

DAVID Y. IGE
GOVERNOR



DEPT. COMM. NO. 368

HOLLY T. SHIKADA
ATTORNEY GENERAL

VALERIE M. KATO
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

February 28, 2022

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki
Speaker and Members of the House of
Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the 2021 Report of the Commission to Promote Uniform Legislation. In accordance with section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at 586-1500.

Respectfully,

A handwritten signature in cursive script, reading "Holly T. Shikada".

Holly T. Shikada
Attorney General

c: David Y. Ige, Governor
Josh Green, Lieutenant Governor
Legislative Reference Bureau (Attn.: Karen Mau)
Leslie H. Kondo, State Auditor
Craig K. Hirai, Director of Finance, Department of Budget and Finance
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System
David Lassner, PhD., President, University of Hawaii

Enclosure

State of Hawai‘i
Department of the Attorney General



2021 REPORT
OF THE
COMMISSION TO PROMOTE
UNIFORM LEGISLATION

Pursuant to Section 26-7, Hawaii Revised Statutes

*Submitted to
The Thirty-First State Legislature
Regular Session of 2022*

TABLE OF CONTENTS

I.	HISTORY OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (NOW REFERRED TO AS THE UNIFORM LAW COMMISSION)	1
II.	OPERATION OF THE ULC	1
	A. Financial Support of the ULC	1
	B. Creation of Uniform and Model Acts	3
	C. Administration of the ULC	4
III.	ACTIVITIES OF THE HAWAII COMMISSIONERS	5
	A. Membership of the Hawaii Commission to Promote Uniform Legislation	5
	B. ULC Committee Assignments	6
	C. Meetings Attended	9
	D. Legislative Appearances by the Hawaii Commissioners	10
IV.	UNIFORM ACTS ENACTED IN HAWAII	10
	A. Uniform Acts Introduced for Enactment in 2021	10
	B. Uniform Acts Enacted in Hawaii	11
V.	A SUMMARY OF NEW UNIFORM ACTS	11
	A. Uniform Cohabitants' Economic Remedies Act	11
	B. Uniform College Athlete Name, Image, or Likeness Act	11
	C. Uniform Community Property Disposition at Death Act	12
	D. Uniform Personal Data Protection Act	12
	E. Uniform Restrictive Employment Agreement Act	12
	F. Uniform Unregulated Child Custody Transfer Act	12
	G. Amendments to the Uniform Common Interest Ownership Act	13
VI.	RECOMMENDATIONS FOR ENACTMENT IN 2022	13
VII.	CONCLUSION	14

Table of Uniform Acts Enacted in Hawaii

Appendix i-vi

**STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL**

**2021 REPORT OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

TO THE HONORABLE MEMBERS OF THE THIRTY-FIRST LEGISLATURE:

The Hawaii Commission to Promote Uniform Legislation (CPUL), the members of which are Hawaii's representatives to the National Conference of Commissioners on Uniform State Laws, respectfully submits this 2021 Report.

**I. HISTORY OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON
UNIFORM STATE LAWS (NOW REFERRED TO AS THE UNIFORM LAW
COMMISSION)**

In 1889, the New York Bar Association appointed a special committee on uniformity of laws. In the next year, the New York Legislature authorized the appointment of commissioners "to examine certain subjects of national importance that seemed to show conflict among the laws of the several commonwealths, to ascertain the best means to effect an assimilation or uniformity in the laws of the states, and especially whether it would be advisable for the State of New York to invite the other states of the Union to send representatives to a convention to draft uniform laws to be submitted for approval and adoption by the several states." In that same year, the American Bar Association passed a resolution recommending that each state provide for commissioners to confer with the commissioners of other states on the subject of uniformity of legislation on certain subjects. In August 1892, the first National Conference of Commissioners on Uniform State Laws (now commonly referred to as the "Uniform Law Commission" or "ULC") convened in Saratoga, New York, three days preceding the annual meeting of the American Bar Association. By 1912, every state was participating in the ULC. As it has developed, the ULC is a confederation of state interests. It 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.

II. OPERATION OF THE ULC

A. Financial Support of the ULC.

The ULC, as a state service organization, depends upon state appropriations for its continued operation. All states, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands are asked to contribute a specific amount, based on population, for the maintenance of the ULC. In addition, each state commission requests an amount to cover its travel to the ULC annual meeting.

