

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

UNIFORM LAW COMMISSION

**Friday, January 17, 2020
Santa Fe, New Mexico**

Minutes

The meeting of the Committee on Scope and Program was convened at 9:00 am on Friday, January 17, 2020, at the La Posada Resort in Santa Fe, New Mexico, by Chair Tim Berg. Committee members Diane Boyer-Vine, Martin Carr, Mary Devine, Lyle Hillyard, Lisa Jacobs, Gail Russell, Lee Yeakel, and Steve Wilborn were present. Also present were Carl Lisman, ULC President, Dan Robbins, Chair of the ULC Executive Committee, and Anita Ramasastry, Immediate Past President. Tim Schnabel, ULC Executive Director, Katie Robinson, ULC Legislative Program Director, Elizabeth Cotton-Murphy, ULC Chief Administrative Officer, and Cameron Pestinger, ULC Fellow, also attended.

Chair Berg 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 July 13, 2019.

Study Committee Reports

- Study Committee on **Covenants not to Compete**
(Keith Rowley, Chair) Scope Liaison Gail Russell

Commissioner Russell reported on the progress of this study committee. The committee has met by conference call several times and discussed the various options a drafting committee might pursue, including choice of law issues and non-solicitation and non-disclosure agreements. The committee chair and reporter have drafted a final report recommending drafting; that recommendation was supported by a majority of the committee members. The study committee recommends that a drafting committee be appointed.

After discussion, the Committee on Scope and Program did not approve the recommendation for a drafting committee. Instead, Scope requests that the study committee provide additional information for consideration by Scope, including a specific outline as to what issues would be included in any draft act, as well as a report on stakeholder outreach. The committee is requested to provide that additional information within 30 days. At that time, the committee's recommendation for a drafting committee will again be considered by Scope.

- Study Committee on **Telehealth**
(Michele Radosevich, Chair) Scope Liaison Lyle Hillyard

Commissioner Hillyard reported on the progress of this study committee. The committee has met by conference call three times and has reviewed the recommended topics for its work and has assembled a broad group of stakeholders. The committee will continue its work, and it is expected that a final report and recommendation will be submitted for consideration at the July 2020 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 **Disposition of Human Embryos and Gametes**
(Barbara Atwood, Chair) Scope Liaison Diane Boyer-Vine

Commissioner Boyer-Vine reported on the progress of this study committee. The committee reviewed possible statutory provisions in a uniform law regarding disposition of embryos and gametes, drawing on relevant case and statutory law that had been provided to the committee by the committee reporter Susan Crockin. The committee also discussed the substantive positions taken by the ABA in its Model Act on the subject. After extensive discussion, the consensus of the study committee members was to recommend against the appointment of a drafting committee at this time, particularly given the lack of consensus on the legal status of embryos. The committee recommends that it be discharged.

After discussion, the Committee on Scope and Program recommended that the study committee be discharged. 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 Study Committee on Disposition of Human Embryos and Gametes be discharged with a letter of thanks to the committee.

On January 18, 2020, the Executive Committee approved this resolution.

- Study Committee on **Jury Selection and Service**
(Sam Thumma, Chair) Scope Liaison Gail Russell

Commissioner Russell reported on the progress of this study committee. The committee has met by conference call three times and has identified areas of potential focus in considering whether to recommend a drafting effort addressing jury issues. The committee anticipates meeting at least two more times in 2020. It is expected that a final report and recommendation will be submitted for consideration at the July 2020 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 **Debt Collection Default Judgments**
(Gail Hagerty, Chair) Scope Liaison Martin Carr

Commissioner Carr reported on the progress of this study committee. The committee has met by conference call and has identified areas of potential focus in considering whether to recommend a drafting effort addressing debt collection issues. The committee is working on gathering additional resources, including federal legislation and rules, proposed rules, and comments. The committee anticipates meeting at least two more times in 2020 and will review current state laws in the area of debt collection and development of a broad outline of what might be included in a uniform act. It is expected that a final report and recommendation will be submitted for consideration at either the July 2020 annual meeting of Scope or the January 2021 midyear 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 **Third Party Funding of Litigation**
(Cassandra Robertson, Chair) Scope Liaison Lee Yeakel

