

**CBA TRUST AND ESTATE SECTION
STATUTORY REVISIONS COMMITTEE
Draft Minutes**

October 6, 2021

1. Introductions

Chair, Dylan Metzner, called the meeting to order at 1:32 pm.

We are still meeting via Zoom, there is an option to meet in person or virtual for the remainder of 2021. Please participate however you feel most comfortable. Dylan and Jonathan will plan to be here in person.

2. Approval of September 1, 2021 Minutes

Darla Daniels moved to approve and Leia Ursery seconded. Motion passed unanimously.

3. Announcements

a. *Email List.* If you did not receive the SRC materials in an email from Katie then you are not on the SRC email list. Email Jonathan (JHaskell@wadeash.com.) and he'll add you to the email list.

4. Legislative Report

Andy White gave the legislative report. CBA is readying 2022 legislative agenda and LPC will be convening next week meeting monthly through end of 2021 and meeting weekly in 2022 for remainder of legislative session. Open for members Tuesdays at 12pm lasting until about 1:15pm. For those interested in participating log in information will be posted and emailed to members of the committee. Email Andy if you have any questions.

5. SRC Approved Proposals

a. Active Matters

(i) Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016) (Gordon Williams);

The Probate Trial and Procedure Committee has no objections to proposed language. Under C.R.S. 15-12-705 their recommendation is option (o) which would indicate the basis of compensation required under section 15-10-602, C.R.S. Optional provisions that refer to the other statute is preferable. We need to discuss timing. The Information of Appointment form needs to be approved by the Supreme Court Committee. Marcie will take that issue to the Supreme Court Committee. The Supreme Court

Committee does not meet regularly so this may take some time. We will want the statutory change to correspond to the JDF forms.

Dylan Metzner will coordinate with Connie Eyster to get this on the Supreme Court Committee's agenda.

(ii) Amendment to Visitor Reporting Statute, C.R.S. § 15-14-113.5 (Gordon Williams);

Dylan Metzner to discuss this matter and Kris Zulmat (Elder Law Chair) to discuss this.

(iv) Amendment to Personal Representative Priority Statute, C.R.S. § 15-12-203(4) to include Agent under power of attorney who is granted "hot power" to remove and appoint fiduciaries (Gordon Williams);

Dylan Metzner to discuss this matter and Kris Zulmat (Elder Law Chair) to discuss this.

(vi) Lodged Wills- Investigate issues with lodging wills and the return of lodged wills. (Bette Heller, Chair)

Committee was established in September and the purpose will be to look at existing statutes regarding original Wills and to be a point person for Marcie and Connie Lynn. If you want to be a member of this subcommittee please email Bette Heller – bhelleresq@comcast.net.

b. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons

(i) Colorado Electronic Preservation of Abandoned Estate Planning Documents Act Subcommittee (Pete Bullard, Chair)ⁱ

- a. The language that SRC approved was much broader (7 categories of estate planning documents) than the State Court Administrator was able to achieve (one category-Wills). Essentially the State Court Administrator created a pilot program which will be implemented on January 1, 2023 (when funding comes in) and the pilot program will only deal with Wills.
- b. This matter will remain on Inactive Matters until the pilot program is complete so that SRC can readdress whether to attempt to reincorporate the broader definition and whether the 6 other categories should be restored to the Act by amendment.
- c. See Attachment to Agenda for an Email from Frank Hill to Dylan Metzner et al. providing an overview of some important milestones in the history of CEPDA.

6. **Unapproved Matters under Consideration by SRC - Reports from Subcommittees**

a. **ADR Legislation (C. Jean Stewart, Chair)**

Orange Book still has one more paragraph to approve for language to include in Will or Trust. Dylan will follow up with Judge Stewart to determine if this committee wishes to be on SRC's agenda. .

b. **Child Support in Probate Subcommittee (Pat Mellen, Chair)**

No report

c. **Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Chairs)**

Subcommittee has been meeting every 2 weeks for the past few months. Reviewed 19 of 23 of the sections to the revisions. Summary Table of all currently reviewed provisions is ready to go so email Darla if you would like to see this. Email Darla or Bette if you want to join the committee.

d. **Family Allowance (Michael Kirtland, Chair)**

7. **Inactive Matters**

8. **Report from Elder Law Section**

None

9. **Report from Other Sections of the Bar**

None

10. **New Matters**

a. **Beneficiary Deeds Statute Update re Named Insureds for Casualty Coverage (Carl Stevens)**

Purpose: Do any revisions to statute need to be made in light of the Stroppe court decision.

b. **Common Law Marriage (Leia Ursery);**

Leia is researching this and will report back when she is ready to recommend whether a subcommittee should be formed.

c. **Uniform Cohabitants Economic Remedies Act (Connie Eyster)**

Substantive review will not start until January so this Uniform Law Commissioners is meeting on this or is going to start meeting on this so we should provide the ULC/Legislature with an update that we are looking at this. Connie Eyster and Kim Willoby (family law) are looking into this.

Will be meeting at 11am on First Wednesday.

11. Passed Proposals for Inclusion in Omnibus Bill or Stand Alone Legislation

ⁱ Judicial (State Court Administrator) would only agree to become the sponsoring agency of this legislation if the seven separate categories under the definition of “original estate planning document” was pared down to the single category of “will documents.” This was insisted upon to minimize the size of the “pilot program” Judicial envisioned would be needed to initially implement the legislation in partnership with (and utilizing the technological resources of) the Colorado State Archives office. Once Judicial has completed it’s pilot program and the electronic document upload, storage, and retrieval system for “will documents” is operating as intended under the statute, the other six categories of “original estate planning documents” as they appear in § 15-23-103(14) in HB19-1229 as originally introduced on March 8, 2019 should be restored to the Act by amendment. See <https://leg.colorado.gov/bills/hb19-1229>.