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January 22, 2020

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

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Thirtieth 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 2019 Report of the Commission to Promote Uniform Legislation. In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/reports-to-the-legislature-2020-regular-session/>.

Sincerely,

A handwritten signature in blue ink, appearing to be "C. Connors", written over a circular stamp.

Clare E. Connors
Attorney General

Enclosure

STATE OF HAWAII
Department of the Attorney General



2019 REPORT
OF THE
COMMISSION TO PROMOTE
UNIFORM LEGISLATION

SUBMITTED TO
THE THIRTIETH STATE LEGISLATURE
Regular Session of 2020

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STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL

2019 REPORT OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION

TO THE HONORABLE MEMBERS OF THE THIRTIETH LEGISLATURE:

The Hawaii Commission to Promote Uniform Legislation, the members of which are Hawaii's representatives to the National Conference of Commissioners on Uniform State Laws, respectfully submits this 2019 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, 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 Uniform Commercial Code, 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 Uniform Law Commissioner is paid for his or her services. He or she receives 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 \$3,027,850 in fiscal year 2019-2020. The smallest state contribution is \$19,950, and the largest is \$175,350. Hawaii's contribution for fiscal year 2019-2020 is \$37,250, 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 \$4,252,013 for the current fiscal year (July 1, 2019, to June 30, 2020). Of this amount, \$932,949 (approximately 21.9%) goes directly to drafting uniform and model acts, and includes travel expenses for drafting committee meetings, printing and publication costs, and editing and personnel costs. The research process, which includes the work of study committees and the ULC Committee on Scope and Program, is \$352,359 (8.3%). About \$760,482 (17.9%) is spent in assisting state legislatures with bills based on uniform and model acts and this amount includes salaries and travel expenses. About \$546,531 (12.9%) is spent on the annual meeting. Public education for uniform and model acts costs about \$157,452 (3.7%) and includes contractual services, materials costs, and travel expenses. The remainder of the budget pays general administrative costs, governance costs, and occupancy expenses.

The ULC also receives limited funds from the American Bar Association and the American Law Institute. Grants from foundations 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 ULC'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 ULC expands the value of every state dollar invested in its work.

The Uniform Commercial Code (UCC) is a joint venture between the ULC and the American Law Institute (ALI). The ALI holds the Falk Foundation funds that are allocated to work on the UCC. The original Falk Foundation grant came in the late 1940s for the original development of the UCC. Proceeds from copyright licensing of UCC materials provide revenue to replenish the Falk Foundation corpus. At any time work on the UCC

commences, a percentage of ULC and ALI costs is paid from Falk Foundation income.

In addition, the ULC has also established royalty agreements with major legal publishers that reprint the ULC's uniform and model acts in their publications.

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. They were deeply concerned about the evils of centralized government, fearing the unchecked growth of the federal government.

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 that 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 a subject area cannot be adequately

studied by the Scope and Program Committee, it is likely to be given to a special study committee. Study committees report back to the Scope and Program Committee. Recommendations from the Scope and Program Committee go to the ULC Executive Committee.

Once a subject receives approval for drafting, a drafting committee is selected, and a budget is established for the committee work. A reporter is usually engaged, although a few committees work without professional assistance.

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 work with drafting committees and to contribute comments. They do not make decisions with respect to the final contents of an act. Only the ULC members who compose the drafting committee may do this.

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. A short act may require one or two committee meetings. Major acts may require a meeting per month for a considerable period of time -- several years, in some instances. A given committee may produce 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. 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. As noted previously, there is often more than one interim reading and a drafting process that exceeds two years in duration. 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 sixteen 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 ULC also contracts with professional, independent contractors for part of its public information and educational materials.

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 Commission to Promote Uniform Legislation 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 lawyer. 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 2018-2019 were as follows:

- (1) Lani Liu Ewart;
- (2) Peter Hamasaki;
- (3) Elizabeth Kent;
- (4) Kevin Sumida; and
- (5) Ken H. Takayama

The members of the Hawaii Commission for 2019-2020 are as follows:

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

Former commissioner Takayama was succeeded by Commissioner Blake Oshiro on July 1, 2019. However, former commissioner Takayama is

a ULC Life Member who continues to participate in ULC activities. Robert S. Toyofuku also continues to actively participate in ULC activities as a ULC Life Member. 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 Maurice S. Kato of the Legislative Division has been assigned by the Attorney General to provide staff support for the commissioners and is recognized as an Associate Member of the ULC.