Commissioner Yeakel reported on the progress of this study committee. A preliminary conference call was held in December 2019, at which time a number of issues were raised, including the fact that there is federal legislation pending. It is expected that a final report and recommendation will be submitted for consideration at either the July 2020 annual meeting of Scope or the January 2021 midyear 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 **Fines and Fees**
(Kay Kindred, Chair) Scope Liaison Mary Devine

Commissioner Devine reported on the progress of this study committee. The committee has not yet met, and the committee chair is working with ULC staff on assembling background material for the committee's consideration. It is expected that a final report and recommendation will be submitted for consideration at either the July 2020 annual meeting of Scope or the January 2021 midyear 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 **Special Deposits**
(Buzz Guida, Chair) Scope Liaison Lisa Jacobs

Commissioner Jacobs reported on the progress of this study committee. The committee has engaged two co-reporters: Thomas Baxter, who formerly served as General Counsel and Executive Vice President of the Federal Reserve Bank of New York, and Michael Wiseman, of Sullivan and Cromwell. The co-reporters have been polling bank senior executives and bank general counsel regarding their knowledge of special deposits. The co-reporters are also recruiting observers from the banking community. The committee will hold its first conference call in late January or early February. It is expected that a final report and recommendation will be submitted for consideration at either the July 2020 annual meeting of Scope or the January 2021 midyear 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 Committee on **UCC and Emerging Technologies**
(Ed Smith, Chair) Scope Liaison Lee Yeakel

Commissioner Yeakel reported on the progress of this joint committee. The committee had its first in-person meeting in the fall and is scheduled to meet again this spring. To prepare for that meeting, the committee distributed a questionnaire to industry, consumer and bar groups, government agencies, businesses and other potentially interested parties. The questionnaire was designed to solicit suggestions for provisions of the UCC that may need to be revised or amended to take into account emerged and emerging technologies such as artificial intelligence, distributed ledger technology and virtual currency. The committee has formed into subgroups to address specific topics, including payment systems, virtual currency, digital assets, electronic chattel paper, software, and service transactions. Each subgroup will be formulating a list of recommended changes to the UCC to be considered by the entire committee as a whole. The committee requests that it be continued.

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

Joint Editorial Board Written Reports and Recommendations

- JEB – **Uniform Family Law**
(Barbara Atwood, Chair) – Scope Liaison Diane Boyer-Vine

Commissioner Boyer-Vine reported on the recommendation from the JEB to appoint a study committee to consider revising the Uniform Health Care Decisions Act, which was promulgated in 1993. At present, only seven states have enacted UHCDA. The key issues in the UHCDA warranting possible revision are the priority list of those who can act as surrogate; identification of residual surrogates; the provision for oral appointment; lack of domestic

partnerships, civil unions, or co-habitants in the surrogate list; disqualification of surrogates; and scope of surrogate decisions. The JEB recommends that the UHCDA be revised to address these areas, as well as add provisions for decision-making by mature minors. The JEB/Uniform Trust and Estate Acts as well as the Committee to Monitor Developments in Healthcare Law also support the appointment of a study committee to revise the UHCDA.

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 Amending or Revising the Uniform Health Care Decisions Act, including (a) the priority list of those who can act as surrogates, residual surrogates, oral appointments, domestic partnerships and disqualification of surrogates, (b) scope of care decisions, and (c) decision-making by mature minors.

On January 18, 2020, the Executive Committee approved this resolution.

Commissioner Boyer-Vine reported on the second recommendation from the JEB to appoint a study committee to consider revising the Uniform Premarital and Marital Agreements Act, which was promulgated in 2013. At present, only two states have enacted UPMAA. The UPMAA treats premarital and post-marital agreements identically, which may have hurt enactment chances. The JEB has concluded that a study committee should be appointed to investigate whether drafting new standards for post-marital agreements would result in greater enactability.

After discussion, the Committee on Scope and Program referred the matter back to the JEB, and requested that the JEB consider these kinds of contracts more broadly than only in the context of the Uniform Premarital and Marital Agreements Act, with specific direction to consider how these contracts would fit into the work of the Drafting Committee on Economic Rights of Unmarried Cohabitants. The JEB is welcome to report back any findings it thinks appropriate for further consideration at a future meeting of Scope and Program.