The ULC is a unique institution created to consider state law and to determine in which areas of the law uniformity is important. The work of the ULC has been a valuable addition over time to the improvement of state law in a great many subject areas. Included in that work have been acts such as the Uniform Commercial Code (UCC), the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Interstate Family Support Act, the Uniform Controlled Substances Act, the Uniform Anatomical Gift Act, the Uniform Unclaimed Property Act, the Uniform Probate Code, and the Model State Administrative Procedure Act, acts that have been adopted uniformly by nearly all the states or that have been heavily utilized by most state legislatures. Even with acts that have not been uniformly adopted, the texts consistently contribute to the improvement of the law and have served as valuable references for the legislatures in their effort to improve the quality of state law.

The procedures of the ULC ensure meticulous consideration of each uniform or model act. The ULC spends a minimum of two years on each draft. Sometimes, the drafting work extends much longer. The drafting work for such large-scale acts as the UCC, the Uniform Probate Code, and the Uniform Land Transactions Act took nearly a decade to complete. No single state has the resources necessary to duplicate this meticulous, careful non-partisan effort. Working together with pooled resources through the ULC, the states can produce and have produced the impressive body of state laws called the Uniform State Laws. Without the ULC, nothing like the existing body of uniform state laws would ever be available to the states.

The ULC also permits the states to tap the skills and resources of the legal profession for very little cost. No ULC Commissioner is paid for his or her services. Commissioners receive only reimbursement for actual expenses incurred. The ULC estimates that each commissioner devotes approximately 150 hours a year to ULC work, including work on various drafting committees and attendance at the 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 literally thousands of hours of legal expertise.

The total requested contribution of all the states to the operation of the ULC is \$3,089,000 in fiscal year 2021-2022. The smallest state contribution is \$20,300 (for the U.S. Virgin Islands), and the largest is \$178,850 (for California and New York). Hawaii's contribution for fiscal year 2021-2022 is \$37,950, which represents an extraordinarily good, cost-effective investment for the citizens of Hawaii. Even a modest use of the work product of the ULC guarantees any state a substantial return on each dollar invested. The State of Hawaii has had one hundred forty enactments of uniform acts, amendments to uniform acts, and revised uniform acts. For every dollar invested by each state, it has received very substantial and valuable services.

The annual budget of the ULC comes to \$4,416,000 for the current fiscal year (July 1, 2021, to June 30, 2022). For fiscal year 2021-2022, the ULC is expecting significant changes in both revenue and expenses due to the pandemic. Typically, however, approximately 45 percent of the ULC's budget is used to identify and draft

acts, including holding the annual meeting where the acts are presented to the commissioner body for approval. Another 20 percent is spent assisting state legislatures with bill enactment and public education of uniform and model acts. The remainder of the budget pays general administrative costs, governance costs, and occupancy expenses.

The UCC is a joint venture between the ULC and the American Law Institute (ALI). In the 1940s, the Falk Foundation supported the UCC's original development. Proceeds from copyright licensing of UCC materials replenish the original funds. Whenever work on the UCC commences, a percentage of ULC and ALI costs are paid from endowment income.

Grants from foundations, including the Uniform Law Foundation, 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 ULC works efficiently for all the states because individual lawyers are willing to donate time to the uniform law movement, and because it is a genuine cooperative effort of all the states. The ULC seemed like a very good idea to its founders in 1892. They saw nearly insoluble problems resulting from the rapid growth of the United States against confusing patterns of inadequate state law.

The ULC continues to be a very good idea. The states have chosen to maintain the ULC because it has been useful to their citizens and because it strengthens the states in the federal system of government. Different law in different states continues to be a problem. Either the states solve the problem, or the issues are removed to Congress. Without a state-sponsored, national institution like the ULC, more and more legislative activity would shift from the state capitols to Capitol Hill in Washington, D.C.

B. Creation of Uniform and Model Acts.

The procedures for preparing an act are the result of long experience with the creation of legislation. The ULC maintains a standing committee called the Scope and Program Committee, which considers new subject areas of state law for potential uniform or model acts. That committee studies suggestions from many sources, including the organized bar, state government, and private persons. If the Scope and Program Committee believes that an idea for an act is worthy of consideration, it usually will recommend that a study committee be appointed. Study committees consider the need for and feasibility of drafting and enacting uniform or model legislation in an area and report back to the Scope and Program Committee. Recommendations from the Scope and Program Committee go to the ULC Executive Committee, which makes the final decisions as to whether to study a proposal or undertake a drafting project.