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 LIU EWART

In 2018-2019, Commissioner Ewart responded to questions by phone and email regarding various uniform acts. She provided information relating to the Uniform Trust Code to the Hawaii trust and probate attorneys who are reviewing the Code for introduction at a future legislative session.

PETER J. HAMASAKI

For 2018-2019, Commissioner Hamasaki served on the Drafting Committee to Amend the Revised Law on Notarial Acts.

For 2019-2020, Commissioner Hamasaki will serve on the Standby Committee to Amend the Revised Law on Notarial Acts and will serve on the

Drafting Committee of the Common Interest Ownership Act and the Drafting Committee on the Uniform Condominium Act.

ELIZABETH KENT

For 2018-2019, Commissioner Kent served on the Standby Committee on Model Veterans Treatment Court Act, the Standby Committee on Uniform Family Law Arbitration Act, the Standby Committee on a Uniform Collaborative Law Act, the Committee on Civil Litigation and Dispute Resolution, the Diversity Committee, the Study Committee on Adverse Possession, and the Enactment Committee on the Model Veterans Treatment Court Act.

For 2019-2020, Commissioner Kent will continue to serve on the Standby Committee on Model Veterans Treatment Court Act, the Committee on Civil Litigation and Dispute Resolution, the Diversity Committee, and the Enactment Committee on the Model Veterans Treatment Court Act.

Commissioner Kent spent approximately 80 to 100 hours on the Diversion and Inclusion Committee work related to diversity and inclusion and on the Uniform Law Foundation.

KEVIN P. H. SUMIDA

For 2018-2019, Commissioner Sumida served on the Drafting Committee on Management of Funds Raised through Crowdfunding Efforts Act.

For 2019-2020, Commissioner Sumida will serve on the Drafting Committee on Fundraising Through Public Appeals Act (formerly the Drafting Committee on Management of Funds Raised through Crowdfunding Efforts Act).

Commissioner Sumida attended two meetings of the Drafting Committee on Fundraising Through Public Appeal Act, one in Seattle, Washington, on March 1-2, 2019, and one on November 8-9, 2019, in Chicago, Illinois.

KEN H. TAKAYAMA

For 2018-2019, Commissioner Takayama served on the Standby Committee on Uniform Deployed Parents Custody and Visitation Act. He also served as Hawaii's liaison member of the Legislative Committee and as a member of the Committee of Legislative Attorneys and of the Committee on Membership and Attendance.

For 2019-2020, Life Member Takayama will continue to serve on the Standby Committee on Uniform Deployed Parents Custody and Visitation Act. He will also continue to serve as Hawaii's liaison member of the Legislative Committee and as a member of the Committee of Legislative Attorneys and of the Committee on Membership and Attendance.

ROBERT S. TOYOFUKU

For 2018-2019, Life Member Robert S. Toyofuku served as a member of the Legislative Council and will continue to serve as such during 2019-2020. He is the Legislative Committee council member who oversees the legislative activities in the states in the Western Region (Alaska, California, Hawaii, Nevada, Oregon, and Washington). For 2019-2020, he will also serve on the Study Committee on Fines and Fees.

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 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 are grouped into ten regions. A member of the Legislative Council is assigned to each region, with the responsibility to oversee the legislative activities in the states in the assigned region. As a member of the Council, Life Member Toyofuku is responsible to work with the liaisons from six states: Alaska, California, Hawaii, Nevada, Oregon, and Washington, and monitor progress on any legislation regarding ULC acts.

In 2019, Life Member Toyofuku, as a member of the Legislative Council, participated in monthly conference calls from January through April with members of the Legislative Council to update the Chicago office and other council members on the progress being made in passing uniform acts within the six states in the Western region that he oversees.