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

Commissioner Russell reported on the recommendation from the JEB to appoint a drafting committee to prepare a uniform act on the conflict of laws in trusts and estates. This includes trusts, wills, will substitutes, intestacy, estate administration, fiduciary powers and duties, powers of appointment, and powers of attorney. The JEB recommends that any act be focused on the U.S. aspects of conflict of laws, excluding specifically international aspects of the conflict of laws.

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 Address Conflict of Laws in Trusts and Estates be formed, to address issues set forth in Appendix A in the JEB's report of November 10, 2019, as well as other issues that arise during drafting.

On January 18, 2020, the Executive Committee approved this resolution.

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

Commissioner Hillyard reported on the recommendation from the JEB to appoint a study committee to undertake study of a variety of issues arising out of the sale of municipal real estate tax liens and the desirability of uniform or model legislation to address these issues. All American municipalities impose real property taxes on ownership of real property. If unpaid, the lien may be foreclosed. There is a great deal of variation from jurisdiction to jurisdiction in terms of the tax collection and tax lien enforcement process. The primary concern underlying the real estate tax lien enforcement process is the fact that the existing enforcement system in many jurisdictions fails to deliver a clear, marketable title to the affected real property. The JEB believes that a model or uniform law clarifying the notice requirements for real property tax sales merits further study.

After discussion, the Committee on Scope and Program requested that the JEB further research the current status of state law on the subject, and report back any findings it thinks appropriate for further consideration at a future meeting of Scope and Program.

Commissioner Hillyard reported on the second recommendation from the JEB to appoint a study committee to consider a uniform law that would permit some threshold percentage of owners of heirs property to place their ownership into a more durable entity form (e.g., an LLC) without the unanimous consent of all owners required under the common law. In 2011 the ULC promulgated the Uniform Partition of Heirs Property Act to address some of the concerns about heirs property. Because the UHPA focuses on the partition process and partition reform, it does not address another problem – the problem of “gridlocked ownership” that require unanimous agreement among the co-tenants if the co-tenants want to use, manage, or otherwise engage in certain activities.

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 resolve problems arising under current common law tenancy-in-common ownership default rules in tenancy-in-common properties that would avoid the requirement of unanimity in decisions regarding the property.

On January 18, 2020, the Executive Committee approved this resolution.

- **JEB – International Law**
(Henry Gabriel, Co-Chair) – Scope Liaison Lee Yeakel

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

- **JEB – Unincorporated Organization Acts**
(Lisa Jacobs, Chair) – Scope Liaison Lisa Jacobs

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

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

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

Monitoring and Other Committees Reports and Recommendations

- **Committee to Monitor Civil Litigation and Dispute Resolution**
(Lee McCorkle, Vice Chair) – Scope Liaison Martin Carr

Commissioner Carr reported on the work of the Committee to Monitor Civil Litigation and Dispute Resolution. There was no proposal, and the report of the Monitoring Committee was accepted. The committee will continue to monitor topics such as online dispute resolution and mediated settlement agreements. The committee will have an in-person meeting in the spring.

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

Commissioner Hillyard reported on the work of the Committee to Monitor Healthcare Law. There was no proposal, and the report of the Monitoring Committee was accepted. The committee will continue to monitor such topics as the corporate practice of medicine doctrine,

healthcare decision making, and addiction treatment center regulations. The committee will have an in-person meeting in the spring.]

- **Technology Committee**

(Tom Buiteweg, Chair) – Scope Liaison Martin Carr

Commissioner Carr reported on the recommendation of the Technology Committee to appoint a study committee on deep fakes. The term “deep fake” refers to audio or visual material that has been digitally manipulated to make it appear that a person is saying or doing something that they have not said or done. The Technology Committee recommends that a study committee on protection against deep fakes be formed to consider: (1) the components of a uniform, technology-neutral definition of deep fakes; (2) an approach to rights and remedies that allows for flexibility in uses and harms of deep fakes; (3) what, if any, changes might be made to the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act to address deep fakes.

After discussion, the Committee on Scope and Program concluded to take no action at this time, and instead referred the proposal to the newly authorized Committee to Monitor Privacy Issues for further review, with the request that the Privacy Committee report back its findings at either the July 2020 meeting of the Scope and Program Committee, or at the January 2021 meeting of Scope.

