

2011-2012
Annual Report

uniform law commission



more than a century of service to the states

The Uniform Law Commission (ULC), now 121 years old, promotes uniformity of law among the several states on subjects as to which uniformity is desirable and practicable. The ULC improves the law by providing states with non-partisan, carefully-considered, and well-drafted legislation that brings clarity and stability to critical areas of the law. The ULC's work supports the federal system, seeks to maintain an appropriate balance between federal and state law, and facilitates the movement of individuals and the business of organizations with rules that are consistent from state to state.

Uniform Law Commissioners must be lawyers, qualified to practice law. They are lawyer-legislators, attorneys in private practice, state and federal judges, law professors, and legislative staff attorneys, who have been appointed by state governments as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas where uniformity is desirable and practical.

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Visit ULC on the Web

For information about the ULC, go to www.uniformlaws.org.

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2011 - 2012 ANNUAL REPORT





Michael Houghton

ULC President

I am pleased to report that in the 121st year of the Uniform Law Commission, despite the ongoing economic challenges currently facing the States, the Uniform Law Commission is strong, our work continues to be accomplished at our traditional high quality, and the morale of commissioners and staff is high.

And while we continue to face fiscal challenges, we have been fortunate – through diligence and advocacy – to continue the success we have had under our last several Presidents in protecting and bettering the finances of the Commission. Despite a very modest increase in dues in fiscal year 2012 we have, through the perseverance of numerous Commissioners, not only protected the dues revenues currently paid but received dues payments from certain jurisdictions who had not paid dues as a result of the recent fiscal crisis. Thank you to those states and individuals who have worked so hard in improving payments. And to all others working to get your states back on board – please continue; your help is critical and needed.

We also have been fortunate to negotiate new royalty contracts with existing publishers which will significantly help our fiscal situation in years to come.

And we have been fortunate to obtain significant multi-year financial commitments from:

- the EBSCO Foundation to help fund our ongoing Federalism initiative and our Drafting Committee on the Prevention of and Remedies for Human Trafficking;
- our good friends at LexisNexis for supporting the work of the Drafting Committee on Prevention of and Remedies for Human Trafficking; and
- Freddie Mac, Fannie Mae and the New York Federal Reserve for their support of the work of our Drafting Committee on Residential Real Estate and Mortgage Foreclosure Process and Protection.

This funding will help significantly in subsidizing the work of the Commission. These are, however, one-time grants, and state dues will remain the fiscal life blood of the ULC. We will continue in 2013 to collect state dues, and will continue to operate in a conservative fiscal manner without adversely affecting the drafting work and the programmatic priorities of the Commission.

Our enactment record this year – 82 enactments – is on par with historical enactments for “even numbered” years when more than 15 state legislatures do not meet at all or meet only in short, limited sessions. Five states had no session at all, and 11 states had very short, limited, legislative sessions. We are rebuilding and growing our legislative resources, and I am optimistic about the future of our Legislative Program.

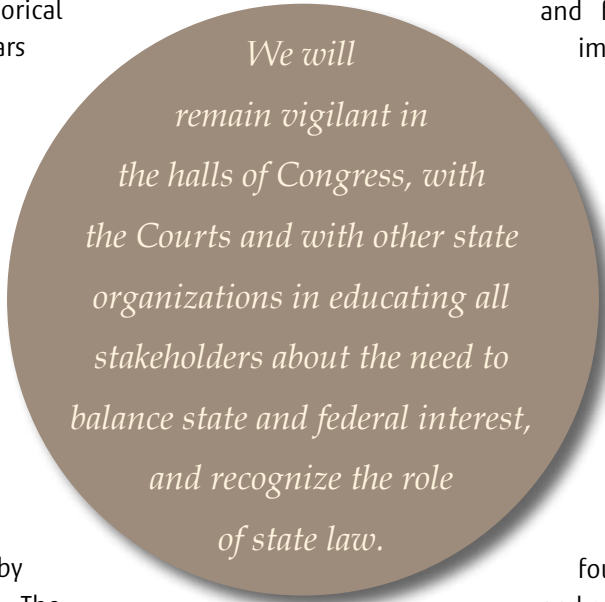
We have also undertaken several new projects of importance to our nation which will – and by their very nature – be challenging. The Committee on Prevention of and Remedies for Human Trafficking addresses means of stopping tragic patterns of abuse which destroy lives and poison our society. These are problems not of third world countries but of these United States and territories. This may not be the easiest topic to address for the Commission, but it demands our attention and hard work.

The Drafting Committee on Residential Real Estate Mortgage Foreclosure Process and Protection will attempt to craft a statute to address the myriad of complex consumer and business issues surrounding the national mortgage foreclosure crisis. This, too, is a difficult topic. This project in particular was one where we concluded – if not us, if not the Uniform Law Commission to best carefully study and thoughtfully address these issues – then who?

Issues like these – Human Trafficking and Mortgage Foreclosure – demand our attention, and addressing these national concerns falls within the finest traditions of our Commission.

We are also continuing with the work of our Committee on Federalism, initially established in 2009. Based on our

prior symposium at George Washington University and our Second Symposium on Federalism and Preemption in April 2013 at Georgetown University Law Center, and continued outreach with the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Attorneys General, the National Center for State Courts and the Conference of Chief Justices, among others, we are leading a national discussion with state and federal stakeholders regarding the important role states must play in our federal system of government.



We will remain vigilant in the halls of Congress, with the Courts and with other state organizations in educating all stakeholders about the need to balance state and federal interest, and recognize the role of state law. These issues lie at the foundation of our Republic and have been a topic of discussion for the Commission since its founding. What was old is new again – and so it is with the Federalism discussion.