Life Member Toyofuku attended a meeting of the Legislative Council in Chicago, Illinois, from April 10-14, 2019.

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. In addition, the ULC met in its 128th year in Anchorage, Alaska, from July 12-18, 2019.

Commissioners Ewart, Hamasaki, Kent, Oshiro, and Sumida and former Hawaii Commission member and ULC Life Member Toyofuku attended the 2019 annual meeting. Life Member Takayama and Mr. Kato

did not attend the meeting.

During the sessions of the annual meeting of the ULC, the commissioners who are members of committees meet separately with their committees and, if scheduled, appear with their committees on the dais in the main meeting room during the reading of draft uniform acts.

After consideration of the latest drafts, the ULC approved five new uniform acts or amendments to existing acts: the Uniform Automated Operation of Vehicles Act, the Uniform Electronic Wills Act, the Uniform Registration of Canadian Money Judgments Act, Amendments to the Uniform Athlete Agents Act, and Amendments to the Uniform Probate Code.

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.

Commissioner Takayama served in 2018-2019 as the Commission's liaison to the Hawaii State Legislature. The Commission to Promote Uniform Legislation is advisory to the State Legislature, as well as to the Attorney General, and stands ready to assist the Legislature in providing information on any uniform act that the Legislature may be considering for enactment. Consequently, the Hawaii commissioners, upon notification by Commissioner Takayama of scheduled public hearings and as assigned by Commissioner Ewart, have testified before the committees of the Legislature when public hearings have been held on bills to enact uniform laws.

During the regular session of 2019, Commissioner Takayama and Life Member Toyofuku arranged for the introduction of and/or monitored the movement of bills with regard to the Uniform Employee and Student Online Privacy Protection Act, the Revised Uniform Athlete Agents Act, the Uniform

Fiduciary Access to Digital Assets Act, and the Child Witness Testimony by Alternative Methods Act.

They spent time at the Legislature meeting with various legislators regarding ULC related bills. They, together with the other commissioners, also prepared testimony and testified before various Senate and House committees.

During the 2019 legislative regular session, Commissioner Ewart researched the background of and prepared testimony opposing a bill relating to the Uniform Fiduciary Access to Digital Assets Act (UFADA), because Hawaii had already enacted UFADA, and after she contacted the attorney who had first testified in favor of the bill, he changed his testimony to oppose the bill as well. Commissioner Ewart also reviewed the testimony of commissioners submitted during the session relating to the Uniform Employee and Student Online Privacy Protection Act, the Revised Uniform Athlete Agents Act, and the Uniform Criminal Records Accuracy Act.

Commissioner Ewart also met with Senator Karl Rhoads regarding her reappointment to the CPUL, and with new commissioner, Blake Oshiro, regarding the work and activities of the Uniform Law Commission and the CPUL.

Commissioner Takayama attended numerous legislative hearings before Senate and House committees. He prepared testimony, attended hearings and testified on bills relating to the Revised Uniform Athlete Agents Act and the Uniform Employee and Student Online Privacy Protection Act (UESOPPA). He drafted and submitted testimony in support of Senate advise and consent to the nominations of Lani Ewart and Blake Oshiro to the state Commission to Promote Uniform Legislation.

Commissioner Hamasaki spent approximately 30 hours reviewing bills and preparing testimony and correspondence and testifying in House and Senate committees on various ULC-related bills. In addition, he attended multiple hearings and meetings regarding H.B. No. 6, relating to the Uniform Employee and Student Online Privacy Protection Act. He monitored bills relating to virtual currency as well as electronic notarization. He also met or corresponded with agency, legislative, and third-parties regarding electronic notarization under the Revised Uniform Law on Notarial Acts, both in the 2019 session and for the upcoming 2020 session.

During the 2019 Hawaii legislative regular session, Life Member Toyofuku tracked all uniform law bills and kept in contact with Commissioner Takayama, who is the legislative liaison for Hawaii. He also assisted in promoting Blake Oshiro to be appointed to the Hawaii Commission to Promote Uniform Legislation and submitted written testimony and testified on his behalf at his confirmation hearing before the Senate Committee on Judiciary.