- **Committee on Criminal Justice Reform**

(Gail Hagerty, Chair) – Scope Liaison Mary Devine

Commissioner Devine reported on the work of the Criminal Justice Reform Committee. There was no proposal, and the report of the Committee was accepted. The committee will continue to monitor such topics as criminal justice data collection, state cybercrime law, and custodial interrogations. The committee will have in in-person meeting in the spring.

- **International Legal Developments Committee (ILDC)**

(Bob Stein, Chair) – Scope Liaison Lee Yeakel

Commissioner Yeakel reported on the recommendation from the ILDC to appoint a study committee to consider a set of uniform laws on choice of law and choice of court clauses in international business transactions. Any study committee may have to address, among other issues: (1) what relationships are included, for example commercial matters, mergers and acquisitions, but not family matters; (2) the availability of a motion to dismiss at the pre-trial stage; and (3) the enforceability of a judgment based on a choice of court of law at the post judgment stage. Any study committee should coordinate with the ILDC’s review of the Hague conventions on Choice of Court and Enforcement of Judgments.

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 a set of uniform laws on choice of law and choice of court clauses in international business transactions.

On January 18, 2020, the Executive Committee approved this resolution.

Commissioner Ramasastry reported on the second recommendation from the ILDC to appoint a study committee to consider whether the ULC should undertake a project to draft a uniform act dealing with reporting requirements for businesses with respect to human trafficking, child labor, or substandard production and facility standards in the context of international supply chains. There are two potential approaches. The first is to build this into human rights legislation, essentially creating an overarching obligation to be aware of and respect human rights. The second is to create a specific duty to monitor and report on the activities of suppliers and subsidiaries.

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 a uniform act to address transparency in the context of international supply chains.

On January 28, 2020, 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 a uniform act to address the existence of child labor, forced labor, human trafficking, and modern slavery in global supply chains (including within the U.S.). The committee will consider different potential legislative options to prevent these human rights abuses including (a) disclosure and transparency laws such as those in existing state legislation, (b) laws requiring companies to engage in supply chain due diligence to address human rights impact more generally, or (c) procurement legislation that would link the receipt of state or local contracts to a company's actions. The committee will specifically consider the issue of what types of businesses might be addressed in such legislation, keeping in mind the special considerations for small and medium-sized enterprises.

New or Pending Proposals

- **Technology and Privacy**

(Commissioner Larry Metz) Scope Liaison Martin Carr

Commissioner Carr reported on this proposal regarding how technology can be used to invade an individual's privacy. For example, mobile tracking devices, easily purchased online and in stores, can be attached to a car or other object, and the location information they collect can be monitored from afar on a purchaser's computer. At least 18 state legislatures have addressed privacy concerns raised when individuals track the movements of others without their knowledge.

When the topic was first discussed in July 2018, the Committee on Scope and Program referred the proposal to the appropriate ULC Committee to Monitor Privacy Issues for further review and consideration. The Committee on Scope and Program reaffirms this initial recommendation, and has referred the proposal to the newly authorized Committee to Monitor Privacy Issues for further review, with the request that the Privacy Committee report back its findings at either the July 2020 meeting of the Scope and Program Committee, or at the January 2021 meeting of Scope.

- **Private Monitoring Devices in Nursing Homes**

(Prof. Tom Simmons, USD) Scope Liaison Gail Russell

Commissioner Russell reported on this proposal to establish a study committee on the topic of in-room cameras within nursing homes. When the topic was first discussed in July 2018, the Committee on Scope and Program referred the proposal to the appropriate ULC Committee to Monitor Privacy Issues for further review and consideration. The Committee on Scope and Program reaffirms this initial recommendation, and has referred the proposal to the newly authorized Committee to Monitor Privacy Issues for further review, with the request that the Privacy Committee report back its findings at either the July 2020 meeting of the Scope and Program Committee, or at the January 2021 meeting of Scope.

- **Tort Liability Laws Affecting Highly Automated Vehicles**

(Commissioner King Burnett) Scope Liaison Lyle Hillyard

Commissioner Hillyard reported on this proposal to appoint a study committee on the issue of automobile liability in regard to highly automated vehicles (HAVs). States are responsible for determining liability for cars, including HAVs. States will need to consider how to allocate liability among HAV owners, operators, passengers, manufacturers, and others when a crash occurs.