Our involvement in International Law is another area of Commission work with significant historical roots. The ULC has worked with the Department of State, serving as a resource in the negotiation and implementation of private international law treaties and conventions drawing on or impacting U.S. State law. Our work on matters affecting areas like family law (such as the Hague Convention on the Protection of Children) or private international law (like the Choice of Court Agreements Convention Implementation Act), continue. We can celebrate the fact that the United States has negotiated treaties with other nations. But very difficult questions have arisen. How should such a treaty be implemented in the United States? To avoid a result under which implementing federal statute will convert an area of state law into federal law enforceable in the federal courts, we have developed ideas for implementing international private law treaties negotiated by the U.S. government by uniform state laws. New concepts such as cooperative federalism and conditional preemption have emerged. Developing uniform laws to implement various private law treaties continues to be a very, very challenging task.

Beyond this work on international matters with the

State Department, we continue our collaborative initiatives – such as the work of our Study Committee on Inter-Jurisdictional Recognition of Advance Planning Documents and the Study Committee on Recognition and Enforcement of Foreign Domestic Violence Protection Orders – with our friends from the Uniform Law Conference of Canada – and we continue to work with the Mexican Uniform Law Center on potential projects. We are also pursuing – with nations in the Caribbean – the prospect of more joint initiatives, and we hope to meet with various representatives of Caribbean countries in 2013 to pursue harmonization projects.

Finally, I am very proud of two key initiatives of my Presidency which are being led by two former ULC Presidents.

The first is the Committee to Review the Scope and Program Process, chaired by past President Martha Walters. The Committee on Scope and Program is the gatekeeper for new project proposals. The Scope Committee recommends to the Executive Committee the work the ULC should undertake and the general plan and scope of its activities. The Scope Committee is the first step in the long process of completing a uniform or model act.

The Scope Review Committee will undertake a comprehensive review of the ULC Scope and Program process, examining how and why the ULC undertakes projects, and will make recommendations concerning ways to enhance the Scope and Program process.

This Committee should be viewed as a continuation of a comprehensive and methodical study of how the ULC works. We have looked at the legislative process, and we have looked at the drafting process. The ULC is known for its open, inclusive, and deliberative process, but it is still worth our time and effort to occasionally examine that process to determine whether or not there are ways we can improve the process. This important new committee will help us do just that.

The second is the Committee on ULC History, chaired by past President Howard Swibel. This Committee has three primary tasks – develop and complete a new written history of the ULC by July of 2013; recommence the “oral history” project begun in 2008; and complete three versions of a film discussing the history of the Commission.

I am pleased to report that the film project is now complete, and all the videos are now available online. In working on this project, it has been gratifying to have partner organizations – including the ABA (through ABA President Bill Robinson), the U.S. State Department, the Pew Charitable Trusts, AARP, the Association of Organ Procurement Organizations – as well as Illinois Senator Dick Durbin and an icon of American Law – Justice Sandra Day O’Connor – recognize our role and our importance in the history and the future of the development of America’s law.

The written history is underway and should be completed in 2013. And the oral history has recommenced, and videotaped interviews with certain ULC past presidents have been conducted. These interviews – along with future interviews, which will ultimately be digitized and researchable – will be a historical resource and record of this Commission.

I want the Uniform Law Commission – through this History Project – to celebrate its unique contribution and role of service to this country and to also have new tools with which to educate the public, legislatures, policy makers and opinion leaders about our Commission. I want us to better maintain – and increase – our relevance to all our stakeholders, in all forums in which we function. I think this project will do that – I certainly hope it will.

Thank you for allowing me to help lead you these two years as we work together on all of these important issues. It is a privilege and honor to serve as President of this illustrious organization.





2012: Another Excellent Year in the Legislatures

The Uniform Law Commission promotes the principle of uniformity by drafting and proposing specific statutes in areas of the law where uniformity between the states is desirable and practical. However, the ULC can only propose – no uniform law is effective until a state legislature adopts it. To that end, uniform law commissioners work toward enactment of ULC acts in their home jurisdictions.

The 2012 legislative year ended with 191 introductions and 82 enactments, well above average for “even numbered” years when at least 15 state legislatures do not meet at all or meet only in very short, limited legislative sessions.

2010 Amendments to UCC Article 9, Secured Transactions

The 2010 Amendments to Article 9 of the UCC were adopted in 21 states in 2012, bringing its total number of enactments to 30. UCC Article 9, which governs secured transactions in personal property, has been adopted in every state. The 2010 Amendments to UCC9 address filing issues as well as other matters that have arisen in practice following over a decade of experience with the revised Article 9 (last revised in 1998). Of most importance, the 2010 amendments provide greater guidance as to the name of an individual debtor to be provided on a financing statement. The amendments also improve the system for filing financing statements. More detailed guidance is provided for the debtor’s name on a financing statement when the debtor is a corporation, limited liability company, or limited partnership, and when the collateral is held in a statutory or common law trust or in a decedent’s estate. Some extraneous information currently provided on financing statements will no longer be required. In addition, the 2010 amendments provide greater protection for an existing secured party having a security interest in after-acquired property when

its debtor relocates to another state or merges with another entity. Finally, the amendments also contain a number of technical changes that respond to issues arising in the marketplace and a set of transition rules.

Uniform Interstate Depositions and Discovery Act

The Uniform Interstate Depositions and Discovery Act was enacted in seven states in 2012, bringing its total to 28 enactments. The UIDDA provides simple procedures for courts in one state to issue subpoenas for out-of-state depositions. While every state has a rule governing interstate depositions, those rules vary from state to state. The Uniform Act provides procedures to enable a party in one state to effectuate depositions of witnesses, discover documents, or inspect premises in other states.

The Act is simple and efficient: it establishes a simple clerical procedure under which a state subpoena in the “trial state” can be used to issue a subpoena in another state (the “discovery state”). The net effect of the procedure enables the appropriate clerk of the court in the discovery state to simply reissue the subpoena – in the form of the discovery state subpoena – that has been filed in the trial state, and the new subpoena is served on the witness in accordance with the laws of the discovery state. The act has minimal judicial oversight; the goal is to simplify and standardize the current patchwork of procedures across the various states for deposing witnesses for purposes of out-of-state litigation.

Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) was enacted in five states in 2012, bringing its total number of enactments to

35. The UAGPPJA addresses the issue of jurisdiction over adult guardianships, conservatorships, and other protective proceedings, providing a mechanism for resolving multi-state jurisdictional disputes. It contains specific guidelines to specify which court has jurisdiction to appoint a guardian or conservator for an incapacitated adult. The objective is that only one state will have jurisdiction at any one time.

Uniform Military and Overseas Voters Act

The Uniform Military and Overseas Voters Act (UMOVA) was enacted in four states in 2011, bringing its total now to 10 enactments. Military personnel and overseas civilians face a variety of challenges to their participation as voters in U.S. elections, despite repeated congressional and state efforts to facilitate their ability to vote. The federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) and Military and Overseas Voter Empowerment Act of 2009 (MOVE), as well as the various state efforts, have not been wholly effective in overcoming difficulties that these voters face. Further, American elections are conducted at the state and local levels under procedures that vary dramatically by jurisdiction, and many are conducted independent of the federal elections to which UOCAVA and the MOVE Act do apply. Lack of uniformity, and lack of application of the federal statutes to state and local elections, complicates efforts to more fully enfranchise these voters.

The 2010 UMOVA establishes reasonable, standard timetables for application, registration, provision of ballots and election information for covered voters, and submission of ballots, and provides for the determination of the address that should be used for active-duty military and overseas voters. The act simplifies and expands, in common sense fashion, the class of covered voters and covered elections. UMOVA allows voters to make use of electronic transmission methods for applications and receipt of registration and balloting materials, tracking the status of applications, and expands use of the Federal Post Card Application and Federal Write-In Absentee Ballot. Finally, UMOVA obviates non-essential requirements that could otherwise invalidate an overseas ballot. The new Act uses and builds upon the key requirements of UOCAVA and MOVE, and extends the important protections and benefits of these acts to voting in applicable state and local elections.

Uniform Electronic Legal Material Act

The Uniform Electronic Legal Material Act, promulgated just last year, has now been enacted in two states: California and Colorado. UELMA provides a technology-neutral, outcomes-based approach to ensuring that online state

legal material deemed official will be preserved and will be permanently available to the public in unaltered form. It furthers states policies of accountability and transparency in providing legal information to the public.

The Act applies to electronic legal material that has been designated official. Four categories of basic state legal material are specifically named in the Act, including the state constitution, state session laws, codified laws, and agency regulations which have the effect of law. The state has discretion to include any other publications it desires.

The Act requires that official electronic legal material be:

1. Authenticated, by providing a method to determine that it is unaltered;
2. Preserved, either in electronic or print form; and
3. Accessible, for use by the public on a permanent basis.

The UELMA does not require specific technologies, leaving the choice of technology for authentication and preservation up to the states.

Uniform Trust Code “turns” 25

In 2012, Massachusetts became the 25th state to adopt the Uniform Trust Code (UTC). The UTC, promulgated in 2000, is the first national codification of the American law of trusts. The UTC was produced over a five-year drafting process that involved extensive consultation with the trusts and estates bar, the trust banking industry, judicial officers, and law professors. Although the first systematic statutory codification of the law of trusts, the UTC is the natural culmination of the prior century’s worth of piecemeal codification of various facets of trust law, including the Uniform Principal and Income Act, the Uniform Prudent Investor Act, the Uniform Statutory Rule Against Perpetuities, and Article VII of the Uniform Probate Code.

The UTC locates in a single, orderly codification the central tenants of prevailing American trust law. In enacting jurisdictions, the UTC has reduced uncertainty, suppressing costly and needless litigation. Broad enactment of the UTC has also facilitated the continued growth of the trust industry, which is increasingly national in character, reflecting the displacement of land by easy-to-move liquid financial assets as the primary form of wealth accumulation.

Complete information on the ULC’s legislative activity in the states can be found at the ULC’s website at www.uniformlaws.org.

New Uniform Acts Approved in 2012



The culmination of the work of the Uniform Law Commission takes place at its annual meeting each summer, when the Commission convenes as a Committee of the Whole. At its 121st Annual Meeting in Nashville, Tennessee, July 13-19, 2012, five new uniform acts were considered and approved. After receiving the ULC's seal of approval, a uniform act is officially promulgated for consideration by the states, and state legislatures are urged to adopt it.

Uniform Deployed Parents Custody and Visitation Act

The Uniform Deployed Parents Custody and Visitation Act addresses issues of child custody and visitation that arise when parents are deployed in military or other national service.

The deployment of a custodial parent raises custody issues that are not adequately dealt with in the law of most states. In many instances, deployment will be sudden, making it difficult to resolve custody issues before the deployment by ordinary child custody procedures. There is a need to ensure that parents who serve their country are not penalized for their service, while still giving adequate weight to the interests of the other parent, and most importantly, the best interest of the child.

Currently, there is considerable variation in how courts approach custody issues on a parent's deployment. Many courts will grant custody to the other natural parent for the duration of the deployment, even over the wishes of the deploying parent; some courts, however, will grant custody to the person that the service member wishes to designate as custodian, such as a grandparent.

In recent years, the majority of states have sought to fill this gap by passing statutes that govern custody issues when service members are deployed. These statutes, however, vary widely from state to state, and often fail to address the range of custody issues that service members face. There is a need for uniformity in state law, since many military personnel often move between states and any attempt to address the issue through federal legislation would further complicate this area of family law, which is traditionally governed by state law.

The UDPCVA contains provisions that apply generally to custody matters of service members, as well as provisions that arise on notice of and during deployment.

One of the key points of the new act provides that the absence of a military parent from a state will not be used to deprive that state of jurisdiction over the custody or visitation proceeding.

By providing that the deploying parent's residence will not be deemed changed on account of the deployment, the UDPCVA allows states that have entered existing child custody orders (either existing permanent orders before notice of deployment, or temporary orders on notice of deployment) in many instances to retain jurisdiction during deployment even if the nondeploying parent and child were to leave the state during the service member's deployment.