Once a subject receives approval for drafting, a drafting committee is selected, and a budget is established for the committee work. Almost all drafting committees have a reporter, and some committees are assisted by two reporters.

Advisors and participating observers are solicited to assist every drafting committee. The American Bar Association appoints official advisors for every committee. Participating observers may come from state government, from organizations with interests and expertise in a subject, and from the ranks of recognized experts in a subject. Advisors and participating observers are invited to attend drafting committee meetings and to contribute comments throughout the drafting process. Advisors and observers do not make decisions with respect to the final contents of an Act. Only ULC members who compose the drafting committee may participate in any necessary votes.

A committee meets according to the needs of the project. A meeting ordinarily begins on Friday morning and finishes by Sunday noon, so as to conflict the least with ordinary working hours. During the pandemic, committees are meeting online rather than in person. Most acts require four committee meetings, although some require more. A committee usually produces a number of successive drafts as an act evolves.

At each annual meeting during its working life, each drafting committee must present its work to the whole body of the ULC at the ULC's annual meeting. The most current draft is read and debated. The entire text of each working draft is actually read aloud -- a reading of a proposed uniform law is not by title only but is considered section by section either by section title or word for word -- and debated during proceedings of the committee of the whole. This scrutiny continues from annual meeting to annual meeting until a final draft satisfies the whole body of the commissioners. Except in extraordinary circumstances, no act is promulgated without at least two years' consideration, meaning every act receives at least one interim reading at an annual meeting and a final reading at a subsequent annual meeting. A draft becomes an official act by a majority vote of the states (one vote to each state). The vote by states completes the drafting work, and the act is ready for consideration by the state legislatures.

The cost of this process to the states is in travel expenses, paper and publication costs, and meeting costs. Nearly all the services are donated, thereby eliminating the single greatest cost factor. For the states, with their necessary cost consciousness, the system has extraordinary value.

C. Administration of the ULC.

The governing body of the ULC is the ULC Executive Committee, which is composed of the officers, certain ex officio members, and members appointed by the President of the ULC. Certain activities are conducted by standing committees. As mentioned above, the Committee on Scope and Program considers all new subject areas for possible uniform acts. The Legislative Committee superintends the

relationships of the ULC to the state legislatures.

A small staff located in Chicago operates the national office of the ULC. The national office provides support for drafting and legislative efforts and handles meeting arrangements, publications, legislative liaison, and general administration for the ULC.

The ULC has consciously limited its staff to prevent accrual of needless administrative costs. The full-time staff numbers only fifteen people. The small staff provides support for drafting and legislative efforts. In addition, the ULC contracts for professional services to aid in the drafting effort. These professional reporters, so-called, 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 Commission has established royalty agreements with major legal publishers which reprint the ULC's uniform and model acts in their publications.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which contributes an amount each year to the operation of the ULC. Liaison is also maintained with the American Law Institute, the Council of State Governments, and the National Conference of State Legislatures on an on-going basis. Liaison and activities may be conducted with other associations as interests and activities necessitate.

III. ACTIVITIES OF THE HAWAII COMMISSIONERS

A. Membership of the Hawaii Commission to Promote Uniform Legislation.

The Hawaii CPUL was originally created by law in 1911. The Commission is placed within the State Department of the Attorney General and, pursuant to section 26-7, Hawaii Revised Statutes, is advisory to the Attorney General and to the Legislature on matters relating to the promotion of uniform legislation. Pursuant to sections 3-1 and 26-7, Hawaii Revised Statutes, the Commission consists of five members, who are appointed by the Governor, with the advice and consent of the Senate, for staggered terms of four years and until their successors are appointed and qualified. The ULC Constitution requires that each commissioner be a member of the bar. A deputy attorney general, assigned by the Attorney General to coordinate the review and preparation of legislative bills, sits with the Commission to provide technical assistance, as necessary, and is recognized as an associate member of Hawaii's delegation to the ULC.

Hawaii's participation, both in terms of appointing uniform law commissioners and contributing funds, is essential. Hawaii benefits from the excellent body of law created for its consideration. The ULC, and all the states, benefit from having Hawaii's direct contribution to the work of the ULC. Hawaii's ideas and experience influence the whole, and the uniform law process is not complete without them. Value contributed returns value, and everybody in every state benefits.

