

**DOES THE UNIFORM FIT?: THE NEW JERSEY LAW
REVISION COMMISSION’S REVIEW OF THE ACTS OF THE
UNIFORM LAW COMMISSION**

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I. BACKGROUND

During the most recent two-year legislative sessions, New Jersey legislators have introduced between 6,000 and 10,000 bills per session.¹ These bills are derived from a number of different sources. One such source, associated with various bills in each legislative session, is the New Jersey Law Revision Commission (“NJLRC”).

Created by statute in 1985, the Commission is required to conduct a continuous examination of the entire body of New Jersey’s general and permanent statutes, and the judicial decisions construing it, in order to discover defects and anachronisms.² The Commission’s mandate calls for it to prepare and submit bills to the Legislature to remedy those statutory defects, reconcile conflicting provisions, clarify confusing language, and excise redundancies.³ The Commission’s ongoing review and revision is intended to maintain the statutes in a revised, consolidated, and simplified form.⁴ As part of its role in the improvement and modification of the general and permanent statutory law of the State, the Commission is required to receive and consider suggestions and recommendations from the American Law Institute, the National Conference of Commissioners on Uniform State Laws (now the Uniform Law Commission), and other learned bodies.⁵

Before the creation of the Commission, law revision in New Jersey was conducted under auspices of Legislative Services Commission

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¹ *New Jersey Legislature: Active New Jersey Bills*, LEGISCAN, <https://legiscan.com/NJ> (last visited Aug. 17, 2016).

² N.J. STAT. ANN. § 1:12A-8 (West 2016).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

through the Office of Legislative Services.⁶ It was performed on an as-needed basis and was not a continuous review.⁷ As a result, before the Commission began work in 1987, there had been no general revision and consolidation of New Jersey's law since 1937.⁸

Deliberately created to be non-partisan and apolitical, the Commission is comprised of nine commissioners. The Commissioners are the Deans of New Jersey's three law school campuses, serving *ex officio*; the Chairs of the Senate and Assembly Judiciary Committees, also serving *ex officio*; and four practicing attorneys.⁹

The Commission's mandate is meant to work with the New Jersey Legislature to promote and encourage the clarification and simplification of New Jersey's law, to better adapt the laws to present social needs, to ultimately lead to a better administration of justice.¹⁰ In addition to its ongoing review of New Jersey's body of law, the Commission engages in scholarly legal research and work in order to enhance the quality of its recommendations to the Legislature and to facilitate the implementation of those recommendations.¹¹

At the conclusion of its work in a particular area of the law, the Commission prepares and submits proposals to the Legislature for revision, including consensus drafting that reflects the contributions of the participants in its process whenever possible.¹² The proposals also identify areas in which consensus could not be achieved.¹³ This provides a record of the outstanding issues and identifies policy choices that may warrant consideration during the legislative process.¹⁴

A frequent source of projects for the Commission is case law in which a court calls an issue to attention of Legislature. Courts have done so by identifying an ambiguity in the language, suggesting that the Legislature might wish to revisit a particular area of the law, and by determining that a particular provision is unconstitutional or has been

⁶ N.J. STAT. ANN. § 1:12A-1 (West 2016).

⁷ *Id.*

⁸ *Id.*

⁹ N.J. STAT. ANN. § 1:12A-2 (West 2016) (of these four attorneys, two are appointed by the President of the Senate, and not more than one of them may be from same political party, and two are appointed by the Speaker of Assembly, again with not more than one of them from same political party).

¹⁰ N.J. STAT. ANN. § 1:12A-8.

¹¹ *Id.*; N.J. LAW REVISION COMM'N, ANNUAL REPORT 5 (2015), <http://www.lawrev.state.nj.us/ar/NJLRC%20-%20Annual%20Report%202015.pdf> [hereinafter *Annual Report*].

¹² *Annual Report*, *supra* note 11, at 10.

¹³ *Annual Report*, *supra* note 11, at 10.

¹⁴ *Annual Report*, *supra* note 11, at 10.

superseded by federal law.¹⁵ Commissioners, Commission Staff, and members of public are also sources of Commission projects.¹⁶ A third consistent source of projects is the “learned bodies” whose work the Commission is called upon to consider.¹⁷

The American Law Institute (“ALI”), an independent organization producing scholarly work to clarify, modernize, and improve the law, was established in 1923 “in response to concerns that the body of American common law was both uncertain and complex.”¹⁸ The ALI “drafts, discusses, revises, and publishes Restatements of the Law, Model Codes, and principles of law which are enormously influential in the courts and legislatures, as well as in legal scholarship and education.”¹⁹

Due to the nature of its process, however, the time between which an ALI project is commenced and concluded can approach ten years.²⁰ The duration of its process means that ALI projects do not lend themselves to ready incorporation into New Jersey law in the same way that projects from other sources may. The work of the ALI is, however, monitored by the Commission since it can provide valuable guidance even before the work of the ALI in any particular subject area is completed.