The Uniform Deployed Parents Custody and Visitation Act will standardize and simplify the rules covering custody and visitation issues for deployed parents.

Uniform Asset Freezing Orders Act

The Uniform Asset Freezing Orders Act creates a uniform process for the issuance of asset freezing orders – *in personam* orders freezing the assets of a defendant in order to prevent a party from dissipating assets prior to a judgment.

An asset freezing order is, by its very nature, an extraordinary remedy with potentially significant impact on the debtor whose assets are frozen and on third-parties holding those assets. Accordingly, it is extremely important that there be rigorous standards which must be met before such an order can be issued, which the Uniform Act provides.

The Uniform Act provides a rigorous process for the issuance of an asset-freezing order with notice. It draws heavily on the currently existing American law concerning temporary restraining orders and preliminary injunctions and currently existing English and Canadian law concerning asset-freezing orders. Under the provisions of the Act, a party can obtain an asset-freezing order only if it establishes that there is a substantial likelihood that the assets of a party against which the order is sought will be dissipated so that the party seeking the asset freezing order will be unable to receive satisfaction of the judgment.

The Act provides additional safeguards, authorizing a court to relieve a party of its obligations under an asset-freezing order by permitting that party to post a bond or other security. The Act also entitles a party against which an asset freezing order is entered to an order from the court allowing the use of assets to meet normal living or business expenses and the cost of defending the action.

Since asset freezing orders also affect non-parties, the uniform act sets out with specificity the obligations of non-parties. Under the provisions of the Act, nonparties served with an asset-freezing order shall promptly freeze the assets held on behalf of the party against which the order is issued. The nonparty is provided significant protection because a court, assessing the promptness of a nonparty's response to an asset-freezing order under this section, must take into account the manner, time of service and other factors that reasonably affect a nonparty's ability to comply.

Lastly, the uniform act also contains a mechanism for recognition and enforcement of asset freezing orders issued by other states and from courts outside the United States.

Uniform Premarital and Marital Agreements Act

The Uniform Premarital and Marital Agreements Act brings clarity and consistency to a range of legal agreements between spouses or those who are about to become spouses.

A number of states currently treat premarital agreements and marital agreements under different legal standards, with higher burdens on those who wish to enforce marital agreements. However, the Uniform Premarital and Marital Agreements Act treats premarital agreements and marital agreements under the same set of principles and requirements.

The Uniform Act also addresses the varying standards on both types of agreements that have led to conflicting laws, judgments, and uncertainty about enforcement as couples move from state to state. The Act harmonizes the standards in existing uniform acts governing premarital and marital agreements (including the Uniform Premarital Agreement Act, Uniform Marital Property Act, Uniform Probate Code, and Model Marriage and Divorce Act). The Act provides that a premarital or marital agreement is unenforceable if a party establishes that: the party's consent was involuntary or the result of duress; the party did not have access to independent legal representation; the party did not receive a conspicuous notice of rights that may be modified or waived by the agreement; or that the party did not receive adequate financial disclosures. The Act also provides that a court may refuse to enforce a term of a premarital or marital agreement that it finds to be unconscionable.

Forty years ago, state courts generally refused to enforce premarital agreements that altered the parties' right at divorce, on the basis that such agreements were attempts to alter the terms of a status, marriage, or because they had the effect of encouraging divorce. Over the course of the 1970s and 1980s, nearly every state changed its law, and currently every state allows at least some divorce-focused premarital agreements to be enforced, though the standards for regulating those agreements vary greatly from state to state.

The Uniform Premarital Agreement Act was promulgated by the ULC in 1983; since then, it has been adopted by 26 jurisdictions. The Uniform Premarital Agreement Act brought some consistency to the legal treatment of premarital agreements, especially as concerns rights at dissolution of marriage.

However, the situation regarding marital agreements has been far less settled and consistent. Some states have neither case law nor legislation, while the remaining states have created a wide range of approaches.

The general approach of this new Uniform Act is that parties should be free, within broad limits, to choose the financial terms of their marriage. The limits are those of due process in formation, on the one hand, and certain minimal standards of substantive fairness, on the other.

Uniform Manufactured Housing Act

The Uniform Manufactured Housing Act gives owners the option to classify manufactured homes as either real property or personal property. The Act's primary focus is to enable a purchaser to elect to treat his or her manufactured home (also commonly called mobile homes) as real property.

The Act is intended to modernize the law in this area, increase the supply of affordable housing by making manufactured home financing more available and affordable, and provide owners of manufactured homes with many of the same legal protections as owners of site-built homes.

Although only a small percentage of manufactured homes are moved after being sited, the historic assumption is that the manufactured home is personal property – a remaining vestige of its ancestor, the travel trailer. As a result, 42 states issue a certificate of title for manufactured homes, as they do for cars. Though most of these states provide a statutory method by which a manufactured home can be reclassified as real property, the methods are cumbersome and often confusing. The Act provides an efficient and effective method for having a manufactured home classified as real property at the time of the first retail sale, thereby obviating the need for a certificate of title, or at any other time.

Three-quarters of manufactured homes are sited on the owner's land, and the average lot size is more than twice the average lot size for site-built homes. Moreover, a manufactured home's appearance can be virtually indistinguishable from that of a site-built home. Today's manufactured home is functionally more equivalent to a site-built home than to a travel trailer, but only 25% of manufactured homes are classified as real property.

In addition to being generally outdated, existing state laws vary tremendously from state to state, which creates substantial inefficiencies in the manufactured home sale and finance markets. Depending on the state, manufactured homes are (1) personal property even after they are attached to the land, (2) real property for all purposes, (3) real property for some purposes and personal property for others, or (4) personal property until they become a fixture or until the completion of statutorily specified procedures for "converting" the home from personal property to real property.

Modernizing these laws and creating uniformity among the states is particularly important because manufactured housing is the most significant form of unsubsidized housing in this country for low-income households. As a result, approximately 8% of the United States population—more than twenty-four million people—live in manufactured homes. In some states, the percentage is almost 20%.