The members of the Hawaii Commission during 2020-2021 were as follows:

- (1) Lani Liu Ewart;
- (2) Peter Hamasaki;
- (3) Elizabeth Kent;
- (4) Blake Oshiro; and
- (5) Kevin Sumida;

The members of the Hawaii Commission for 2021-2022 are as follows:

- (1) Lani Liu Ewart;
- (2) Peter Hamasaki;
- (3) Elizabeth Kent;
- (4) Blake Oshiro; and
- (5) Kevin Sumida

Former commissioners Robert S. Toyofuku and Ken Takayama continue to actively participate in ULC activities as ULC Life Members. Upon recommendation of the ULC Executive Committee and by the affirmative vote of two-thirds of the commissioners present at an annual meeting, they were elected as ULC Life Members with the privilege to participate in ULC activities. Deputy Attorney General Jill T. Nagamine of the Legislative Division was assigned in November 2020, by the Attorney General to provide staff support for the commissioners and is recognized as an Associate Member of the ULC. Deputy Attorneys General Maurice Kato and Kotoba Kanazawa, both of the Legislative Division, provide additional support.

B. ULC Committee Assignments.

The ULC President appoints committees to investigate, study, and, if desirable, draft and review proposed uniform and model acts on subjects designated by the Executive Committee. Committee appointments are selectively made -- not all members of the ULC have the privilege of serving on a committee. The commissioners are assigned committees and contribute to the work relating to various uniform act committees as follows:

LANI L. EWART

In 2020-2021, Commissioner Ewart, who is also a Life Member of the ULC, served as the Chair of the CPUL. At the 2021 annual meeting, she was appointed as a member of the ULC Executive Committee for 2021-2023, and following the annual meeting, she was appointed as a member of the Drafting Committee on Special Deposits Act. By means of interactive conference technology, she attended meetings of the Special Deposits Act drafting committee and the Executive Committee, legislative meeting with ULC staff and the Hawaii commissioners, informal meetings of the Drafting Committees on Common Interest Ownership Act, Community Property Rights at Death Act, and Uniform Commercial Code and Emerging Technologies, and sessions of the 2021 Annual ULC Meeting.

Chair Ewart reviewed the testimony of commissioners submitted during the 2021 Legislative Session relating to the Uniform Employee and Student Online Privacy Protections Act, the Uniform Trust Code and the Revised Fiduciary Access to Digital Asset Act and followed up with comments regarding the Acts and the questions raised during the legislative hearings and from interested persons. During the year, she also responded to questions by phone and email regarding various uniform acts and laws.

PETER J. HAMASAKI

In 2020-2021, Commissioner Hamasaki served as a member of the drafting committees for the Uniform Common Ownership Interest Act, and the Revised Uniform Law on Notarial Acts, and the Study Committee on Family Court Emergency Procedures.

He attended meetings by means of interactive technology, including multiple drafting committee meetings for the Uniform Common Ownership Interest Act, and the Revised Uniform Law on Notarial Acts, the ULC Annual Meeting (multiple acts), and the ULC Informal Listening Sessions (multiple acts).

Commissioner Hamasaki provided testimony to several legislative committees on House Bill No. 125 (Uniform Employee and Student Online Privacy Act), which was enacted as Act 39.

ELIZABETH KENT

In 2020-2021, Commissioner Kent served on the Committee to Monitor Developments in Civil Litigation and Dispute Resolution. She chaired a sub-committee to Monitor Civil Litigation and Dispute Resolution that focused on on-line dispute resolution. She spent about 40 hours in research time, telephone calls, and numerous meetings for the sub-committee and additional time on Committee work.

For 2021-2022, Commissioner Kent will continue to serve on the Committee to Monitor Civil Litigation and Dispute Resolution and chair the sub-committee. She was appointed to the U.N. Convention on International Settlement Agreements Resulting from Mediation Committee.

During 2020-2021, Commissioner Kent spent approximately 40 hours on research and work related to possible introduction of different acts to the 2022 Legislature. She also spent approximately 10 hours on work related to the Uniform Law Foundation.

BLAKE OSHIRO

In 2020-2021, Commissioner Oshiro continued his service on the Drafting Committee on Public Meetings During Emergencies. He was also appointed to the Committee on Stakeholder Outreach. He attended by means of interactive conference

technology a Hawaii Legislative Planning Session. He also helped testify and lobby for the bills identified by the Commission as priority issues for the 2021 session.

In 2021-2022, he will continue to serve on the Public Meetings During Emergencies Drafting Committee and Stakeholder Outreach Committee.

