

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

**UNIFORM LAW COMMISSION**

**Saturday, July 15, 2017  
Sunday, July 16, 2017  
San Diego, California**

**Minutes**

The meeting of the Committee on Scope and Program was convened at 9:00 am on Saturday, July 15, 2017, at the U.S. Grant Hotel, in San Diego, California, by Chair Carl Lisman. Committee members Effie Cozart, Gail Hagerty, Thomas Hemmendinger, Ryan Leonard, Ed Smith, Steve Wilborn, and Steven Willborn were present. Also present were Anita Ramasastry, Chair of the Executive Committee; Katie Robinson, ULC Legislative Program Director; and Peter Lown from the Uniform Law Conference of Canada. Attending for a portion of the meeting were Commissioners Pat Fry, Terry Care, Turney Berry, Dale Higer, Gene Lebrun, Lane Shetterly, Harvey Perlman, King Burnett, Bill Breetz, Tom Buiteweg, Jim McKay, Jack Davies, David Clark, Steve Chow, Lyle Hillyard, Anne McGihon, Robert Gardner, Ray Pepe, and Fred Miller.

Chair Lisman welcomed the committee and discussed the agenda for the meeting. A motion was made and approved accepting the minutes of the Scope and Program Committee meeting held January 13, 2017.

**Study Committee Reports**

- Study Committee on **Declarations of Quarantine**  
(Pat Fry, Chair Pro Tem) Scope Liaison Effie Cozart

Commissioner Fry reported on the progress of this study committee. Commissioner Fry is serving as chair pro tem since the prior chair lost her appointment. The committee has recently engaged the services of a reporter, Prof. Mark Rothstein. The committee has met once by conference call since the 2017 midyear meeting. It is expected that a final report and recommendation will be submitted for consideration at the January 2018 midyear meeting of Scope and Program. 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 **Identity Management in Electronic Commerce**  
(Henry Gabriel, Chair, Pat Fry, Vice Chair) Scope Liaison Steve Willborn

Commissioner Fry reported on the progress of this study committee. The committee has met once by conference call since the 2017 midyear meeting. It is expected that a final report

and recommendation will be submitted for consideration at the January 2018 midyear meeting of Scope and Program. 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 **Event Data Recorders in Cars**  
(Steve Wilborn, Chair) Scope Liaison Steve Wilborn

Commissioner Wilborn reported on the progress of this study committee. The committee has met once by conference call since the 2017 midyear meeting, and has continued to monitor the progress of the Drafting Committee on Highly Automated Vehicles. The committee requests that it be continued. The committee also requests that its charge be expanded to include all generated vehicle data transmitted, contained, collected, captured and stored both on and off board the vehicle (while event data recorders capture a few seconds of data, modern telematics systems can provide a constant stream of data).

After discussion, the Committee on Scope and Program determined that the study committee be continued, and then approved the following resolution:

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the charge for the Study Committee on Event Data Recorders be expanded to include generated vehicle data.**

*On July 17, 2017, the Executive Committee approved this resolution.*

- Study Committee on **Trust Management of Funds Raised Through Public Fundraising**  
(Terry Care, Chair, Turney Berry, Vice Chair) Scope Liaison Ryan Leonard

Commissioners Care and Berry reported on the progress of this study committee. The committee recommends that a drafting committee be formed to draft legislation to regulate the management of funds raised through public fundraising efforts such as crowdfunding.

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 Regulate the Management of Funds Raised Through Crowdfunding Efforts be formed to require transparency (including identity of the sponsor, stating the purpose or purposes of the endeavor, identifying application of surplus funds and addressing how funds should be applied if the target amount is not raised); and civil sanctions and remedies for non-compliance. It is not within the scope**

**of the drafting to include organized charities or criminal sanctions for non-compliance.**

*On July 17, 2017, the Executive Committee approved this resolution.*

- Study Committee to Amend the **Revised Uniform Law on Notarial Acts** (Pat Fry and Ray Pepe, Co-Chairs) Scope Liaison Steve Wilborn

Commissioner Fry reported on the progress of this study committee. The committee recommends that a drafting committee be formed to amend the Revised Uniform Law on Notarial Acts (RULONA) to authorize remote notarization without geographic limits on the location of the signer, and draft a free-standing act for those jurisdictions which do not have RULONA. It was noted that the National Association of Secretaries of State (NASS) has recently approved a resolution directing NASS to draft standards on remote notarization.