IV. UNIFORM ACTS ENACTED IN HAWAII

The State of Hawaii has supported the ULC not only by sending a delegation of commissioners to the ULC but also by enacting 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 2019.

During the regular session of 2019, the CPUL introduced the Uniform Employee and Student Online Privacy Protection Act (UESOPPA) and the Revised Uniform Athlete Agents Act (2015). The UESOPPA was still alive at the end of the 2019 legislative regular session and will carry over to the

2020 legislative regular session. House Bill No. 66, the Revised Uniform Athlete Agents Act (2015), was passed by the Legislature and approved by the Governor as Act 193 on July 2, 2019.

B. Table of Uniform Acts Enacted in Hawaii.

Attached as Appendix 1 to this report is a table listing the eighty-two 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 2019 annual meeting, the ULC considered and adopted five new uniform acts or amendments to existing acts. These acts are briefly described below, based on summaries prepared by the ULC.

A. Uniform Automated Operation of Vehicles Act.

The Uniform Automated Operation of Vehicles Act regulates important aspects of the operation of automated vehicles. This act covers the deployment of automated vehicles on roads held open to the public by reconciling automated driving with a typical state motor vehicle code. Many of the act's sections – including definitions, driver licensing, vehicle registration, equipment, and rules of the road – correspond to, refer to, and can be incorporated into existing sections of a typical vehicle code. This act

also introduces the concept of automated driving providers (ADPs) as a legal entity that must declare itself to the state and designate the automated vehicles for which it will act as the legal driver when the vehicle is in automated operation. The ADP might be an automated driving system developer, a vehicle manufacturer, a fleet operator, or another kind of market participant that has yet to emerge. Only an automated vehicle that is associated with an ADP may be registered. In this way, the Automated Operation of Vehicles Act uses the motor vehicle registration framework that already exists in states – and that applies to both conventional and automated vehicles – to incentivize self-identification by ADPs. By harnessing an existing framework, the act also seeks to respect and empower state motor vehicle agencies.

B. Uniform Electronic Wills Act.

The Uniform Electronic Wills Act permits testators to execute an electronic will and allows probate courts to give electronic wills legal effect. Most documents that were traditionally printed on paper can now be created, transferred, signed, and recorded in electronic form. Since 2000 the Uniform Electronic Transactions Act (UETA) and a similar federal law, E-SIGN, have provided that a transaction is not invalid solely because the terms of the contract are in an electronic format. But UETA and E-SIGN both contain an express exception for wills, which, because the testator is deceased at the time the document must be interpreted, are subject to special execution requirements to ensure validity and must still be executed on paper in most states. Under the new Electronic Wills Act, the testator's electronic signature must be witnessed contemporaneously (or notarized contemporaneously in states that allow notarized wills) and the document must be stored in a tamper-evident file. States will have the option to include language that allows remote witnessing. The act will also address

recognition of electronic wills executed under the law of another state. For a generation that is used to banking, communicating, and transacting business online, the Uniform Electronic Wills Act will allow online estate planning while maintaining safeguards to help prevent fraud and coercion.

C. Uniform Registration of Canadian Money Judgments Act.

The Uniform Registration of Canadian Money Judgments Act (“Registration Act”) creates an administrative procedure for the registration and enforcement of Canadian money judgment in an enacting state. Once the Canadian judgment is successfully registered in the state, the judgment is enforceable in the same manner as a judgment rendered in that state. The Registration Act only applies to a Canadian judgment if (1) it grants or denies recovery of a sum of money; (2) it is final, conclusive, and enforceable in Canada; and (3) its recognition is sought in order to enforce the judgment. The Registration Act supplements the Uniform Foreign Country Money Judgments Recognition Act (“Recognition Act”) by providing an alternative method to seeking recognition and enforcement of a foreign judgment. If a state has not enacted the Recognition Act, it may enact this Act at the same time it adopts the Recognition Act as a companion Act. The Registration Act offers an efficient alternative to filing a lawsuit to recognize and enforce a Canadian money judgment in the United States.