By electing to be treated as real estate, the home will qualify for real estate financing and will achieve all the benefits and burdens of real estate ownership. The Act also allows an owner to treat the home as personal property.

Uniform Choice of Court Agreements Convention Implementation Act

The Uniform Choice of Court Agreements Convention Implementation Act will assist in the implementation and ratification of the Hague Convention on Choice of Court Agreements, and is meant to harmonize with federal implementing legislation.

Further information on these uniform acts can be found at the ULC's website at www.uniformlaws.org.



Spotlight on:

Uniform Deployed Parents Custody and Visitation Act (2012)


Today's armed forces are numerous and widespread. More than 100,000 Army personnel are stationed overseas on a permanent basis, and as of August 2012, there were over 80,000 Army personnel assigned in Afghanistan, Iraq and Kuwait, and over 96,000 soldiers deployed in about 140 countries around the world. These numbers do not include the thousands of mobilized National Guard and military Reserve forces of all services that are currently deployed.


The increased deployment of service members has raised difficult child custody issues that profoundly affect both children's welfare and service members' ability to serve their country efficiently. Stories of service members struggling to balance their military duties with their parental duties have in recent years become commonplace. Because a significant proportion of service members are single parents, the Department of Defense indicates that problems related to child custody and visitation while the parent is deployed detrimentally affect the overall war effort and can affect the ability for service members to complete assigned missions.

The issues with which judges, lawyers and parents have struggled include custody jurisdiction, substitute visitation by step-parents and grandparents during deployment, consideration of military service as a factor in custody determinations, and whether a temporary custody order can or should be made permanent when a parent comes back from a military absence, such as a deployment.

The only existing federal statutory protection for single-parent service members is the Servicemembers Civil Relief Act ("SCRA"), which governs the general legal rights of a deploying service member. Under the SCRA, judges must grant stays of legal proceedings, including custody proceedings, when military service materially affects the service member's ability to participate in the proceedings. Yet such stays are mandatory only for the first 90 days after deployment. After that time passes, entry of such stays are discretionary and are often overridden by the interests of the affected children in having custody issues resolved. Furthermore, the SCRA provides no procedures to facilitate entry of a temporary custody arrangement for the many service members who recognize that it is in the child's interest for custody to be settled during their absence. Additionally, the SCRA gives courts no guidance regarding how to balance service members' interest against other relevant interests, including the best interests of the child.

The SCRA notwithstanding, issues of child custody and visitation are the proper province of state law. Currently, state courts vary considerably in their approach to custody issues on a parent's deployment. Some courts will grant custody to the other natural parent for the duration of the deployment, even against the wishes of the deploying parent. Other courts grant custody to the person that the service member designates as custodian, such as a grandparent. Further, at the end of deployment, some courts have been reluctant to return custody to the deploying parent – even when the custody arrangement





during deployment had been deemed only “temporary” – unless the service member can show the child to be significantly worse off living with the other parent.

To resolve these difficult issues, some states have enacted statutes that address custody issues facing service members. In numerous states the answer has been a variety of state laws and cases dealing with visitation rights, the impact of “military absence” on custody rights, electronic testimony, expedited hearings and so on. And in more than a few states, there has been total inaction.

The result of this legislative activity is a system of considerable variation among states when it comes to the treatment of deploying parents. Because of the mobile nature of military service, and because a child’s other parent often is resident in a different state than the deployed parent’s domiciliary state, there are many times that custody issues relating to the child of a service member will involve two or more states.

Responding to the critical need for uniformity between the states and for the efficient and just resolution of custody issues when a service member deploys, the Uniform Law Commission adopted the Uniform Deployed Parents Custody and Visitation Act (UDPCVA) in 2012.

The goal of the UDPCVA is to facilitate expeditious and fair disposition of cases involving the custody rights of a member of the military. One of the key points of the new Act provides that the mere absence of a military parent from a state will not be used to deprive that state of custody jurisdiction. For most cases, a move is a purely voluntarily thing. For service members, however, a move is not voluntary but is made under a military order. Such an involuntary move should not lead to the loss of jurisdiction by a state most familiar and involved with the child’s best interests.

The UDPCVA is organized into articles. Article 1 contains definitions and provisions that apply generally to custody matters involving deployed service members. It includes a notice provision requiring parents to communicate about custody and visitation issues as soon as possible after a service member learns

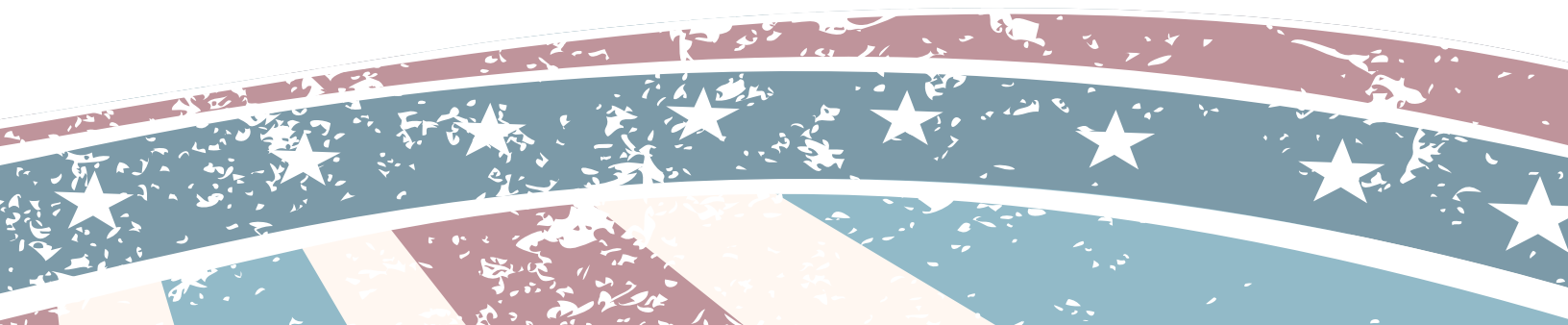
of deployment. Another provision in this article integrates with the Uniform Child Custody Jurisdiction and Enforcement Act to declare that the residence of the deploying parent is not changed by reason of the deployment. The article also provides that, even if there is not a current or imminent deployment, a court may not use a parent’s past deployment or possible future deployment itself as a negative factor in determining the best interests of the child during a custody proceeding.

