

**2020–21 ANNUAL REPORT  
OF THE  
MICHIGAN COMMISSION ON UNIFORM STATE LAWS**

**I. PREAMBLE**

To Hon. Mike Shirkey, Senate Majority Leader, Chair, and Hon. Jason Wentworth, Speaker of the House, Alternate Chair, the Michigan Commission on Uniform State Laws (MCUSL) respectfully submits this annual report for fiscal year 2020–21.

**II. OVERVIEW OF UNIFORM LAW COMMISSION**

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, has worked for the uniformity of state laws since 1892. It comprises state commissions on uniform laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Each jurisdiction determines the method of appointment and the number of commissioners appointed. Most jurisdictions provide for their commission by statute. The statutory authority governing Michigan’s uniform law commission is found in section 301 of the Legislative Council Act, 1986 PA 268, MCL 4.1301.

There is only one fundamental requirement for the more than 300 uniform law commissioners: that they are members of the bar. While some commissioners serve as state legislators and other state officials, most are practitioners, judges, or law professors. Uniform law commissioners generally receive no salaries or fees for their work with the Uniform Law Commission.

Commissioners study and review the law of the states to determine which areas of law should be uniform. The commissioners promote the principle of uniformity by drafting and proposing specific statutes in areas of the law in which uniformity between the states is desirable. The ULC can only propose laws; no uniform law is effective until a state legislature adopts it.

The work of the ULC simplifies the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state. Representing both state government and the legal profession, it is a genuine coalition of state interests. It has sought to bring uniformity to the divergent legal traditions of more than 50 jurisdictions—and has done so with significant success.

**III. HISTORY**

On August 24, 1892, representatives from seven states—Delaware, Georgia, Massachusetts, Michigan, New York, New Jersey and Pennsylvania—met in Saratoga Springs, New York, to form what is now known as the Uniform Law Commission. By 1912, every state was

participating in the ULC. The U.S. Virgin Islands was the last jurisdiction to join, appointing its first commission in 1988.

Very early on, the ULC became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. Woodrow Wilson became a member before his service as President of the United States. Several Justices of the Supreme Court of the United States were previously members: former Justices Brandeis, Rutledge, and Souter, and former Chief Justice Rehnquist. Legal scholars have served in large numbers, including Professors Wigmore, Williston, Pound, and Bogert. Many more distinguished lawyers have served since 1892.

In each year of service, the ULC steadily increased its contribution to state law. Since its founding, the ULC has drafted more than 300 uniform laws on numerous subjects and in various fields of law, setting patterns for uniformity across the nation. Uniform Acts include the Uniform Probate Code, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Anatomical Gift Act, the Uniform Interstate Family Support Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and the Uniform Prudent Management of Institutional Funds Act.

Most significant was the 1940 ULC decision to attack major commercial problems with comprehensive legal solutions—decision that set in motion the project to produce the Uniform Commercial Code (UCC). Working with the American Law Institute, the UCC took ten years to draft, and it was another fourteen years before the UCC was enacted across the country. It remains the signature product of the ULC.

Today the ULC is recognized primarily for its work in commercial law, family law, the law of probate and estates, the law of business organizations, health law, and conflicts of law.

The ULC arose out of the concerns of state government for the improvement of the law and for better interstate relationships. Its sole purpose has been, and remains, service to state government and improvement of state law.

#### **IV. DIVERSITY STATEMENT**

Each member jurisdiction determines the number of uniform law commissioners it appoints to the Uniform Law Commission and the individuals who are appointed from the legal profession of that jurisdiction. The national Uniform Law Commission encourages appointing authorities to consider, in making appointments, among other factors, diversity of membership in their uniform law commissions including race, ethnicity and gender. The Uniform Law Commission does its best work when the uniform law commissioners are drawn from diverse backgrounds and experiences.

## **V. PROCEDURES**

The ULC is usually convened as a body once a year, for a period of six or seven days in July or August. In the interim period between these annual meetings, drafting committees composed of Commissioners meet to supply the working drafts that are considered at the annual meeting. At each annual meeting, the work of the drafting committees is read and debated. Each Act is generally considered over a period of two years. No Act becomes officially recognized as a Uniform Act until the ULC is satisfied that it is ready for consideration in the state legislatures. It is then put to a vote of the state delegations to the Commission, during which each state delegation caucuses and votes as a unit.

The governing body is the ULC Executive Committee, and is composed of the officers, certain ex-officio members, and members appointed by the ULC President. Certain activities are conducted by other standing committees. For example, the Committee on Scope and Program considers new subject areas for possible Uniform Acts, and the Legislative Committee superintends the relationships of the ULC to the state legislatures.

