

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
COMMISSION TO PROMOTE UNIFORM LEGISLATION

MINUTES OF MEETING
Held on June 27, 2023

1. CALL TO ORDER.

Pursuant to written public notice posted on the State of Hawai'i Calendar of Events on June 19, 2023, at 9:34 a.m., the meeting of the Commission to Promote Uniform Legislation (CPUL) was called to order by Chair Lani L. Ewart at 9:04 a.m. on Tuesday, June 27, 2023, via Zoom conferencing facilitated by Brandon Salbedo of the Department of the Attorney General, who also acted as the Zoom moderator. In compliance with section 92-3.7, Hawaii Revised Statutes, a physical meeting site was provided at Hale Auhau First Floor Conference Room, 425 Queen Street, Honolulu, Hawai'i 96813.

Commissioners Present: Lani L. Ewart, Chair
Elizabeth Kent, Vice-Chair
Peter Hamasaki
Michael Tanoue

Commissioners Absent: Blake Oshiro

Also Present: Lindsay Beaver, Legislative Counsel of the ULC (present through the end of item 4.a. on the agenda (10:06 a.m.))
Ken Takayama and Robert S. Toyofuku,
Life Members of the National Conference of Commissioners on Uniform State Laws, also referred to as the Uniform Law Commission (ULC),
Jill T. Nagamine, Deputy Attorney General
Maurice S. Kato, Deputy Attorney General
Kotoba Kanazawa, Deputy Attorney General, and
Romina Marquez, Legal Clerk, of the Legislative Division of the Department of the Attorney General

Jill T. Nagamine and Romina Marquez participated from the physical meeting site via Zoom. The rest of the participants joined the meeting via Zoom remotely. All commissioners attending were visible via Zoom.

2. APPROVAL OF MINUTES OF MEETING of October 27, 2022.

Chair Ewart asked the commissioners if there were any changes or corrections to the minutes. No one recommended changes.

Motion: Commissioner Tanoue moved to approve the minutes as written and Commissioner Kent seconded the motion. There was no discussion. The vote by show of

hands was unanimous and the motion carried. The minutes of the meeting of October 27, 2022, were approved as written.

3. OLD BUSINESS.

- a. How the bills to enact uniform acts fared in the 2023 Legislative Session. Chair Ewart called on Jill Nagamine to provide an update.
 - (1) House Bill No. 525, Relating to the Uniform Commercial Code (UCC), passed the Legislature. The Governor had not yet signed the bill, but the bill was not on the Governor's list of potential vetoes as of the deadline yesterday (June 26, 2023), so this bill will become law with or without the Governor's signature, no later than July 11, 2023.
 - (2) Senate Bill No. 141, Relating to Elections (Uniform Faithful Presidential Electors Act ("UFPEA")). The Governor signed this bill on June 23, 2023, enacting it as Act 114, Session Laws of Hawaii 2023.
 - (3) Senate Bill No. 483, Relating to the Uniform Probate Code, passed the Legislature. The Governor had not yet signed it, but this was not on the Governor's notice of potential vetoes, the deadline for which was yesterday (June 26, 2023), so this bill will become law with or without the Governor's signature, no later than July 11, 2023.
 - (4) Senate Bill No. 944, Relating to the Uniform Parentage Act, passed the Legislature. The Governor had not yet signed it, but this was not on the Governor's notice of potential vetoes, the deadline for which was yesterday (June 26, 2023), so this bill will become law with or without the Governor's signature, no later than July 11, 2023. This bill establishes a task force to recommend amendments to update existing parentage laws. Bills that would have enacted the Uniform Parentage Act (House Bill No. 384 and Senate Bill No. 484) did not pass.
- b. Follow-up matters from the 2023 Legislative Session.
 - (1) Commissioner Hamasaki reported that the UCC bill, House Bill No. 525, basically progressed without issues until late in the session. There was very little testimony for the three House hearings and the first Senate hearing. Then, when it got to the Senate Judiciary Committee on March 27, there was a groundswell of opposition (762 pages of testimony posted on the Legislature's website). The issues of concern related to misconceptions about digital currency. Something at the national level created fears that the amendments to update the UCC would require a Central Bank Digital Currency. Commissioner Hamasaki worked closely with Benjamin Orzeske, the Chief Counsel of the ULC, to get the

supporting materials needed to rebut the false concerns and educate legislators. Thanks to Ben Orzeske.