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 Amend the Revised Uniform Laws on Notarial Acts be formed to authorize remote notarization without geographic limits on the location of the signer and to address interstate recognition of notarial acts.**

*On July 17, 2017, the Executive Committee approved this resolution.*

- Study Committee on **Installment Land Contracts** (Dale Higer, Chair, Gene Lebrun, Vice Chair) Scope Liaison Carl Lisman

Commissioners Higer and Lebrun reported on the progress of the study committee. The committee recommends that a drafting committee be formed to draft legislation on installment land contracts, limited to sales of residential property.

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 be formed to address remedies for breach of Installment Land Contracts; determine at what point a buyer should have the same protections and remedies of a mortgagor, if any; establish the duties, if any, of a contract seller; establish disclosure requirements, if any; and determine whether and what warranties should be**

**imposed on sellers. The committee should consider whether the scope of the act shall be limited to sales of residential property.**

*On July 17, 2017, the Executive Committee deferred action on this resolution until the January 2018 midyear meeting of the Executive Committee.*

- Study Committee on **Anti-SLAPP Legislation**  
(Lane Shetterly, Chair) Scope Liaison Steve Willborn

Commissioner Shetterly reported on the progress of the study committee. The committee recommends that a drafting committee be formed to draft an Anti-SLAPP Act.

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 be formed for an Anti-SLAPP Act to address the breadth of the act; limitations, if any, to be imposed after a motion to strike is made; the standard of review relating to the motion to strike; appeal rights from the grant of denial or a motion to strike; and whether the court should award attorney's fees and costs.**

*On July 17, 2017, the Executive Committee approved this resolution.*

- Study Committee on **Unmarried Cohabitants**  
(Gail Hagerty, Chair) Scope Liaison Gail Hagerty

Commissioner Hagerty reported on the progress of this study committee. The Committee is continuing its research, and is following the work of the ALI's project on unmarried cohabitants. It is expected that a final report and recommendation will be submitted for consideration at either the January 2018 midyear meeting of Scope and Program or the July 2018 annual meeting of Scope. 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 **Right of Publicity**  
(Harvey Perlman, Chair) Scope Liaison Ryan Leonard

Commissioner Perlman reported on the progress of this study committee. The committee has identified the major issues for consideration, and is now in the process of contacting relevant stakeholders. It is expected that a final report and recommendation will be submitted for consideration at the January 2018 midyear meeting of Scope and Program. The committee requests that it be continued.

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

- Study Committee to **Amend the Uniform Conservation Easement Act**  
(Steve Cawood, Chair, King Burnett, Vice Chair) Scope Liaison Effie Cozart

Commissioner Burnett reported on the progress of this study committee. The committee has recently engaged the services of a reporter, Nancy McLaughlin, and researched and reviewed state statutes on the subject. The committee will continue its discussions with relevant stakeholders. It is expected that a final report and recommendation will be submitted for consideration at either the January 2018 midyear meeting of Scope and Program or the July 2018 annual meeting of Scope. 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 Gail Hagerty

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

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

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

- JEB – **Uniform Real Property Acts**  
(Wilson Freyermuth, Executive Director) – Scope Liaison Carl Lisman.

Commissioner Breetz reported on the recommendation from the JEB to appoint a study committee on adverse possession.

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 on modifications to the law of adverse possession in light of modern technology affecting boundary disputes;**

**changing public perceptions relating to claims made under color of title and without color of title; and recent developments in the law.**

*On July 17, 2017, the Executive Committee approve this resolution.*

- **JEB – International Law**  
(Michael Houghton, Co-Chair) – Scope Liaison Ryan Leonard

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 Tom Hemmendinger

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

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

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

**Monitoring Committees Reports and Recommendations**

- **Committee to Monitor Civil Litigation and Dispute Resolution**  
(Mike Getty, Chair) – Scope Liaison Steve Wilborn

There was no proposal from the Committee to Monitor Civil Litigation and Dispute Resolution, and no new report of the Committee to be considered.