A small staff located in Chicago, IL operates the national office of the ULC. The national office handles meeting arrangements, publications, liaison with state delegations, and general administration.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which provides advisors to ULC drafting committees and ULC study committees. Liaison is also maintained, on an on-going and as-needed basis, with the American Law Institute, the Council of State Governments, the National Conference of State Legislatures, the National Association of Secretaries of State, the National Association of Attorneys General, the Conference of Chief Justices, and the National Center for State Courts. Liaison and activities are conducted with other organizations as interests and activities necessitate.

## **VI. ACTIVITIES OF THE MICHIGAN COMMISSIONERS**

### **A. The Michigan Commissioners are:**

Thomas J. Buiteweg, Hudson Cook LLP, Ann Arbor (2004), *Chair*  
Kieran P. Marion, Michigan Credit Union League & Affiliates, Grand Ledge (2013)  
James P. Spica, Chalgian & Tripp Law Offices, Grosse Pointe Farms (2016)  
Hon. Lana Theis, Michigan Senate, Brighton (2020)  
Hon. Jeff Irwin, Michigan Senate, Ann Arbor (2020)  
Hon. Andrew Fink, Michigan House of Representatives, Hillsdale (2020)  
Hon. Jim Haadsma, Michigan House of Representatives, Battle Creek (2020)

Jennifer Dettloff, Legislative Council Administrator, Lansing, *Ex Officio* (2016)

The ULC has named James J. White, University of Michigan Law School, Ann Arbor (1997), a Life Member of the national organization in recognition of over twenty years' service.

- B. The current national ULC committee assignments for Commissioners from Michigan are:

Drafting Committee on the Uniform Commercial Code and Emerging Technologies, Commissioner Buiteweg

Drafting Committee on Debt Collection Default Judgments, Commissioner Buiteweg

Executive Committee, Commissioner Buiteweg

Standing Committee on the Uniform Commercial Code, Commissioner Buiteweg

Monitoring Committee for Developments in Technology Law, Commissioner Buiteweg (Chair)

Investment Committee, Commissioner Buiteweg

Study Committee on Cybercrime, Commissioner Marion

Study Committee on Mortgage Modifications, Commissioner Marion

Drafting Committee on Conflict of Laws in Trusts and Estates Act, Commissioner Spica

Drafting Committee on Fundraising through Public Appeals Act, Commissioner Spica

- C. Other national ULC offices held by Commissioners from Michigan are:

Treasurer, Commissioner Buiteweg  
Legislative Liaison, Commissioner Spica

- D. Meetings held by the Michigan Commissioners in the year 2020–21 were:

None.

E. Michigan Commissioners attending the ULC Annual Meeting were:

Commissioner Buiteweg  
Commissioner Spica

F. Legislative appearances by the Michigan Commissioners in the year 2020–21 were:

None.

G. Other pertinent information concerning the Michigan Commissioners is:

Commissioner Marion has worked with the Debtor-Creditor Rights Committee of the Business Law Section of the State Bar of Michigan and various interested stakeholders on Michigan's version of the Uniform Assignment of Rents Act (UARA). The UARA has been introduced as a two-bill package, HB 4799 and 4800, by Reps. Graham Filler and Kyra Bolden. The bills are currently pending in the state legislature.

Commissioner Spica is the acting Reporter for a committee of the Council of the Probate and Estate Planning Section of the State Bar of Michigan that has prepared the Uniform Power of Appointment Act as draft legislation for enactment in Michigan. The Michigan Attorney General's Elder Abuse Task Force has presented that draft to Michigan Sen. Doug Wozniak for sponsorship, Commissioner Spica has discussed the draft with the Senator and his staff, and the draft is currently being presented to the Council of the Probate and Estate Planning Section for endorsement in a public policy position.

Commissioner Spica is the acting Reporter for, and Chair of, the Uniform Fiduciary Income and Principal Act (UFIPA) Committee of the Council of the Probate and Estate Planning Section of the State Bar of Michigan, which has prepared UFIPA Article 3 as draft legislation for enactment in Michigan as a stand-alone unitrust act. The Council of the Probate and Estate Planning Section has endorsed that draft in a public policy position, and Sen. Doug Wozniak has agreed to sponsor it in the legislature.

Commissioner Spica has worked with Prof. Lawrence W. Waggoner in preparing the ULC's 2008 amendments to the Uniform Probate Code as draft legislation for enactment in Michigan. The Council of the Probate and Estate Planning Section has endorsed that draft in a public policy position, and Rep. Graham Filler has agreed to sponsor it in the legislature.

## **VII. A SUMMARY OF NEW UNIFORM ACTS PROMULGATED BY THE NATIONAL UNIFORM LAW COMMISSION**

### **Uniform Cohabitants' Economic Remedies Act**

The rate of nonmarital cohabitation within the U.S. is increasing rapidly. Today, states have no consistent approach for addressing whether and how cohabitants can enforce contract and equitable claims against each other when the relationship ends. The Uniform Cohabitants' Economic Remedies Act does not create any special status for cohabitants. In most instances, the Act defers to other state law governing contracts and claims between individuals. The Act enables cohabitants to exercise the usual rights of individual citizens of a state to contract and to successfully maintain contract and equitable claims against others in appropriate circumstances. The Act affirms the capacity of each cohabitant to contract with the other and to maintain claims with respect to "contributions to the relationship" without regard to any intimate relationship that exists between them and without subjecting them to hurdles that would not be imposed on litigants of similar claims. The Act ensures that the nature of the relationship of the parties is not a bar to a successful claim.