- (2) Chair Ewart thanked ULC Legislative Counsel Lindsay Beaver for bringing Senate Bill No. 141, the Uniform Faithful Electors Act, to our attention.
- (3) Chair Ewart reported that Chief Justice Recktenwald praised the updates to the Uniform Probate Code, Senate Bill No. 483, in the Bar Journal. Life Member Takayama reported that the bill was almost sabotaged with unacceptable amendments, but was ultimately restored to a version that was acceptable to the Judiciary.
- (4) In addition to what Jill Nagamine reported, Commissioner Kent reported that Senate Bill No. 944 is a bill to establish a task force to recommend amendments to update existing parentage laws. Commissioner Kent thinks one of the primary reasons the Uniform Parentage Act bills did not move forward is that issues arose concerning the availability of genetic parental information to adopted persons who may not have been raised by their genetic parents. The task force has two years to recommend new legislation. Commissioner Kent is on the ULC's Gamete Donor Identity Disclosure Study Committee, and that relates to one of the parentage issues. The CPUL does not have a designated membership role on the task force established by Senate Bill No. 944, but Commissioner Kent will try to remain in contact with staff from the Child Support Enforcement Agency, which may be the member of the task force representing the Department of the Attorney General.
- (5) Commissioner Kent also reported that there is a working group on laws regarding guardianship, which is holding its first meeting on July 19, 2023. After House Bill No. 1440, Relating to the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, was deferred, Representative Tarnas asked Commissioners Kent and Tanoue and many others to participate in this group to provide draft legislation for the next session. Daintry Bartoldus, the Executive Administrator of the Hawaii State Council on Developmental Disabilities, is leading the group.
- (6) Commissioner Kent reported on input she received from a legislative staff member. She was told that when the CPUL is testifying on a bill that has some controversy, it would be helpful to call the committee chair (and possibly others) in advance of the hearing to give them a heads up about the issue and to explain the concerns. That may help the legislative committee to focus on the issues in advance and not overlook them. Life Member Takayama added that it was his experience that it was always a good idea to meet with legislators and staff in advance of a hearing if we can.

4. NEW BUSINESS.

a. Legislative Planning for the 2024 Legislative Session.

- (1) Comments by ULC Legislative Counsel Lindsay Beaver. Lindsay Beaver referenced the Hawaii 2024 Legislative Plan, which is Attachment 3 to the Notice and Agenda for this meeting. She explained that the items listed are food for thought for the Hawaii delegation to consider for enactment in the State. She explained that the ULC has Target Acts and suggests a legislative plan for each state. The plan includes recommendations, targets, and a list of uniform acts introduced or enacted by the State in the last three years. She understood that the CPUL will not reach any decisions on which acts to pursue until a later meeting.
- (2) Preliminary Discussion of Uniform Acts for Possible Introduction in 2024. Lindsay Beaver listed two uniform acts as Hawaii-specific recommendations and noted two additional ones.

Child Abduction Prevention Act

Libby Snyder, another ULC Legislative Counsel, suggested this one. She is working with the National Center for Missing and Exploited Children. This is not a new act. It was introduced in Hawai'i in 2010 and died. Life Member Toyofuku will check his files to see if he is able to determine what stalled it.

Community Property Disposition at Death Act

Chair Ewart noted that this one may be worth considering because it is an update of an earlier act that was adopted in Hawai'i (chapter 510, part II, Hawaii Revised Statutes).

Civil Remedies for Unauthorized Disclosure of Intimate Images Act

Commissioner Kent wonders if women's groups have supported this in other states and whether the Women's Caucus might be interested in this. She was interested in this issue, but she could not commit to championing it in the 2024 legislative session because of her duties with parentage and guardianship. But she suggested to Lindsay Beaver that Kaitlin Wolff, the ULC Program Director, might prepare a package of materials related to the act to send to Commissioner Kent, although Commissioner Kent would not anticipate working on it before the 2025 legislative session.

Unregulated Child Custody Transfer Act

According to Life Member Takayama, this Act was previously attempted in Hawai'i.

A discussion ensued, prompted by a question from Life Member Takayama, about why ULC provides us with a targeted list and whether it

might appear that we are taking orders from the ULC. Life Member Toyofuku noted that having targeted acts gives commissioners some idea of the importance of the acts, but it has always been stated by the ULC that the state delegations are not obligated to pursue the identified target acts. Life Member Takayama expressed concerns that it may have the appearance of "creeping federalism." Life Member Toyofuku opined to the contrary – that the goal is to achieve uniformity of laws. Chair Ewart said that it helps to know what is important to the ULC. Commissioner Hamasaki expressed that it is helpful to know what other states have adopted. Jill Nagamine noted that it is helpful to look at the history of the ULC to see why uniform laws are important. Life Member Toyofuku acknowledged that there are some who say that uniform laws get into areas they should not. Jill Nagamine noted her observation that the ULC's process for adopting uniform laws seemed to prevent extreme areas of laws from being enacted and to promote uniformity in those areas where consensus can be reached.

b. 2023 Annual Meeting of the Uniform Law Commission to be held in Honolulu, Hawaii.