KEVIN P. H. SUMIDA

2020-2021, Commissioner Sumida served on the ULC's Study Committee on Fundraising Through Public Appeals Act (formerly the Drafting Committee on Management of Funds Raised through Crowdfunding Efforts Act) and attended several telephone conferences in that regard. He also attended a Legislative Planning Session. In addition to attending formal sessions at the annual meeting, he attended informal sessions of the ULC to consider the Community Property Disposition at Death Act, the Uniform Personal Data Protection Act, the Uniform Covenants Not to Compete Act, the Uniform Cohabitants Economic Remedies Act, the Uniform Emerging Technologies Act and the Uniform Telehealth Act in June 2021. Commissioner Sumida spent approximately twelve hours participating in the ULC information sessions.

KEN H. TAKAYAMA

For 2020-2021, Life Member Takayama served on the ULC's Standing Committee on Membership and Attendance, the Committee on Legislative Attorneys, and the Legislative Committee (as Hawaii's liaison). On the state level, he also served as the Vice Chair of the CPUL until he was replaced by Commissioner Kent at the December meeting.

He attended meetings by interactive conference technology, including the 2021 ULC annual meeting, and informal sessions on the:

- (1) Public Expression Protection Act;
- (2) Easement Relocation Act;
- (3) College Athlete Name, Image, and Likeness Act;
- (4) Telehealth Act;
- (5) Review of ULC Acts;
- (6) Cohabitant's Economic Remedies Act; and
- (7) Personal Data Protection Act.

He also attended:

- (1) Multiple meetings on Adopted Children;
- (2) A meeting on Cohabitant's Economic Remedies Act; and
- (3) A meeting of the Committee for Membership and Attendance to welcome and initiate new commissioners.

Life Member Takayama participated in an effort by the CPUL to pass the Uniform Employee and Student Online Privacy Protection Act (UESOPPA) in 2021. He worked with legislative aides and sponsors to introduce House Bill No. 125. He then worked with Commissioners Blake Oshiro and Peter Hamasaki and legislative staff in

both the House and the Senate to have these bills scheduled for committee hearings. He prepared and submitted testimony to support the passage of the bill. UESOPPA was passed as House Bill No.125, H.D. 2, S.D. 2, and signed into law by the Governor as Act 39, Session Laws of Hawaii 2021.

ROBERT S. TOYOFUKU

For 2020-2021, Life Member Robert S. Toyofuku served as a member of the Legislative Council and the Fines and Fees Study Committee and will continue to serve on the Legislative Council during 2021-2022. The Legislative Committee was created as a standing committee to encourage the development of legislative programs in each state to accomplish the introduction and passage of bills to enact uniform and model acts of the ULC. The activities of the Legislative Committee are directed by the Chair and the Legislative Council. Each state and the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands are grouped into regions and are represented by a commissioner designated as the liaison member for that jurisdiction who is responsible for the legislative program in that commissioner's home jurisdiction. The represented jurisdictions were grouped into ten regions but that was recently expanded into thirteen regions in September 2021. Life Member Toyofuku was initially responsible for six states in the Western Region and is now responsible to oversee the legislative activities in the states in Region 5 (California, Hawaii, Nevada, and Utah) and to work with the liaisons from each of those states.

In 2020-2021, Life Member Toyofuku attended several interactive meetings either by conference call or by a Zoom call and participated in Legislative Council calls almost monthly throughout the year from January 2020 through December 2021. During May 2021, in coordination with the Chicago ULC office and a legislative staff member, he arranged, planned, and assisted in conducting several one-hour calls with all of the state delegations in the Western Region to discuss future issues and plans. During October 2021, the Legislative Council had a meeting in Chicago and Mr. Toyofuku participated by Zoom for over five hours to discuss future approaches to enact uniform law acts in the several state legislatures. There was also discussion on legislative training during the 2022 annual meeting in Philadelphia as well as the possible Legislative Summit planned for the fall of 2022. He also participated in our state delegation meetings during the year.

C. Meetings Attended.

The commissioners attended the meetings of their respective ULC committees (as listed in the previous section), which are scheduled by the committee chairs as needed and which are usually held on the mainland. Committee meetings in 2020-2021 were predominantly attended via interactive conference technology or telephone calls by the CPUL members.