### **Uniform College Athlete Name, Image, or Likeness Act**

Until recently, college athletes have not been allowed to receive compensation for the use of their name, image, or likeness (NIL) while still maintaining athletic eligibility. The Uniform College Athlete Name, Image, or Likeness Act allows college athletes to earn compensation for the use of their NIL while also providing reasonable protections to educational institutions, athletic associations, and conferences. The Act will provide a clear and uniform framework for states to enact that allows college athletes to earn compensation for the use of their NIL while maintaining a level playing field across state lines.

### **Uniform Community Property Disposition at Death Act**

Community property acquired by a married couple retains its character as community property even when the couple relocates to reside in a non-community property state. This result creates potential distribution problems at the death of the first spouse but also creates potential estate planning opportunities. However, the probate court in a non-community property state like Michigan may not recognize the status of community property in a decedent's estate. The Uniform Community Property Disposition at Death Act provides clear default rules to ensure the proper disposition of community property in any state. It is recommended for adoption by all non-community property states like Michigan.

### **Uniform Personal Data Protection Act**

The Uniform Personal Data Protection Act applies fair information practices to the collection and use of personal data from consumers by business enterprises. The Act provides a reasonable level of consumer protection without incurring the compliance and regulatory costs associated with some existing state regimes. The Act recognizes that the collection and use of personal data

are important features of our modern economy but raise significant issues of privacy and control. The Act outlines compatible, incompatible, and prohibited data practices and provides an enforcement mechanism to ensure compliance with the Act.

#### **Uniform Restrictive Employment Agreement Act**

This Act regulates restrictive employment agreements, which are agreements that prohibit or limit an employee or other worker from working after the work relationship ends. Uniformity in this area of the law benefits both employers and employees by enhancing clarity and predictability in our increasingly mobile society. The Uniform Restrictive Employment Agreement Act addresses the enforceability of these agreements, notice and other procedural requirements, choice of law issues, and remedies. The Act does not say anything about an agreement monitoring what a worker can or cannot do while employed.

#### **Uniform Unregulated Child Custody Transfer Act**

In some cases, parents find that, after the birth or adoption of their child, they experience considerable difficulty or even inability in caring for or effectively managing the child's behavior, which sometimes leads to families transferring a child to another person outside of the courts and the child welfare system. Without specific regulations directed at these types of unregulated transfers, a transfer of custody might go unnoticed within the child welfare system. The Act addresses the transfer of children in these types of cases.

#### **Amendments to the Uniform Common Interest Ownership Act**

The Uniform Common Interest Ownership Act governs the formation, management, and termination of common interest communities, including condominiums, homeowner associations, and real estate cooperatives. The 2021 amendments to the Act update it to address recent legal and technological developments.

### **VIII. OTHER UNIFORM ACTS OF INTEREST**

The following Uniform Acts may be of interest to Michigan, for adoption in the near future:

- College Student Athlete Name, Image, and Likeness Act
- Community Property Disposition at Death Act
- Athlete Agents Act
- Partition of Heirs Property Act
- Power of Attorney Act
- Public Expression Protection Act

### **IX. ENACTMENT RECORD TO DATE**

As a member of the founding seven states of the ULC in 1892, Michigan has a strong tradition of participation. Uniform laws make up a significant portion of Michigan's statutory law, and have influenced the formation and language of non-uniform laws as well. To date, Michigan has

adopted 122 uniform laws, the first being the Uniform Acknowledgments Act in 1895. Recent adoptions of uniform laws by the Michigan legislature include:

Uniform Voidable Transfers Act (formerly UFTA), 2017, Sen. Tonya Schuitmaker  
Uniform Fiduciary Access to Digital Assets Act, 2016, Rep. Anthony Forlini  
Uniform Interstate Family Support Act (2008 Amendments), 2015, Rep. Robert Kosowski  
Uniform Child Abduction Prevention Act, 2014, Sen. Rick Jones  
Uniform Collaborative Law Act, 2014, Sen. Tonya Schuitmaker  
Revised UCC Articles 3 and 4, 2014, Sen. Darwin Booher  
Amendments to UCC Article 4A, 2014. Rep. Robert VerHeulen

A full list of legislative adoptions in Michigan from 1892 through present day can be obtained from the national Uniform Law Commission, [info@uniformlaws.org](mailto:info@uniformlaws.org).

RESPECTFULLY SUBMITTED, on March 22, 2022.

MICHIGAN COMMISSION ON UNIFORM STATE LAWS

By Thomas Buiteweg, Chair