- **Committee to Monitor Healthcare Law**  
(Abbe Gluck, Chair) – Scope Liaison Effie Cozart

There was no proposal from the Committee to Monitor Healthcare Law, and no new report of the committee to be considered.

- **Technology Committee**  
(Tom Buiteweg, Chair) – Scope Liaison Tom Hemmendinger

Commissioner Buiteweg reported on the work of the Technology Committee. There was no proposal from the Committee. The Committee reported back on the proposal for a study committee on use of blockchain technology which had been forwarded to the committee from Scope and Program. At its meeting on June 5, 2017, the Technology Committee did not recommend the appointment of a study committee at this time. Instead, the committee recommends that it continue to monitor developments in this area, and particularly monitor this topic as it applies to other ULC projects. It is expected that a report on this, with a specific

recommendation, will be submitted for consideration at the January 2018 midyear meeting of Scope and Program.

The Technology Committee also discussed the use of smart contracts, which are self-executing electronic instructions drafted in computer code, and which appear to be a growing state law concern. The committee recommends that it continue its review of the use and regulation of smart contracts. The committee anticipates that a specific recommendation on smart contracts will be submitted to Scope and Program for its consideration at the January 2018 midyear meeting.

- **Committee on Criminal Justice Reform**  
(Gail Hagerty, Chair) – Scope Liaison Gail Hagerty

Commissioner Hagerty reported on the work of the Criminal Justice Reform Committee. The Committee reviewed the Alternatives to Bail proposal that had been referred to the Committee from Scope and Program. Based on the Committee's research and discussion, the Committee consensus is that the proposal provides a strong basis and foundation of policies that should be incorporated into the drafting of a uniform act in this subject area. The Committee recommends that a drafting committee be formed to draft state legislation on pretrial bail reform.

After discussion, the Committee on Scope and Program concluded to take no action at this time, and instead referred the proposal back to the Criminal Justice Reform Committee for further review, with the request that the Committee return at the appropriate time with more information on potential state legislation on pretrial bail reform.

Commissioner Hagerty reported on the proposal from the Campaign for the Fair Sentencing of Youth for a study committee on juvenile sentencing, which had been reviewed by Scope at its January 2017 midyear meeting, and referred to the Committee on Criminal Justice Reform. In light of emerging juvenile brain and behavioral development science, the U.S. Supreme Court has weighed in four times over the past decade on the constitutionality of extreme sentences – including the death penalty and life without parole – for children. The Committee supports the proposal, and recommends that a drafting committee be appointed.

After discussion, the Committee on Scope and Program concluded to take no action at this time. The Committee commends the work of the Campaign for the Fair Sentencing of Youth, and requests that the Criminal Justice Reform Committee continue to monitor the work of this organization for potential future projects.

### **New or Pending Proposals**

- **Letters of Intent**  
(Prof. Ronald Brown, Nova Southeastern University) Scope Liaison Ed Smith

Commissioner Smith reported on this proposal to address the issue of letters of intent, which are often viewed as preliminary agreements between different parties though not necessarily binding.

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

- **E-Commerce Act**  
(David Lefton, Chair, ABA Solo, Small Firm, and General Practice Division)  
Scope Liaison Steve Wilborn

Commissioner Wilborn reported on this proposal to create a study committee to explore the possibility of a Uniform E-Commerce Act, and to explore the revision of the UCC to address the peculiarities of E-Commerce.

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

- **Data Breach Notification**  
(Commissioner Jim McKay) Scope Liaison Tom Hemmendinger

Commissioner McKay reported on this proposal to address the issue of data breaches, and the duties of a company victimized by data breaches to notify their customers. The proposal is to create a study committee to consider whether a uniform law should include provisions addressing the following issues among others: (1) what sorts of personal information should be protected; (2) who is subject to the act; (3) what constitutes a data breach; (4) the timing and method of notification required; (5) who must be notified; and (6) exceptions.

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

After discussion, 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 on data breach notification including consideration of what sorts of personal information should be protected; to whom, when and how notice should be provided and the contents of the notice. It is not within the scope of the study to consider remedies for injury caused by a data breach.**

*On July 17, 2017, the Executive Committee approve this resolution.*

- **Bank Exemptions**  
(Commissioner Jack Davies) Scope Liaison Ed Smith
- **Bank Garnishment**  
(Commissioner Steve Willborn) Scope Liaison Ed Smith

The Committee on Scope and Program considered these two proposals together. Commissioner Davies reported on the proposal to draft a Uniform Exemptions Act, one which includes a limited bank account exemption. Commissioner Willborn reported on the proposal to create a study committee on bank garnishments.

