

**CBA TRUST AND ESTATE SECTION
STATUTORY REVISIONS COMMITTEE
AGENDA**

January 5, 2022

1. Introductions

2. Approval of December 3, 2021 Minutes

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

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);**

Probate Trial and Procedure has no objections. Information of Appointment form needs to be updated by Supreme Court. Dylan will coordinate with PTP on the form.

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

Elder Law opposes the proposed language.

- (iii) **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);**

Proposed language: 15-12-203(4.5) If no conservator or guardian is acting, then an agent who is authorized under a financial power of attorney to nominate a fiduciary in accordance with 15-14-724(1)(g)(ii), C.R.S., may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the principal would have if qualified for appointment.

The above is new language that SRC needs to approve which takes into account the possibility that a Conservator or Guardian is

serving and the protected person also has a financial power of attorney that is still effective.

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)

- 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 CEPAEPDA.

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

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

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

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

Committee to begin working on draft language. January's meeting on second Thursday of the month?

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

g. Uniform Cohabitants Economic Remedies Act (Connie Eyster)

7. Inactive Matters

8. Report from Elder Law Section

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

10. **New Matters**

a.

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

**CBA TRUST AND ESTATE SECTION
STATUTORY REVISIONS COMMITTEE
MINUTES**

December 1, 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 2022. Please participate however you feel most comfortable. Dylan and Jonathan will plan to be here in person.

2. Approval of November 3, 2021 Minutes

Motion passed unanimously.

3. Announcements

a. *Email List.* If you did not receive the SRC materials in an email from Emma Baxter 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 reported that session starts in 5 weeks. Uniform Law Commissions meets Friday – Uniform Probate Code, Uniform Cohabitants' Economic Remedies Act, Uniform Voidable Transactions Act, Uniform Community Property Disposition at Death Act, and other uniform laws will be heard on Friday at the capital. December 10th liaison training – if interested look for recording and materials online later this month. Cobar.org/leg.

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);**

Mr. Williams is not available to attend December meeting. Hold until January.

Probate Trial and Procedure has no objections. Information of Appointment form needs to be updated by Supreme Court. Dylan will coordinate with PT&P on the form.

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

Elder Law opposes the proposed language. Wait until Mr. Williams is available in January to discuss but likely do not move forward with this.

(iii) 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);

Proposed language: 15-12-203(4.5) If no conservator or guardian is acting, then an agent who is authorized under a financial power of attorney to nominate a fiduciary in accordance with 15-14-724(1)(g)(ii), C.R.S., may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the principal would have if qualified for appointment.

The above is new language that SRC needs to approve which takes into account the possibility that a Conservator or Guardian is serving and the protected person also has a financial power of attorney that is still effective.

Mr. Williams is not available. Hold until January.

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

Ms. Daniel suggested to start at page 67 of materials which is where summary table begins. The first 3 pages are what Ms. Daniel reviewed in November 2021 at the last meeting.

Summary - 4 categories of changes:

1. Outdated terminology (his, her to “the”, etc.);
2. Remove outdated terminology (half blood, etc);
3. Substantive Revisions. Colorado is likely to not adopt Uniform Parentage Act of 2017. CRS 15-11-103 is being deleted and replaced in its entirety.
4. Concepts that do hinge on Uniform Parentage Act – with input from Family Law we do not recommend we move forward with this proposed language.

15-11-103 and 15-11-106 discussion – refer to page 137 of ACTEC article which discusses how they were trying to determine typical decedent’s wishes. Example 8 discusses if there are no spouse, parents, descendants, or descendants of grandparents, then the decedent would want to include step-children before it would escheat to the state. This is a policy decision and there was pushback as to whether this was a testator’s intent. Thus, the subcommittee recommended leaving out step-children.

If the Uniform Parentage Act ever passes, then we would need to revisit these statutes but this is an unlikely outcome because of family law’s opposition to this Act.

Mr. Hill proposes reinserting the word “a duty” after “A personal representative IS UNDER” in the 2nd sentence subcommittee’s approved revisions to 15-12-703.

Mr. Hill also proposes changes to 15-11-113 the title to be the following: “Title should be changed to Individual Related To Decedent Through More Than One Line of Relationship” Motion to Approve by Ms. Cooper ; 2nd by Ms. Willoughby; no objections; Motion passes unanimously. Summary Table, which was as separate document disseminated on December 1, 2021 to SRC, is approved subject to 2 changes proposed by Mr. Hill. Now needs to get through council and hopefully to law commissions on Friday.

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

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

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

No report.

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

Ms. Heller and other committee members are going to meet on the 2nd Wednesday of each month, except in January 2022 it will be on 2nd Thursday. Reach out to Ms. Heller if you want to join committee.

c. Family Allowance (Michael Kirtland, Chair)

2021COA136 *In Re Estate of Dowdy* (November 4, 2021) held surviving spouse is entitled to family allowance. Issue is resolved so matter can be removed.

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

Carl Stevens is soliciting members for zoom meetings, please reach out to Carl if you would like to join this subcommittee.

e. Uniform Cohabitants Economic Remedies Act (Connie Eyster)

Connie Eyster is going to begin subcommittee on Uniform Community Property Disposition at Death Act in January. Reach out to her at eyster@hbcboulder.com if you would like to join committee.

f. Uniform Community Property Disposition at Death Act (Connie Eyster)

Reach out to Ms. Eyster if you would like to join.

7. Inactive Matters

8. Report from Elder Law Section - No Report

9. Report from Other Sections of the Bar

10. New Matters

a.

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