The ULC Study Committee on Driverless Cars, in its final report dated January 9, 2017, had acknowledged the challenges of comprehensively evaluating prospective tort liability laws and rules that could affect HAV deployment and future evolution. Consequently, the Study Committee agreed that HAV liability and insurance issues would not be addressed by the drafting committee on Highly Automated Vehicles.

At its July 2018 meeting, the Committee on Scope and Program referred the matter to the Drafting Committee on Highly Automated Vehicles for its review. Most members of the drafting committee believe that there was a need for such a study committee, but there was no consensus on whether such a study committee is needed now or should be deferred until after the HAV drafting committee completed its work. The Uniform Automated Operation of Vehicles Act was approved in 2019.

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

- **State Cybercrime Law**

(David Goad, National Sheriff's Assn.) Scope Liaison Lisa Jacobs

Commissioner Jacobs reported on this proposal, originally submitted in July 2019, to appoint a study committee to explore the feasibility of a Uniform Act on State Cybercrime Laws. The National Sheriffs Association, through its Cybersecurity and Crime Subcommittee, has reviewed both the federal laws and a subset of state laws defining cybercrime-related criminal offenses. Federal cybercrime laws are well-organized, explicable, and forward-looking, while state cybercrime laws vary in their timeliness, their intended coverage, and their articulation. The wide variety of state cybercrime laws are a burden on law enforcement.

After discussion, the Committee on Scope and Program requested that Commissioner Jacobs, with the assistance of ULC staff, further consider what would be included in a state law on this subject, and report back any findings at the July 2020 meeting of the Scope and Program Committee.

- **Sovereign Immunity**

(Commissioner Marilyn Phelan.) Scope Liaison Mary Devine

Commissioner Devine reported on this proposal, originally submitted in July 2019, regarding a potential act that would codify the common law concept of sovereign immunity. A uniform law on the subject could be an effective means to set out statutorily the parameters of a state's immunity from suit and/or liability as well as to provide citizens with the right to sue the state, counterbalanced with defined limitations on that right.

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

- **Online Sales and State Tax Collection**
(Commissioner Lyle Hillyard) Scope Liaison Lyle Hillyard

Commissioner Hillyard provided information regarding the 2018 Supreme Court decision in *South Dakota v. Wayfair*, which overturned the earlier decision of *Quill v. North Dakota*, which held that a state could not compel a retailer to collect and remit sales taxes unless that retailer has a physical presence in the state. In *Wayfair*, the court ruled that the correct standard in determining the constitutionality of a state tax law is whether the tax applies to an activity that has "substantial nexus" with the taxing state. In July 2018, the Scope Committee discussed whether the ULC could provide guidance to the states that want legislation to address the Supreme Court case and concluded at that time to take no action. Commissioner Hillyard reports that states still need clarification on how to comply with *Wayfair*. The National Conference of State Legislatures (NCSL) Task Force on State and Local Taxation has developed principles of state implementation after *South Dakota v. Wayfair*.

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 state taxation of online sales and collection of taxes.

On January 18, 2020, the Executive Committee approved this resolution.

- **Child Abuse Registry Data Sharing**
(Liza Karsai) Scope Liaison Diane Boyer-Vine

Commissioner Boyer-Vine reported on this proposal, originally submitted in July 2019, regarding requiring states' registries to include specific data on child abuse and neglect cases. Every state has procedures for maintaining records related to reports and investigations of child abuse and neglect. However, there is no national database or data collection sharing for child abuse allegations.

After consideration in July 2019, the Scope and Program Committee referred the proposal to the JEB/Uniform Family Law for its review and consideration. The JEB determined that the topic is more appropriately the subject of federal action. Federal law requires that states maintain central registries as a condition of receiving federal funds for child abuse prevention and treatment programs. The JEB concluded that it is up to Congress to address the lack of uniformity in the registries maintained today.

After discussion, the Committee on Scope and Program agreed with the conclusion of the JEB and concluded to take no action at this time.

- **Transparent government use of automated decision systems**
(Commissioner David Zvenyach) Scope Liaison Diane Boyer-Vine

Commissioner Boyer-Vine reported on this proposal to form a study committee on transparent government use of automated decision systems. Automated decision systems use algorithms to make decisions. Local governments are increasingly relying on automated decision systems to make or assist in making decisions. Use of these systems in public administration is raising significant concerns about transparency.