Articles 2 and 3 apply to custody issues that arise on notice of and during deployment. Article 2 sets out an easy procedure for parents who agree to a custody arrangement during deployment to resolve these issues by an out-of-court agreement. In the absence of such an agreement, Article 3 provides for an expedited judicial resolution of a custody arrangement. Article 3 also declares that no permanent custody order can be entered before or during deployment without the service member’s consent.

Article 4 governs termination of the temporary custody arrangement following the service member’s return from deployment. This article contains one set of procedures that applies when the parents agree that a temporary custody agreement should be terminated; another set applies when the parents agree that a temporary custody order entered by a court should be terminated. A third set of procedures applies when the parents reach no agreement regarding the termination of the temporary custody arrangement and require a court to resolve whether a return to the permanent custody arrangement is appropriate.

The Act ensures that courts will not use past or potential future deployments against a service member, unless there are substantial issues regarding the impact of a deployment on the child’s best interest. Parents should be free to serve their country in uniform without having that service held against them in a custody case.

The UDPCVA ultimately promotes a just balance of interests – protecting the rights of the service member, the other parent, and, above all, the best interests of the children involved.



Financial Support and Budget



The Uniform Law Commission has worked for the uniformity of state laws since 1892. It receives the predominant portion of its financial support from state appropriations. Every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands is assessed a specific amount of dues for support of the ULC. All jurisdictions are also requested to reimburse the expenses of their commissioners incurred in attending the annual meeting. In return, the ULC provides the states with two related services: drafting uniform state laws on subjects where uniformity is desirable and practical, and then supporting the effort to enact completed acts.

The ULC permits the states to tap the skills and resources of the legal profession for very little cost. No Uniform Law Commissioner is paid for his or her services. Commissioners receive reimbursement only for actual expenses incurred. The ULC estimates that each commissioner devotes an average 150 hours a year to ULC work, including work on various drafting committees and attendance at the ULC Annual Meeting. These are hours mainly spent in research and drafting work – solid, substantive hours. The cumulative value of this donated time in the development of uniform and model acts represents thousands of hours of legal expertise, and the annual value of that donated effort is estimated to exceed \$10 million.

Every Uniform or Model Act promulgated by the ULC is developed over the course of two to three years, at intensive weekend meetings, and each Act is read and debated on the floor of ULC Annual Meetings at least twice before all of the assembled commissioners sitting as a Committee of the Whole. Many states would find it both difficult and expensive to replicate the work of the ULC on their own, especially with regard to highly complex subjects such as commercial law or the law of probate and estates.

Moreover, because ULC drafting projects are national in scope, the ULC is able to attract a broad range of advisors and observers to participate in the various projects, resulting in a drafting process that has the benefit of a greater range and depth of expertise than could be brought to bear by any individual state's legislative effort.

In addition, the ULC contracts for professional services to aid in many of the drafting efforts. These professional "reporters" are engaged at very modest honoraria to work with drafting committees on specific acts. Most often they are law professors with specific expertise in the area of law addressed in the act they draft.

The budget of the ULC for the fiscal year ending June 30, 2012 was approximately \$2,923,500, with support from state governments in the total amount of \$1,773,000, accounting for 61% of the budget.

Grants from foundations and the federal government are occasionally sought for specific educational and drafting efforts. All money received from any source is accepted with the understanding that the Commission's drafting work is completely autonomous. No source may dictate the contents of any Act because of a financial contribution. By seeking grants for specific projects, the Commission expands the value of every state dollar invested in its work.

The Uniform Commercial Code (UCC) is a joint venture between the ULC and the American Law Institute (ALI). The ALI

holds the Falk Foundation funds that are allocated to work on the UCC. The ALI funds any study or drafting projects related to the UCC, using the Falk Foundation funds, as well as proceeds from the licensing of the publishing of UCC materials and other funds available to the ALI.

The Commission has also established royalty agreements with major legal publishers which reprint the ULC's uniform and model acts in their publications.

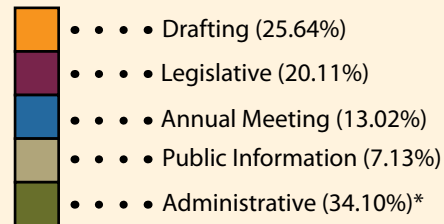
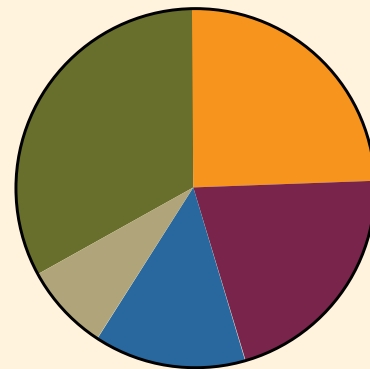
The ULC has a very small staff which keeps its operating costs as low as possible. The full-time staff of 12, located in Chicago, provides all of the staff support for the administrative, drafting and legislative efforts.

Because the states continue to face fiscal challenges, the ULC has also carefully examined and trimmed its budget. ULC staff and leadership continue to work to identify opportunities for cost savings. Over the past several years, the ULC has taken major steps to reduce expenses, including:

- Utilizing new technologies in the work of the drafting committees;
- Switching document distribution from paper to electronic format whenever possible, resulting in significant cost savings;
- Limiting the size of the staff by leaving one legislative attorney position unfilled.