Another of the “learned bodies” whose work the Commission is called upon to consider is the Uniform Law Commission (“ULC”).²¹ Established in 1892 as the National Conference of Commissioners on Uniform State Laws, the goal of the ULC is to provide states with “non-partisan, well-conceived, and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.”²²

The members of the ULC are practicing lawyers, judges, legislators and legislative staff, and law professors, all of whom are appointed by

¹⁵ *Annual Report*, *supra* note 11, at 10.

¹⁶ *Annual Report*, *supra* note 11, at 10.

¹⁷ N.J. STAT. ANN. § 1:12A-8.

¹⁸ THE AMER. LAW INST., <https://www.ali.org/> (last visited Aug. 17, 2016); THE AMER. LAW INST., ANNUAL REPORT 3 (2013-2014), https://www.ali.org/media/filer_public/1a/1e/1a1e43dc-0141-4cf3-82df-3fd210cb0527/2013-2014_annual_report.pdf.

¹⁹ THE AMER. LAW INST., ANNUAL REPORT 3 (2013-2014), https://www.ali.org/media/filer_public/1a/1e/1a1e43dc-0141-4cf3-82df-3fd210cb0527/2013-2014_annual_report.pdf.

²⁰ *Institute Projects*, THE AMER. LAW INST., https://www.ali.org/media/filer_public/f5/6a/f56af0aa-719e-4cd8-b293-baccecc1163b/past_present_aliprojects.pdf (last visited Dec. 21, 2016); *see also Project Life Cycle*, THE AMER. LAW INST., <https://www.ali.org/projects/project-life-cycle/> (last visited Dec. 21, 2016).

²¹ N.J. STAT. ANN. § 1:12A-8 (West 2016).

²² *About the ULC*, UNIF. LAW COMM’N (NAT’L CONF. OF COMM’RS ON UNIF. STATE LAWS), <http://www.uniformlaws.org/Narrative.aspx?title=About%20the%20ULC> (last visited Dec. 21, 2016).

state governments as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.²³ The time between the initiation of a project and the release of an act on ULC projects, while it varies by project, is approximately three years.²⁴

In New Jersey, any Legislator is free to independently consider an act recommended by the ULC. Because of its statutory mandate, however, the Commission also reviews the acts.²⁵ In doing so, the Commission considers the problem that the act is designed to solve, and engages in research and outreach in order to determine whether the problem exists in New Jersey, and whether it has been addressed by the existing law of the State.²⁶ If current New Jersey law does not obviate the need for the act, or parts thereof, the Commission then assesses whether the act, in conjunction with existing law, appears to adequately address the problem it is intended to solve.²⁷ During the course of this review, the Commission considers whether modification to the act is appropriate in order to tailor the act to New Jersey's body of law, or whether the need for uniformity in a particular area of the law appears to be more critical than any benefit likely to be derived from adjustments.²⁸

Because the scope of its mandate includes the entire body of statutes, the Commission works in a wide variety of subject-matter areas. The same is true for the ULC, which has released acts touching many different areas of the law that have been widely enacted.²⁹

In New Jersey, during the 2014-2015 legislative session, bills pertaining to the Uniform Trust Code (A2915/S2035) based on the work of the Commission were passed by both houses of the Legislature.³⁰ The Governor signed the bills into law as L.2015, c.276.³¹ The law enacted

²³ *Id.*

²⁴ *Constitution*, UNIF. LAW COMM'N (NAT'L CONF. OF COMM'RS ON UNIF. STATE LAWS), § 8.1 (requiring that an Act be "considered at a minimum of two annual meetings of the Conference" before approval and recommendation), <http://www.uniformlaws.org/Narrative.aspx?title=Constitution> (last visited Dec. 21, 2016).

²⁵ N.J. STAT. ANN. § 1:12A-8.

²⁶ *NJLRC News, Presentations, NJLRC Process and Projects CLE Presentation*, N.J. LAW REVISION COMM'N, <http://www.lawrev.state.nj.us/NJLRC%20News/NJLRC%20Process%20and%20Projects%20021813.pdf> (last visited Dec. 21, 2016).

²⁷ *Id.*

²⁸ *Id.*

²⁹ 2015-2016 GUIDE TO UNIFORM AND MODEL ACTS 35-38, UNIF. LAW COMM'N, (Sept. 30, 2015), http://www.uniformlaws.org/Shared/Publications/GUMA_2015web.pdf.

³⁰ *Bills 2014-2015*, N.J. LEGIS., <http://www.njleg.state.nj.us/bills/BillView.asp> (last visited Dec. 14, 2016).