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

After discussion, 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 specifically on bank garnishment of wages or more generally on exemptions of asset classes from claims of creditors.**

*On July 17, 2017, the Executive Committee approved this amended 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 specifically on garnishment of wages in bank accounts or more generally on exemptions of asset classes from claims of creditors.**

- **Pet Custody**  
(Commissioner Gail Hagerty) Scope Liaison Gail Hagerty

Commissioner Hagerty reported on this proposal to address the issue of legislation regarding custody of pets in divorce proceedings.

After discussion, the Committee on Scope and Program concluded to take no action at this time, and instead referred the proposal to the Joint Editorial Board for Uniform Family Law for further review, with the request that the JEB report back its findings at the January 2018 meeting of the Scope and Program Committee.

### **Potential Future Projects**

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

- **Secondary Market for Life Settlements**  
(Commissioner David Clark) Scope Liaison Steve Wilborn

Commissioner Clark reported on this proposal to address the issue of secondary markets for life settlements.

After discussion, the Committee on Scope and Program requested that Commissioner Clark, with the assistance of ULC staff, further research the current status of state law on the subject, and consult with the relevant stakeholders, including the National Association of Insurance Commissioners, and report back any findings at the January 2018 meeting of the Scope and Program Committee.

- **Personal Information Privacy Misappropriation**  
(Commissioner Steve Chow) Scope Liaison Ed Smith

Commissioner Chow reported on this proposal to create a study committee to rationalize the law of personal information privacy under the widely-accepted principles of trade secrets law.

The discussion of this proposal and the other proposals dealing with privacy concerns led to a broader discussion by the Committee on Scope and Program concerning the growing number of current ULC projects that have related privacy issues. After discussion, the Committee on Scope and Program recommends that a new Committee on Personal Information Privacy be formed, and that this proposal be forwarded to that new committee for further consideration.

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 Committee on Personal Information Privacy be established, and if so, to refer to it the proposals on (1) manufacturer's installed passwords on household smart devices; (2) personal information privacy misappropriation; (3) internet privacy rules; (4) biometric privacy; and also consider standardizing definitions and terms relating to protected personal information, sanction for misappropriation of protected personal information, and a consumer's right to know the protected personal information collected by others and with whom the information is shared; biometric privacy, and internet rules regarding protected personal information.**

*On July 17, 2017, the Executive Committee deferred action on this resolution until the January 2018 midyear meeting of the Executive Committee.*

- **Manufacturer's installed passwords on household smart devices**  
(Commissioner Carl Lisman) Scope Liaison Carl Lisman

Commissioner Lisman reported on this proposal to study the need for state legislation to regulate the use of internet-enabled devices with preset passwords.

The discussion of this proposal and the other proposals dealing with privacy concerns led to a broader discussion by the Committee on Scope and Program concerning the growing number of current ULC projects that have related privacy issues. After discussion, the Committee on Scope and Program recommends that a new Committee on Personal Information Privacy be formed, and that this proposal be forwarded to that new committee for further consideration. See discussion above.

- **Internet Privacy Rules**  
(Commissioner Dale Higer) Scope Liaison Tom Hemmendinger

Commissioner Higer reported on this proposal to address the issue of internet privacy rules and regulations limiting access to consumers' online data.

The discussion of this proposal and the other proposals dealing with privacy concerns led to a broader discussion by the Committee on Scope and Program concerning the growing number of current ULC projects that have related privacy issues. After discussion, the Committee on Scope and Program recommends that a new Committee on Personal Information Privacy be formed, and that this proposal be forwarded to that new committee for further consideration. See discussion above.

- **Biometric Privacy**  
(Commissioner Carl Lisman) Scope Liaison Carl Lisman

Commissioner Lisman reported on this proposal to address the issue of regulating the collection, use, safeguarding, and storage of biometric identifiers.