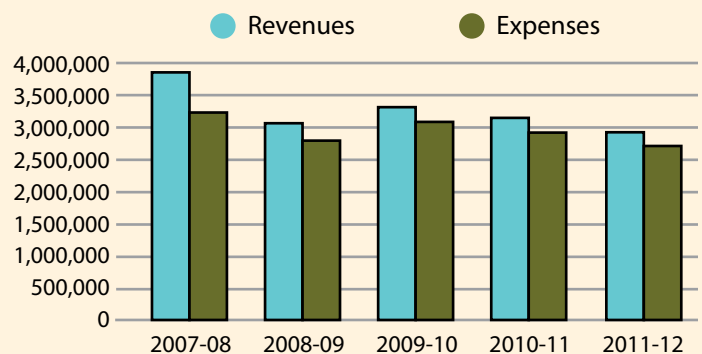
Even in today's economic climate, with states across the country continuing to struggle with their budgets, the process of drafting a uniform law remains an immensely cost-effective endeavor.

BUDGET FOR FISCAL YEAR ENDING JUNE 30, 2012



* This category includes occupancy costs, costs related to the ULF and to ULC governance, general administrative and other expenses.

REVENUES & EXPENSES



Drafting | Study | Other Projects | Editorial Boards

Drafting Committees

Drafting committees composed of commissioners from the various states, with participation from advisors, observers, and expert reporter-drafters, meet throughout the year. All drafting committees are open to the public, and everyone is encouraged to participate fully in the discussion. All drafts are available online at the ULC's website at www.uniformlaws.org. Tentative drafts are not submitted to the entire Commission until they have received extensive committee consideration.

Uniform Law Commission drafting committees consist of a chair, several uniform law commissioners, and a reporter (usually a law professor with expertise in the subject matter). ULC seeks to have one or more ABA section advisors appointed to every drafting committee. Other interested groups are also invited to send representatives, known as observers. ULC drafting committees typically meet two or three times a year for at least two years.

There are currently 10 drafting committees working on new and revised uniform and model acts. Proposed acts are subject to rigorous examination and debate at Commission annual meetings before they become eligible for designation as Uniform Law Commission products. The final decision on whether an act is ready for promulgation to the states is made near the close of an annual meeting, on a vote-by-states basis, with an affirmative vote of 20 or more states necessary for final approval.

Drafting Committee on a Model Act on Appointment and Powers of Real Estate Receivers

This Committee will draft a model act that authorizes the appointment of real estate receivers and sets forth the powers of real estate receivers. The act may also provide powers for a receiver to act with respect to personal property

that is ancillary to real estate, but the act will not authorize the appointment of receivers with respect to owner-occupied residences. This project was recommended by the JEBURPA.

Drafting Committee on Fiduciary Access to Digital Assets

This Committee will draft a free-standing act and/or amendments to ULC acts, such as the Uniform Probate Code, the Uniform Trust Code, the Uniform Guardianship and Protective Proceedings Act, and the Uniform Power of Attorney Act, that will vest fiduciaries with at least the authority to manage and distribute digital assets, copy or delete digital assets, and access digital assets.

Drafting Committee on Amendments to the Uniform Fraudulent Transfer Act

This Committee will prepare amendments to the Uniform Fraudulent Transfer Act that address a) choice of law for fraudulent transfers, b) presumptions and burdens of proof for fraudulent transfers, c) who receives "reasonably equivalent value" under Section 8(a), d) asset freezing orders, and e) the consistency of the UFTA with ULC unincorporated business organization acts. The drafting committee is also authorized to draft, for approval by the Executive Committee, revisions to the comments to other provisions of the UFTA.

Drafting Committee to Implement the Hague Convention on Protection of Children

This committee will draft uniform state legislation that will implement the recognition and enforcement provisions of the Hague Convention on the Protection of Children, through amendments to the Uniform Child Custody Jurisdiction and Enforcement Act. The Committee presented an initial draft for consideration at the July 2012 Annual Meeting and is expected to present a draft for final approval at the July 2013 Annual Meeting.

Joint Drafting Committee with the Uniform Law Conference of Canada on Inter-jurisdictional Recognition of Advance Planning Documents

The Joint Committee will draft principles that will guide the drafting of uniform legislation for enactment in the United States and in Canada that provides for cross-border recognition of documents such as powers of attorney for both property and health care, health care instructions, and other documents (such as instructions concerning living arrangements) as appropriate. The ULC members of the Joint Committee also will draft uniform U.S. legislation on these matters. This project will not develop principles or statutory provisions concerning the recognition of provisions for trusts or guardianships. This project was recommended by the JEBUTEA.

Drafting Committee on a Powers of Appointment Act

This Committee will draft an act on powers of appointment. This project was recommended by the Joint Editorial Board on Uniform Trust and Estate Acts. The JEB noted that, as the use of long-term trusts increases, there has been a significant increase in the use of powers of appointment, but that there is a dearth of statutory and case law on powers of appointment. The provisions of the Restatement (Third) of Property on powers of appointment, which were approved by the ALI in 2006, provide a useful basis for the Committee's work. The Committee presented a draft for initial consideration at the July 2012 Annual Meeting and is expected to present a draft for final approval at the July 2013 Annual Meeting.

Drafting Committee on Prevention of and Remedies for Human Trafficking

This committee will draft legislation concerning the prevention of and remedies for human trafficking. The scope of the project is specifically focused on (a) human trafficking for sexual purposes, in which a sex act is induced by force,

fraud or coercion, or in which the person induced to perform a sex act has not attained the age of majority, and (b) human trafficking in which force, fraud or coercion is used to obtain the labor or services of an individual under circumstances that amount to involuntary servitude. The committee presented a draft for initial consideration at the July 2012 Annual Meeting and is expected to present an act for final approval at the July 2013 Annual Meeting.

Drafting Committee on a Residential Real Estate Mortgage Foreclosure Process and Protections Act

This committee will draft an act that applies only to residential mortgages and that will be drafted as an overlay to, rather than a replacement of, existing state legislation. The drafting committee will consider a specific list of issues that were recommended for consideration in the final report of the Study Committee, and the drafting committee is asked to return to the Scope and Program Committee for approval if it wishes to address additional issues, or if it believes that revisions to UCC Articles 3 or 9 are necessary. The Committee will present a draft for initial consideration at the July 2013 Annual Meeting.

