeding.

After discussion, the Committee on Scope and Program concluded to take no action at this time.

## Other Business

- **Drafting Committee on Social Media Privacy**  
(Samuel Thumma, Chair)

Commissioner Thumma reported on this request on behalf of the Drafting Committee on Social Media Privacy that the committee's charge be clarified so that the committee can consider and prepare a draft that addresses accounts beyond a narrow definition of social media, such as personal online accounts that require a username and/or password.

After discussion, the Committee on Scope and Program accepted the recommendation from the Drafting Committee, and approved the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the charge for the Drafting Committee on Social Media Privacy be clarified that the Act may also address personal online accounts that require a username and/or password, or other means or credentials of authentication to access or control.**

- **Committee to Review ULC Acts**  
(Frederick Stamp, Chair)

Commissioner Stamp reported on the recommendations from the Committee to Review ULC Acts.

The Committee on Scope and Program approved the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the June 15, 2015, recommendations from the Committee to Review ULC Acts be approved with regard to the following:**

- **Re-designate the Uniform Residential Landlord and Tenant Act (1972) as “superseded” contingent upon approval of the Revised Uniform Residential Landlord and Tenant Act at 2015 Annual Meeting;**
- **Withdraw as “obsolete” the Model Transfer of Litigation Act;**
- **Withdraw as “obsolete” the Model Construction Lien Act;**
- **Withdraw as “obsolete” the Model Marketable Title Act;**
- **Withdraw as “obsolete” the Model Real Estate Cooperative Act.**

After discussion, the Committee on Scope and Program approved the recommendations from the Committee to Review ULC Acts with respect to the following acts:

1. Uniform Conservation Easement Act: Scope requests that this Act be referred to the JEB/Uniform Real Property Act for its review and consideration.

2. Model Adoption Act: Scope requests that this Act be referred to the JEB/Uniform Family Law for its review and consideration.
3. Model Marital Property Act: Scope requests that this Act be referred to the JEB/Uniform Family Law for its review and consideration.
4. Model Victims of Crime Act: Scope requests that ULC staff undertake a review of current state rules on this topic.

The Committee on Scope and Program also accepted the recommendation from the Committee to Review ULC Acts that the Committee on Style should consider updating older acts so as to conform the Acts to current Style guidelines. The Committee to Review ULC Acts recommended that Style review two acts to start: the Uniform Community Property Rights at Death Act and the Uniform International Wills Act.

After discussion, the Committee on Scope and Program accepted the recommendation from the Committee to Review ULC Acts, which included the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the Committee on Style be asked to update the Uniform Community Property Rights at Death Act and the Uniform International Wills Act so as to conform to current Style guidelines.**

- **Potential Future Project on Alternatives to Bail**  
(Commissioner Lyle Hillyard)

Commissioner Hillyard reported on the issue of bail bonds. He was recently asked to serve on a Utah Supreme Court task force, where he discovered that 62% of inmates in jail are pretrial inmates that have not yet been to trial, but are held because they cannot post bail. Traditionally, bail is set by a judge based on the severity of the crime. An organization called the Arnold Foundation is developing a program that will provide judges with a matrix so that they can make an informed decision about requiring the posting of bail before releasing an inmate.

After discussion, the Committee on Scope and Program requested that Executive Director Liza Karsai, with the assistance of Commissioner Hillyard, contact the Arnold Foundation for further information, and report back her findings to Scope at its January 2016 midyear meeting.

Having no further business, the Committee on Scope and Program was adjourned at 12:00 pm on Monday, July 13, 2015.