D. Uniform Athlete Agents Act Amendment.

The Revised Uniform Athlete Agents Act (RUAAA) updates the 2000 version of the act for the ever-evolving sports commercial marketplace and the increasing activity between athlete agents and student athletes. The RUAAA protects the interests of student athletes, academic institutions, and athlete agents by regulating the activities of athlete agents. The 2015 revision updates the definition of “athlete agent”; requires reciprocal agent

licensing; creates a central licensing process; enhances notice requirements to educational institutions; and revises administrative remedies arising from damages resulting from improper athlete agent conduct. An Amendment to the Uniform Athlete Agents Act, approved in 2019, applies to changes that the National Collegiate Athletic Association (NCAA) made to its bylaws in August of 2018 to provide student athletes playing basketball with more freedom and flexibility to explore the possibility of going professional while retaining their college eligibility. Under the new NCAA bylaws, certified sports agents can cover limited expenses of prospective or enrolled college basketball players and their family for meals, hotel, and travel in connection with the agent selection process. Because the NCAA bylaw changes were in conflict with the Athlete Agents Acts, the NCAA asked the ULC to amend the two Uniform Athlete Agents Acts so they will not conflict with the bylaw changes. The Section 14 Amendment was drafted to clear up the conflict; it was also drafted so that it applies beyond the current bylaws to ensure that the ULC will not have to go to state legislatures every time the NCAA broadens its bylaws. The amendment does, however, set forth appropriate safeguards so that it only applies if the NCAA makes further changes.

E. Uniform Probate Code Amendments.

The promulgation of the Uniform Parentage Act (2017) has necessitated amendments to the Uniform Probate Code's intestacy and class-gift provisions. The 2019 Amendments to the Uniform Probate Code provide a more consistent formula for determining intestate shares within blended families, remove outdated terminology, and incorporate the concept of de facto parentage. The intestacy formula will also account for the possibility that a child may have more than two parents and, therefore, more than two sets of grandparents.

VI. RECOMMENDATIONS FOR ENACTMENT IN 2020

The Hawaii Commission to Promote Uniform Legislation annually selects uniform acts that have not yet been enacted in Hawaii and recommends the enactment of those selected uniform acts. However, the Commission'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. The Commission 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 2020, the Commission supports enactment of the Uniform Employee Student Online Privacy Protection Act and the Revised Uniform Law on Notarial Acts, which are summarized below:

A. Uniform Employee and Student Online Privacy Protection Act.

Today, most individuals have online accounts of some type. These include social media accounts, bank accounts, and email accounts, among others. Generally, when someone asks for access to the login information for, or content of, a personal online account, an individual is free to say no. But that is less true in the employment and educational contexts. Indeed, employers and educational institutions now sometimes ask current and/or prospective employees and students to grant the employer or school access to social media or other name and password protected accounts. The Uniform Employee and Student Online Privacy Protection Act addresses both employers' access to employees or prospective employees' social media and other online accounts accessed via username and password or other credentials of authentication as well as educational institutions' access to students' or prospective students' similar online accounts.

B. Revised Uniform Law on Notarial Acts (2018).

The Revised Uniform Law on Notarial Acts (2018) is designed to modernize and clarify the law governing notaries public, their responsibilities and duties, and to provide a stable infrastructure for the performance of notarial acts with respect to electronic records. In particular, the revised act recognizes the ascendance of electronic commerce and transactions in the public and private sectors, and brings the law governing electronic notarial acts on par with laws governing other forms of electronic transactions. The act was amended in 2018 to authorize notaries public to perform notarial acts in the state in which they are commissioned for remotely located individuals using audio-visual communication and identity-proofing technology regardless of where the individual may be located.