The 2021 annual meeting was held in Madison, Wisconsin, from July 9-15, 2021. Due to the pandemic, the meeting was a hybrid meeting, and commissioners were able

to participate in person or virtually. Commissioners Ewart, Hamasaki, Kent, Sumida, and Oshiro and former Hawaii CPUL members and ULC Life Members Takayama and Toyofuku attended the 2021 annual meeting via interactive conference technology.

After consideration of the latest drafts, the ULC approved seven new uniform acts or amendments to existing acts: Uniform College Athlete Name, Image or Likeness Act, Uniform Personal Data Protection Act, Uniform Restrictive Employment Agreement Act, Uniform Cohabitants' Economic Remedies Act, Uniform Community Property Disposition at Death Act, Uniform Unregulated Child Custody Transfer Act, Amendments to the Uniform Common Interest Ownership Act.

Further information on the ULC and copies of the approved final drafts of the uniform acts can be found at its website, <http://uniformlaws.org/>.

D. Legislative Appearances by the Hawaii Commissioners.

Life Member Ken Takayama continues to serve as the Commission's liaison to the Hawaii State Legislature. The CPUL is advisory to the State Legislature, as well as to the Attorney General. He tracks bills to enact uniform laws and notifies the commissioners when public hearings will be held. Life Member Takayama and Chair Ewart assign bills among the commissioners for advocacy during the legislative session.

During the 2021 Hawaii legislative regular session, Commissioners Hamasaki and Oshiro reviewed bills and prepared testimony and correspondence and testified in House and Senate committees on various ULC-related bills. In addition, they attended multiple hearings and meetings regarding bills relating to the Uniform Employee and Student Online Privacy Protection Act.

IV. UNIFORM ACTS ENACTED IN HAWAII

The State of Hawaii has supported the ULC not only by encouraging its commissioners to actively participate in the ULC but also by enacting some of the uniform acts adopted by the ULC. However, as with other statutes, the process of review and amendment of uniform acts is an ongoing, never-ending process that responds to changing circumstances and needs of our society.

A. Uniform Acts Introduced for Enactment in 2021.

During the regular session of 2021, CPUL supported H.B. No. 125, Relating to the Uniform Employee and Student Online Privacy Protection Act. H.B. No. 125 was passed by the Legislature and approved by the Governor as Act 39 on June 7, 2021.

The CPUL also supported S.B. No. 385, Relating to the Uniform Trust Code during the 2021 regular session. S.B. No. 385 was enacted as Act 32, Session Laws of Hawaii 2021.

B. Uniform Acts Enacted in Hawaii.

Attached as Appendix 1 to this report is a table listing the eighty-five original, amended, or revised uniform acts enacted in Hawaii, either as a whole, in a substantially similar version, or in a modified version. The table also lists the references to the Hawaii Revised Statutes where the uniform acts or their similar or modified versions may be found. Some of the listed uniform acts, such as the Uniform Criminal Extradition Act, have been superseded by other uniform acts adopted by the ULC after enactment in Hawaii. A review of the superseding uniform acts should be done on an ongoing basis for the eventual updating of the Hawaii Revised Statutes by enactment of the superseding uniform acts.

V. **A SUMMARY OF NEW UNIFORM ACTS**

During the 2021 annual meeting, the ULC considered and adopted seven new uniform acts or amendments to existing acts. These acts are briefly described below, based on summaries prepared by the ULC.

A. 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.

B. 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.

C. 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 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.

D. 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.

E. 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.

F. 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.

G. 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.

VI. RECOMMENDATIONS FOR ENACTMENT IN 2022

The Hawaii CPUL annually selects uniform acts that have not yet been enacted in Hawaii and recommends the enactment of those selected uniform acts. However, the CPUL's selection is based in part on practical and logistical considerations and the number of uniform acts recommended for enactment in any legislative session is not intended to imply that other uniform acts should not be considered. This year, the CPUL stands ready to provide information and support on any uniform act that the Legislature may have before it for consideration.

For the regular session of 2022, the CPUL supports enactment of the Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act, which is summarized below:

The Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act provides for the enforcement of domestic violence protection orders issued by Canadian courts. Reflecting the friendship between the United States and Canada, citizens move freely between the two countries, freedom that in certain limited circumstances can work against victims of domestic violence. Many states enacted legislation recognizing the domestic violence orders of sister states, and in 2002, the ULC approved the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act, encouraging states to recognize and enforce the domestic violence orders of other states. In 2011, the Uniform Law Conference of Canada approved the Uniform Enforcement of Canadian Judgments and Decrees Act, which provides for the recognition of foreign protection orders – including those of the United States – unless the foreign state of origin has been expressly excluded from the provisions of the act. By this act, enacting states accord similar recognition to protection orders from Canada.