(1) Meeting information

Chair Ewart would like all of the members to be at the opening on the first day, Friday, July 21, from 9:00-11:00 a.m.

Commissioner Kent will introduce Melody Kapilialoha MacKenzie, who will perform the oli.

The Host Committee is usually introduced. It is not yet known if that will involve going to the stage or simply standing at our delegation table. Chair Ewart noted that after 2019, the ULC discontinued the practice of the host delegation presenting gift bags (goodie bags) to the Annual Meeting attendees.

Life Member Toyofuku will introduce Chief Justice Recktenwald, who will give an opening address.

New members will be introduced (not sure if this will include Jill Nagamine as a new ULC Associate member, or if that might have been done in absentia in Philadelphia in 2022). (Note--subsequent to the meeting Chair Ewart learned that Jill Nagamine, who serves as Executive Secretary of the Hawaii CPUL by virtue of her role in the Legislative Division of the Department of the Attorney General, was already introduced as a ULC Associate Member in absentia at the 2022 ULC Annual Meeting in Philadelphia, so no additional introduction will be needed.)

Question as to whether we ought to invite some legislators. Commissioner Kent is aware that Senator Rhoads and Representative Tarnas will not be available. Life Member Toyofuku will contact the Senate President and the Speaker of the House and let them know that they and other interested legislators can attend as guests. Commissioner Kent believes that members of the guardianship working group will be invited to attend on Saturday and will not be charged. Chair Ewart was under the impression that guests could just come and sit in the back and not be charged. Commissioner Kent thinks that it must be cleared first, so as to not give rise to a misunderstanding where guests might be asked to pay. Life Member Toyofuku will double check with Elizabeth Cotton-Murphy, Chief Administrative Officer of the ULC. (Note—subsequent to the meeting Life Member Toyofuku spoke to ULC Chief Administrative Officer Elizabeth Cotton-Murphy and learned that there will be no charge for guests during the meeting.)

In addition to the opening session on Friday, July 21, Chair Ewart encourages the group to attend the Welcome Reception on Friday, July 21, at 5:30-7:30, the Farewell Reception on Wednesday, July 26, at 6:00-7:30, and the Legislative Lunch on Monday, July 24 at 12:00.

(2) Assignment of Acts under consideration

Generally, those assigned to attend a session where an act is being considered should review the act ahead of time.

Unlawful Restrictions in Land Records Act, Friday, July 21, 11:00-12:00 and 1:30-3:00, Commissioner Hamasaki

Consumer Debt Default Judgments Act, Friday, July 21, 3:00-5:30, Commissioner Tanoue

Model Public-Health Emergency Authority Act, Saturday, July 22, 8:00 - 10:30, Commissioner Kent

Uniform Health-Care Decisions Act, Saturday, July 22, 10:30-12:00 and 1:30-3:00, Life Member Takayama

Tenants in Common Transactions Act, Monday, July 24, 8:00-10:45, Commissioner Tanoue

Uniform Special Deposits Act, Monday, July 24, 10:45-11:45 and 1:30-3:00, Chair Ewart

ULC Constitution/Bylaws/Rules of Procedure, Tuesday, July 25, 8:00-9:00, Chair Ewart, Commissioner Hamasaki, and Life Member Toyofuku

Uniform Unincorporated Organizations Acts, Tuesday, July 25, 9:00-12:00,
Commissioner Hamasaki and Chair Ewart

Uniform Determination of Death Act, Wednesday, July 26, 8:00-11:00, Jill
Nagamine

Antitrust Pre-Merger Notification Act, Wednesday, July 26, 11:00-12:00 and
1:30-3:00, Commissioners Oshiro and Hamasaki

There is also a Legislative Presentation on Monday, July 24, 11:45-12:00,
that Chair Ewart would like all to attend, if possible.

c. Other New Business

Life Member Takayama announced that it is getting more difficult for him to keep appearing at meetings, including the ULC Annual Meetings. The ULC Annual Meeting in Waikiki in July may be the last ULC meeting he attends. Chair Ewart indicated that it will not be easy for the CPUL to see him step away completely and would want his continued assistance, even if he needs to cut back. Commissioner Kent noted her gratitude for Life Member Takayama's 25 years of guidance, mentorship, and friendship.

5. **ADJOURNMENT.**

There being no other new business or announcement, Chair Ewart adjourned the meeting at 10:38 a.m.

Respectfully submitted,

Romina Marquez

Romina N. Marquez
Legal Clerk
Legislative Division

Approved for Submission:

Jill T. Nagamine

Jill T. Nagamine
Deputy Attorney General

Approved by the CPUL:

As Submitted

With Corrections

Date Approved: 12/5/23 *JJK*