VII. CONCLUSION

The Hawaii Commission to Promote Uniform Legislation 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 Commission wishes to express its appreciation for the interest in and support of the Commission'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
Chairman

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

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
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)	§ 327C-1 (Substantially similar definition)

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
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 Enforcement of Foreign Judgments Act (1948)(1964)	Chapter 636C
35. Uniform Environmental Covenants Act	Chapter 508C
36. Uniform Rules of Evidence Act (1953)(1974)(1986)(1988)	Chapter 626
37. Uniform Family Law Arbitration Act	Chapter 658J
38. Uniform Fiduciaries Act (1922)	Chapter 556
39. Uniform Fiduciary Access to Digital Assets Act	Chapter 556A
40. Uniform Foreign-Country Money Judgments Recognition Act (2005)	Chapter 658F
41. Uniform Foreign-Money Claims (1989)	Chapter 658B
42. Uniform Foreign Money Judgments Recognition Act (1962)	Chapter 658C (Repealed 2009)

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
43. Uniform Fraudulent Transfer Act (1984)	Chapter 651C
44. Uniform Guardianship and Protective Proceedings Act (1997)	Parts 1-4, Article V, Chapter 560
45. Uniform Health-Care Decisions Act (Modified)	Chapter 327E
46. Uniform Information Practices Code (1980)	Chapter 92F (Substantially similar)
47. Uniform Interstate Depositions and Discovery Act	Chapter 624D
48. Uniform Interstate Family Support Act (1992)(1996)(2015)	Chapter 576B
49. Uniform Jury Selection and Service Act (1970)(1971)	Part I, Chapter 612 (Substantially similar)
50. Uniform Limited Liability Company Act (1995) (1996)	Chapter 428
51. Uniform Limited Partnership Act (1976)(1983)(1985)	Chapter 425D (Repealed effective July 1, 2004)
52. Uniform Limited Partnership Act (2001)	Chapter 425E (Effective on July 1, 2004)
53. Uniform Management of Institutional Funds Act (1972)	Chapter 517D
54. Uniform Mediation Act (2013) (2014)	Chapter 658H
55. Uniform Military and Overseas Voters Act	Chapter 15D
56. Uniform Parentage Act (1973)	Chapter 584

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
57. Uniform Partition of Heirs Property Act	Chapter 668A
58. Uniform Partnership Act (1914) (1997)	Part IV, Chapter 425
59. Uniform Photographic Copies as Evidence Act (1949)	§ 626-1, Rules 1001 to 1008
60. Uniform Power of Attorney Act (2014)	Chapter 551E
61. Uniform Premarital Agreement Act (1983)	Chapter 572D
62. Uniform Principal and Income Act (1997)(2000)	Chapter 557A
63. Uniform Probate Code (1969)(1975)(1982)(1987)(1989) (1990)(1991)(1998)	Chapter 560
64. Model Protection of Charitable Assets Act (2014)	Chapter 28
65. Uniform Prudent Investor Act (1994)	Chapter 554C
66. Uniform Prudent Management of Institutional Funds Act (2006)	Chapter 517E
67. Uniform Real Property Electronic Recording Act (2004) (2005)	Part XII, Chapter 502
68. Uniform Real Property Transfer on Death Act (2009)	Chapter 527
69. Uniform Reciprocal Enforcement of Support Act (1950)(1958)(1968)	Chapter 576 (Repealed 1997)
70. Model Registered Agents Act (2006)	Chapter 425R

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
71. Uniform Rendition of Accused Persons (Superseded 1980)	Chapter 833
72. Uniform Residential Landlord and Tenant Act (1972)	Chapter 521
73. Uniform Securities Act (1956)(1958) (Superseded 1985)	Chapter 485
74. Uniform Status of Convicted Persons Act (1964)	Chapter 831
75. Uniform Statutory Rule Against Perpetuities Act (1986)(1990)	Chapter 525
76. Uniform Testamentary Additions to Trusts Act (1960)(1961) (Uniform Probate Code § 2-511 (1991))	Chapter 560:2-511
77. Uniform Trade Secrets Act (1979)(1985)	Chapter 482B
78. Uniform Transfer-on-Death (TOD) Security Registration Act (1998)	Chapter 539
79. Uniform Transfers to Minors Act (1983)(1986)	Chapter 553A
80. Uniform Trustees' Powers Act (1964)	Chapter 554A
81. Uniform Unclaimed Property Act (1981) (1995)	Part I, Chapter 523A
82. Uniform Unincorporated Nonprofit Association Act (1992)(1996)	Chapter 429