The CPUL is not recommending enactment of any other Uniform Acts in the 2022 Legislative Session but will monitor any legislation that is based on Uniform Acts.

//
//
//
//
//

VII. CONCLUSION

The Hawaii CPUL offers its assistance in obtaining information or advice regarding the uniform acts recommended for consideration, or any other uniform act adopted by the ULC. The CPUL wishes to express its appreciation for the interest in and support of the CPUL's efforts to promote uniform legislation that have been received from the Governor, the Attorney General, and the Legislature.

Respectfully submitted,

COMMISSION TO PROMOTE UNIFORM
LEGISLATION

By: Lani L. Ewart
LANI L. EWART
Chair

TABLE OF
UNIFORM ACTS ENACTED IN HAWAII

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
1. Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act	Chapter 551G
2. Uniform Anatomical Gift Act (1968)(1987)(2008)	Part I, Chapter 327
3. Uniform Arbitration Act (1956)(2000)	Chapter 658A
4. Uniform Athlete Agents Act (2000)	Chapter 481E (Repealed 2019)
5. Uniform Athlete Agents Act (Revised)	Chapter 481Z
6. Uniform Attendance of Out of State Witnesses Act (1931)(1936)	Chapter 836
7. Uniform Certificate of Title for Vessels Act	Chapter 200A
8. Uniform Child Custody Jurisdiction Act (1968)	Chapter 583 (Repealed 2002)
9. Uniform Child-Custody Jurisdiction and Enforcement Act (1997)	Chapter 583A
10. Uniform Collaborative Law Act	Chapter 658G
11. Uniform Commercial Code (1951)(1957) (1962)(1966) (and Revised Articles)	Chapter 490
12. Uniform Commercial Code Article 1 – General Provisions (2001)	Article 1, Chapter 490
13. Uniform Commercial Code Article 2A -- Leases (1987)(1990)	Article 2A, Chapter 490
14. Uniform Commercial Code Article 3 -- Negotiable Instruments (1990)(1991)	Article 3, Chapter 490
15. Uniform Commercial Code Article 4 -- Bank Deposits and Collections (1990)	Article 4, Chapter 490

16.	Uniform Commercial Code Article 4A -- Funds Transfer (1989) (2013)	Article 4A, Chapter 490
17.	Uniform Commercial Code Article 5 -- Letters of Credit (1995)	Article 5, Chapter 490
18.	Uniform Commercial Code Article 6 -- Bulk Sales (1989)	Article 6, Chapter 490 (Repealed 1998)
19.	Uniform Commercial Code Article 7 -- Documents of Title (2003)	Article 7, Chapter 490
20.	Uniform Commercial Code Article 8 -- Investment Securities (1977)(1994)	Article 8, Chapter 490
21.	Uniform Commercial Code Article 9 -- Secured Transactions (1972) (1999) (2010)	Article 9, Chapter 490
22.	Uniform Common Trust Fund Act (1938)(1952)	Chapter 406
23.	Uniform Controlled Substances Act (1970)(1973)	Chapter 329 (Substantially similar)
24.	Uniform Criminal Extradition Act (Superseded 1980)	Chapter 832
25.	Uniform Custodial Trust Act (1987)	Chapter 554B
26.	Uniform Deceptive Trade Practices Act (1964)(1966)	Chapter 481A
27.	Uniform Determination of Death Act (1978)(1980)	Section 327C-1 (Substantially similar definition)
28.	Uniform Disclaimer of Property Interests Act (1999)	Chapter 526
29.	Uniform Disposition of Community Property Rights at Death Act (1971)	Chapter 510
30.	Uniform Division of Income for Tax Purposes Act (1957)	Part II, Chapter 235