After discussion, the Committee on Scope and Program concluded to take no action at this time, and instead referred the proposal to the Technology Committee for further review, with the request that the Technology Committee report back its findings at the July 2020 meeting of the Scope and Program Committee.

- **Eyewitness identification procedures**
(Commissioner David Biklen) Scope Liaison Mary Devine

Commissioner Devine reported on this proposal to form a study committee on eyewitness identification procedures. In 2011, the ULC created a study committee on Eyewitness Identification Procedures; that committee was discharged in 2013. While the study committee was in existence, 10 states had updated their eyewitness identification procedures. Today, more than 30 states have reformed their eyewitness identification procedures.

After discussion, the Committee on Scope and Program concluded to take no action at this time, and instead referred the proposal to the Criminal Justice Reform Committee for further review, with the request that the Criminal Justice Reform Committee report back its findings at the July 2020 meeting of the Scope and Program Committee.

- **Revise the Uniform Certificate of Title Act**
(Commissioner Steve Willborn) Scope Liaison Lyle Hillyard

Commissioner Hillyard reported on this proposal to appoint a study committee to Amend or Revise the Uniform Certificate of Title Act (UCOTA). UCOTA, promulgated in 2005, provides comprehensive and modern rules for the administration and transfer of title certificates for motor vehicles. The Act has not been enacted in any state. A study committee could examine UCOTA to determine whether amendments are advisable.

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

- **Name, Image and Likeness proposal**
(Commissioner Dale Higer) Scope Liaison Martin Carr

Commissioner Carr reported on this proposal to appoint a study committee to determine if the ULC should draft a uniform or model act on rights of college athletes to their name, image, and likeness. California enacted the first legislation on this topic in September 2019 – making California the first state to give student athletes a right to earn money from their name, image or likeness (“NIL”). Under the new California law, which is scheduled to go into effect on January 1, 2023, earning compensation from the use of a student’s NIL would not affect the student’s scholarship eligibility. Numerous states are planning on introducing some type of NIL legislation in 2020. The National College Players Association (NCPA) has been the driving force behind NIL legislation. With the various introductions or planned introductions of NIL legislation, there is concern that there will be non-uniformity amongst the states, and that states will craft their law to be more competitive to attract the top athletes in their sports and destroy parity between various colleges and universities.

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 addressing name, image and likeness issues for college athletes.

On January 18, 2020, the Executive Committee approved this resolution.

- **Corporate Responsibility**
(Commissioner Peter Dykman) Scope Liaison Lisa Jacobs

Commissioner Jacobs reported on this proposal to appoint a study committee to consider the recent statement from the Business Roundtable that redefined the purpose of a corporation to serve the interests of all stakeholders, not just shareholders. Although the ULC does not draft corporate law (that is left to the ABA Business Law Section), there could be issues for consideration regarding LLCs and public benefit corporations.

After discussion, the Committee on Scope and Program concluded to take no action at this time, and instead referred the proposal to the JEB/Uniform Unincorporated Organization Acts for further review, with the request that the JEB report back its findings at the July 2020 meeting of the Scope and Program Committee.

- **Article V Convention of the States**
(Ken Quinn) Scope Liaison Lee Yeakel

Commissioner Yeakel reported on this proposal to appoint a study committee on drafting Article V Convention Rules that state legislatures can adopt in order to alleviate concerns on how such a convention would operate if ever convened.

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

- **Earned Wages Advance Products proposal**
(Prof. Jim Hawkins, UNC) Scope Liaison Lisa Jacobs

Commissioner Jacobs reported on this proposal to appoint a study committee to consider drafting a uniform law to govern earned wage advances. Earned wage advance companies work with employers to give employees access to wages they have already earned but have not been paid, with the agreement that the employer will deduct the amount advanced from the employee's next paycheck. Earned wage advances are difficult to categorize with certainty under current law and practice; if courts or regulators decide that employee advances are loans, then the companies offering them must become licensed lenders in many states. Clarifying the transactions legal status may facilitate growth in this industry and help enact consumer protection policies.

After discussion, the Committee on Scope and Program concluded to defer further discussion on this topic until the July 2020 annual meeting of Scope.

Having no further business, the Committee on Scope and Program was adjourned.