

UNIFORM LAW COMMISSION

MEETING OF THE COMMITTEE ON SCOPE AND PROGRAM

Tuesday, April 20, 2021

Minutes

The meeting of the Committee on Scope and Program was convened by Chair Tim Berg at 2:30 pm Central time on Tuesday, April 20, 2021, via video-conference technology. 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, and Dan Robbins, Chair of the ULC Executive Committee. Tim Schnabel, ULC Executive Director, Katie Robinson, ULC Legislative Program Director, and Gloria Korpas, ULC Legislative Assistant, also attended. Attending for a portion of the meeting were Commissioners King Burnett, Lee McCorkle, and Paul Kurtz, and guests Ellen Deason, Reporter, Committee to Monitor Developments in Civil Litigation and Dispute Resolution, and Veronica Norman, Associate General Counsel (Environment, Energy & Installations), DoD Office of General Counsel, Jerry Kohns, Associate General Counsel (Installations, Energy and Environment), Department of the Air Force, and Steve Sample, Executive Director, DoD Military Aviation and Installation Assurance Siting Clearinghouse.

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 January 11 and 13, 2021.

- Study Committee on **Family Court Emergency Procedures.**
(Paul Kurtz, Chair) Scope Liaison Mary Devine

Commissioner Kurtz reported on the progress of this committee. This committee has studied the need for and feasibility of a uniform or model act addressing family court procedures in time of emergency. Issues reviewed included use of automatic continuances, suspension of statutes of limitation, prioritization of certain categories of disputes for in-person hearings, and utilization of technology, as well as considering the feasibility of incorporating provisions relating to existing uniform acts to ensure their effective operation during times of emergency.

The committee has met by video conference and has consulted with relevant stakeholders, particularly the National Center for State Courts, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA). After review of the possible topics that a uniform act might address, and discussion of the response from CCJ and COSCA, the study committee recommends against the appointment of a drafting committee, and the committee recommends that it be discharged.

After discussion, the Committee on Scope and Program agreed with the recommendation of the study committee and 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 Family Court Emergency Procedures be discharged with a letter of thanks to the committee.

- **Automated Technology Liability**
(Commissioner King Burnett) Scope Liaison Lyle Hillyard

Commissioner Burnett reported on this proposal to appoint a study committee on the issue of automated technology liability, and particularly to focus on the growing digitization of “things” (the “internet of things”), and the issue of liability for harm resulting from the use of these devices. When the proposal was last discussed at the July 2020 annual meeting, Scope had referred the proposal to the Committee to Monitor Developments in Civil Litigation and Dispute Resolution (CLDR) and requested that the Monitoring Committee report back any findings at a future meeting of Scope and Program. Lee McCorkle, Vice Chair of the Monitoring Committee, and Ellen Deason, Reporter for the Monitoring Committee, reported that the Monitoring Committee has met to discuss the proposal, and recommends that a special committee be appointed. In summary, the CLDR Committee: (1) recommends that the ULC take first steps to explore possible engagement with the topic of tort liability for harms due to digitally automated technology, (2) recommends that the Committee on Scope and Program establish a special committee to further refine the topic of automated technology liability and develop proposals on specific subjects, and (3) suggests some frameworks for the Committee on Scope and Program to consider in structuring a special committee.

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 to the Executive Committee that a Committee on Automated Technology Liability be formed to further refine the topic and develop proposals on specific subjects.

- **Energy Facility Compatibility with Military Testing and Training**
(Paul Ney, General Counsel, Department of Defense, on behalf of DoD) Scope Liaison Lee Yeakel

Veronica Norman, Associate General Counsel (Environment, Energy & Installations), DoD Office of General Counsel, Jerry Kohns, Associate General Counsel (Installations, Energy and Environment), Department of the Air Force, and Steve Sample, Executive Director, DoD Military Aviation and Installation Assurance Siting Clearinghouse, reported on this proposal to draft an act to prevent energy facilities, such as wind turbines, from having an adverse impact on military operations, readiness, and installations. In certain locations, energy facilities pose encroachment challenges to the DoD operational, training, and testing missions. Energy facilities involving tall structures, such as wind turbines and electrical transmission towers that are positioned incorrectly, degrade military testing and training operations. For example, wind turbines near military test and training ranges degrade airborne military radar capabilities.

While current federal law provides DoD with the opportunity to *advise* project owners of potential interference with military equities, DoD does not have the authority to prevent the construction of energy facilities that adversely impact military operations. As a result, there is a critical need for states to ensure that the construction, alteration, and expansion of energy facilities do not adversely impact national security. The DoD proposes that ULC draft an act to mitigate the potential for energy facilities, such as wind turbines, from having an adverse impact on military operations, readiness, and installations.

After discussion, the Committee on Scope and Program referred the proposal to the Joint Editorial Board for Uniform Real Property Acts for further review, and requests that the JEB report back its findings at the July 2021 meeting of the Scope and Program Committee.

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