The discussion of this proposal and the other proposals dealing with privacy concerns led to a broader discussion by the Committee on Scope and Program concerning the growing number of current ULC projects that have related privacy issues. After discussion, the Committee on Scope and Program recommends that a new Committee on Personal Information Privacy be formed, and that this proposal be forwarded to that new committee for further consideration. See discussion above.

- **“Rehoming” following international adoptions**  
(Commissioner Lyle Hillyard) Scope Liaison Ryan Leonard

Commissioner Hillyard reported on this proposal to prohibit the practice of “rehoming” an adopted child.

After discussion, the Committee on Scope and Program concluded to take no action at this time, and instead referred the proposal to the Joint Editorial Board for Uniform Family Law for further review, with the request that the JEB report back its findings at the January 2018 meeting of the Scope and Program Committee.

- **Medical Marijuana**  
(Suggested by Rinky Parwani) Scope Liaison Steve Wilborn

Commissioner Wilborn reported on this proposal to address the issue of state regulation of medical marijuana, including issues of patient registration and dispensary regulations.

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

- **Child Marriage**  
(Commissioner Carl Lisman) Scope Liaison Carl Lisman

Commissioner Lisman reported on this proposal to address the issue of regulation or prohibition of marriages for minors.

After discussion, the Committee on Scope and Program concluded to take no action at this time, and instead referred the proposal to the Joint Editorial Board for Uniform Family Law for further review, with the request that the JEB report back its findings at the January 2018 meeting of the Scope and Program Committee.

### **Other Business**

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

Katie Robinson 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 28, 2017, recommendations from the Committee to Review ULC Acts be approved with regard to the following:**

- **Re-designate the Uniform Parentage Act (2000) as “superseded” contingent upon approval of the Uniform Parentage Act (2017) at the 2017 Annual Meeting.**
- **Re-designate the Uniform Guardianship and Protective Proceedings Jurisdiction Act (1997) as “superseded” contingent upon approval of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act at the 2017 Annual Meeting;**
- **Withdraw the Model Adoption Act (1994) as “obsolete.”**

*On July 17, 2017, the Executive Committee approved this resolution.*

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 Debt Management Services Act: Scope requests that this Act the ULC legislative staff further research the current legislative landscape on the topic.
  2. Uniform Correction or Clarification of Defamation Act: Scope requests that ULC legislative staff consider enactment strategies, particularly if there are any strategies which might be of interest to technology companies.
  3. Model Planned Community Act: Scope requests that this Act be referred to the JEB/Uniform Real Property Acts for its review and consideration.
  4. Model Victims of Crime Act: Scope requests that this Act be referred to the Criminal Justice Reform Committee for its review and consideration.
- **Drafting Committee on Uniform Regulation of Virtual Currency Businesses Act**  
(Fred Miller, Chair)

Commissioner Miller reported on this request on behalf of the Drafting Committee on Uniform Regulation of Virtual Currency Businesses Act to draft a UCC Article 8 related statute as a companion act.

After discussion, the Committee on Scope and Program approved the following resolution:

**RESOLVED, that the Committee on Scope and Program, based on the current Section 502 of the Uniform Regulation of Virtual Currency Businesses Act as presented to the floor, recommends to the Executive Committee that a drafting committee be formed to draft a UCC Article 8 related statute as a companion act to the Uniform Regulation of Virtual Currency Businesses Act.**

*On July 17, 2017, the Executive Committee approved this amended resolution:*

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a drafting committee be formed to draft a UCC Article 8 related statute as a companion act to the Uniform Regulation of Virtual Currency Businesses Act, based on the current Section 502 of the Uniform Regulation of Virtual Currency Businesses Act as presented to the floor. This resolution is contingent on approval of the Act at this annual meeting.**

## **Discussion Items**

- **Naming convention of ULC Acts**

Chair Lisman led a discussion on draft guidelines for the naming of ULC acts.

Further discussion on the topic is deferred pending further review by the Committee on Legislative Attorneys.

- **Law on Privacy**

Chair Lisman discussed the growing number of current ULC projects that have related privacy issues. After discussion, the Committee on Scope and Program recommends that a new Committee on Personal Information Privacy be formed. See discussion above.

Having no further business, the Committee on Scope and Program was adjourned at 11:30 am on Sunday, July 16.