31.	Uniform Durable Power of Attorney Act (1979)(1987)	Chapter 551D
32.	Uniform Electronic Legal Material Act	Chapter 98
33.	Uniform Electronic Transactions Act (1999)	Chapter 489E
34.	Uniform Employee and Student Online Privacy Protection Act (2016)	Chapter 487G
35.	Uniform Enforcement of Foreign Judgments Act (1948)(1964)	Chapter 636C
36.	Uniform Environmental Covenants Act	Chapter 508C
37.	Uniform Rules of Evidence Act (1953)(1974)(1986)(1988)	Chapter 626
38.	Uniform Family Law Arbitration Act	Chapter 658J
39.	Uniform Fiduciaries Act (1922)	Chapter 556
40.	Uniform Fiduciary Access to Digital Assets Act	Chapter 556A
41.	Uniform Foreign-Country Money Judgments Recognition Act (2005)	Chapter 658F
42.	Uniform Foreign-Money Claims (1989)	Chapter 658B
43.	Uniform Foreign Money Judgments Recognition Act (1962)	Chapter 658C (Repealed 2009)
44.	Uniform Fraudulent Transfer Act (1984)	Chapter 651C
45.	Uniform Guardianship and Protective Proceedings Act (1997)	Parts 1-4, Article V, Chapter 560
46.	Uniform Health-Care Decisions Act (Modified)	Chapter 327E
47.	Uniform Information Practices Code (1980)	Chapter 92F (Substantially similar)

48.	Uniform Interstate Depositions and Discovery Act	Chapter 624D
49.	Uniform Interstate Family Support Act (1992)(1996)(2015)	Chapter 576B
50.	Uniform Jury Selection and Service Act (1970)(1971)	Part I, Chapter 612 (Substantially similar)
51.	Uniform Limited Liability Company Act (1995) (1996)	Chapter 428
52.	Uniform Limited Partnership Act (1976)(1983)(1985)	Chapter 425D (Repealed, effective July 1, 2004)
53.	Uniform Limited Partnership Act (2001)	Chapter 425E (Effective on July 1, 2004)
54.	Uniform Management of Institutional Funds Act (1972)	Chapter 517D
55.	Uniform Mediation Act (2013) (2014)	Chapter 658H
56.	Uniform Military and Overseas Voters Act	Chapter 15D
57.	Uniform Notarial Acts Act (2010)(2018)	Chapter 456
58.	Uniform Parentage Act (1973)	Chapter 584
59.	Uniform Partition of Heirs Property Act	Chapter 668A
60.	Uniform Partnership Act (1914) (1997)	Part IV, Chapter 425
61.	Uniform Photographic Copies as Evidence Act (1949)	Section 626-1, Rules 1001 to 1008
62.	Uniform Power of Attorney Act (2014)	Chapter 551E
63.	Uniform Premarital Agreement Act (1983)	Chapter 572D

64.	Uniform Principal and Income Act (1997)(2000)	Chapter 557A
65.	Uniform Probate Code (1969)(1975)(1982)(1987)(1989) (1990)(1991)(1998)	Chapter 560
66.	Model Protection of Charitable Assets Act (2014)	Chapter 28
67.	Uniform Prudent Investor Act (1994)	Chapter 554C
68.	Uniform Prudent Management of Institutional Funds Act (2006)	Chapter 517E
69.	Uniform Real Property Electronic Recording Act (2004) (2005)	Part XII, Chapter 502
70.	Uniform Real Property Transfer on Death Act (2009)	Chapter 527
71.	Uniform Reciprocal Enforcement of Support Act (1950)(1958)(1968)	Chapter 576 (Repealed 1997)
72.	Model Registered Agents Act (2006)	Chapter 425R
73.	Uniform Rendition of Accused Persons (Superseded 1980)	Chapter 833
74.	Uniform Residential Landlord and Tenant Act (1972)	Chapter 521
75.	Uniform Securities Act (1956)(1958) (Superseded 1985)	Chapter 485
76.	Uniform Status of Convicted Persons Act (1964)	Chapter 831
77.	Uniform Statutory Rule Against Perpetuities Act (1986)(1990)	Chapter 525
78.	Uniform Testamentary Additions to Trusts Act (1960)(1961) (Uniform Probate Code § 2-511 (1991))	Chapter 560:2-511

79.	Uniform Trade Secrets Act (1979)(1985)	Chapter 482B
80.	Uniform Transfer-on-Death (TOD) Security Registration Act (1998)	Chapter 539
81.	Uniform Transfers to Minors Act (1983)(1986)	Chapter 553A
82.	Uniform Trustees' Powers Act (1964)	Chapter 554A
83.	Uniform Trust Code (2000)	Chapter 554D
84.	Uniform Unclaimed Property Act (1981) (1995)	Part I, Chapter 523A
85.	Uniform Unincorporated Nonprofit Association Act (1992)(1996)	Chapter 429