Drafting Committee on a Revision of the Uniform Residential Landlord and Tenant Act

This committee will prepare revisions of the Uniform Residential Landlord and Tenant Act (1972). The 1972 Act has been adopted in 21 states and has influenced statutory developments in many other states. Since 1972, however, there have been many new statutory and common law developments that affect residential landlord and tenant law, and the committee will seek to codify best current practices in a revised act. This project was recommended by the Joint Editorial Board on Uniform Real Property Acts. This committee will present an initial draft for consideration at the July 2013 Annual Meeting.



Drafting Committee on Series of Unincorporated Business Entities

This Committee will draft series provisions that can be added to some or all of the uniform unincorporated business organization acts other than the Uniform Statutory Trust Entity Act, and the committee is also authorized to draft revisions to the series provisions in USTEA if it believes such revisions are necessary. This project was recommended by the JEBUUA.

Other Projects

Committee on the Hague Securities Convention

This committee will work with the U.S. Department of State to assist in the implementation and ratification of the Hague Convention on Securities Held by Intermediaries and to ensure proper interface between the provisions of the Convention and of Articles 8 and 9 of the Uniform Commercial Code.

Study Committees

ULC Study Committees review an assigned area of law in light of defined criteria and recommend whether ULC should proceed with a draft on that subject. Study Committees typically do not meet in-person, but when appropriate Study Committees hold meetings with those interested in the area that the committee is exploring in order to assist in gauging the need for uniform state legislation in an area, the likely scope of any drafting project, and the potential support for a project. ABA advisors are appointed to Study Committees when such an appointment appears particularly useful.

The current study committees are:

- Study Committee on Amending the Uniform Athlete and Agents Act
- Study Committee on Criminal Records Accuracy and Access
- Study Committee on an Eyewitness Identification Procedures Act
- Study Committee on Family Law Arbitration
- Study Committee on an Act to Implement the Consular Notification Requirements of Article 36 of the Vienna

Convention on Consular Relations

- Study Committee on Model Tribal Legislation on Probate Transfer of Interests in Real Property
- Study Committee on Portability and Recognition of Professional and Occupational Licenses of Military Spouses
- Study Committee on Recognition and Enforcement of Foreign Domestic-Violence Protection Orders
- Study Committee on Trust Decanting
- Study Committee on Trust Protectors
- Study Committee on a Model Veterans' Court Act
- Study Committee on Wage Garnishment

Editorial Boards

There are six Editorial Boards which have been appointed with respect to uniform Acts in various subject areas. These Boards are responsible for monitoring new developments which may have an impact on the Acts and for making recommendations for revising existing Acts or drafting new Acts in their subject areas. The Editorial Boards are made up of members from the Uniform Law Commission, the American Bar Association, the American Law Institute, and other organizations.

- Permanent Editorial Board for Uniform Commercial Code
- Joint Editorial Board for Uniform Family Law
- Joint Editorial Board on International Law
- Joint Editorial Board for Uniform Real Property Acts
- Joint Editorial Board for Uniform Trust and Estate Acts
- Joint Editorial Board on Uniform Unincorporated Organization Acts

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2012 Activity

- During the 2012 legislative year, there were 190 introductions of uniform acts and 82 enactments.
- The 2010 Amendments to Revised UCC Article 9 topped the list of legislative enactments with 21 adoptions in 2012, bringing its total number of enactments to 30.
- An important Amendment to UCC Article 4A – Funds Transfers –was approved by the ALI and ULC in 2012, and promptly enacted in both New York and California.
- Hawaii led all jurisdictions with five enactments in 2012.
- The Uniform Deployed Parents Custody and Visitation Act, the Uniform Premarital and Marital Agreements Act, and the Uniform Asset Freezing Orders Act were among five new acts approved at the 2012 Annual Meeting in Nashville, Tennessee.
- There are ten drafting committees working on projects that include a committee working on state legislation concerning the prevention of human trafficking, one working on a number of important issues related to foreclosures of residential real estate mortgages, and a committee dealing with the issue of fiduciaries' access to digital information after incapacity or death.
- There are twelve study committees considering specific areas of law for possible future drafting, including one considering possible revisions to the Uniform Athlete Agents Act, and one studying the potential role of arbitration in family law matters.

The Uniform Law Commission Welcomes Ideas for Uniform or Model Acts



Ideas for new uniform or model acts are considered by the ULC Committee on Scope and Program, which welcomes requests from the organized bar, state governmental entities, private interest groups, uniform law commissioners and private citizens. Any party wishing to suggest an idea for a uniform or model act may contact the ULC headquarters office in Chicago, which will forward the suggestion to the Committee on Scope and Program.

Guidelines concerning the submission of ideas for new uniform or model acts can be found at the ULC's website at www.uniformlaws.org.



Uniform Law Commission

ABOUT THE UNIFORM LAW COMMISSION

The Uniform Law Commission (ULC), now in its 121st year, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

ULC members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

- ULC strengthens the federal system by providing rules and procedures that are consistent from state to state but that also reflect the diverse experience of the states.
- ULC statutes are representative of state experience, because the organization is made up of representatives from each state, appointed by state government.
- ULC keeps state law up-to-date by addressing important and timely legal issues.
- ULC's efforts reduce the need for individuals and businesses to deal with different laws as they move and do business in different states.
- ULC's work facilitates economic development and provides a legal platform for foreign entities to deal with U.S. citizens and businesses.
- ULC Commissioners donate thousands of hours of their time and legal and drafting expertise every year as a public service, and receive no salary or compensation for their work.
- ULC's deliberative and uniquely open drafting process draws on the expertise of commissioners, but also utilizes input from legal experts, and advisors and observers representing the views of other legal organizations or interests that will be subject to the proposed laws.
- ULC is a state-supported organization that represents true value for the states, providing services that most states could not otherwise afford or duplicate.

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