³¹ *Id.*

the New Jersey Uniform Trust Code, which is based on the Uniform Trust Code as well as the work of an ad hoc Committee of New Jersey experts who analyzed it and adapted it for New Jersey's needs.³² The new law creates a comprehensive set of statutory provisions in an area of the law previously governed largely by case law.³³

Also in that session, A1477/S1224 amended New Jersey's law to create a New Jersey Family Collaborative Law Act.³⁴ Based on a NJLRC Final Report prepared in response to the work of the ULC, the bills passed both houses of the Legislature unanimously and the Governor signed them into law as L.2014, c.50.³⁵ The law authorizes the application of the voluntary collaborative law process to resolve family law disputes and creates a privilege for certain family collaborative law communications made by a party or a nonparty participant in the process.³⁶

A3586/S2756, based on a NJLRC Final Report prepared in response to work of the ULC, received bipartisan support and passed both houses of the Legislature.³⁷ The bills amended the law to remove the statutory authority of the Department of Health and the State Board of Medical Examiners over medical standards governing declarations of death on the basis of neurological criteria.³⁸ The Governor signed the bill into law as L.2013, c.185.³⁹

In addition to the above enactments, the Commission's Final Report pertaining to the Uniform Interstate Depositions and Discovery Act was considered by the New Jersey Supreme Court's Civil Practice Committee since the modifications proposed by the Final Report were more appropriate for implementation by Court Rule than by statute.⁴⁰ The Commission's recommendation formed the basis for such a modification to the relevant Court Rules (R. 4:11-4 and R. 4:11-5) in 2014.⁴¹

During the 2012-2013 legislative session, modifications were made to four articles of the Uniform Commercial Code as a part of L.2013, c.65:

Article 1 – General Provisions was enacted to modify the Article 1 definitions and general provisions which, in the

³² *Annual Report*, *supra* note 11, at 12.

³³ *Annual Report*, *supra* note 11, at 12.

³⁴ *Annual Report*, *supra* note 11, at 12.

³⁵ *Bills 2014-2015*, *supra* note 30.

³⁶ *Annual Report*, *supra* note 11, at 12.

³⁷ *Bills 2014-2015*, *supra* note 30.

³⁸ *Annual Report*, *supra* note 11, at 12.

³⁹ *Annual Report*, *supra* note 11, at 12.

⁴⁰ *Annual Report*, *supra* note 11, at 12-13.

⁴¹ *Annual Report*, *supra* note 11, at 12-13.

absence of conflicting provisions, apply as default rules covering transactions and matters otherwise covered under a different article of the UCC.⁴²

Article 4A – Fund Transfers was enacted to address what would otherwise have been a gap in the law since 4A does not cover a fund transfer governed by federal Electronic Funds Transfer Act (“EFTA”). Among the changes brought about by the Dodd-Frank Act, the Wall Street Reform, and Consumer Protection Act, is an amendment to the EFTA so that the law will govern “remittance transfers” (the electronic transfer of funds to a person located in a foreign country requested by a consumer and initiated by a person or financial institution that provides remittance transfers for consumers in the normal course of its business), whether or not those remittance transfers are also “electronic fund transfers” as defined in EFTA. When the federal law changed in February 2013, without the modification to Article 4A, a fund transfer initiated by a remittance transfer would have been entirely outside the coverage of Article 4A, even if the remittance transfer is not an electronic fund transfer, and would not have been covered by either law.⁴³

Article 7 – Documents of Title was modified to accomplish two primary objectives: (1) allowance of electronic documents of title, and (2) introduction of provisions to reflect trends at the state, federal, and international levels.⁴⁴

Article 9 – Secured Transactions, made changes to Article 9, which governs security agreements where the property is not real estate. These arrangements are the basis of an important part of commercial finance and many involve interstate transactions, so it is important that the state laws governing them are as nearly uniform as possible. Arguably, the most significant change proposed concerns specification of the name of debtors who are natural persons.⁴⁵

In that same legislative session, the New Jersey Adult Guardianship and Protective Proceedings Jurisdiction Act was enacted as L.2012, c.36.⁴⁶ The law was based on a ULC act revised for use in New Jersey in order to provide a uniform mechanism for addressing multi-jurisdictional adult guardianship issues that had become time-consuming and costly for courts and families.⁴⁷

In addition, the Revised Uniform Limited Liability Company Act, enacted as L.2012, c.50, implemented a revised ULC act that permits the

⁴² *Annual Report*, *supra* note 11, at 22.

⁴³ *Annual Report*, *supra* note 11, at 22.

⁴⁴ *Annual Report*, *supra* note 11, at 22.

⁴⁵ *Annual Report*, *supra* note 11, at 22.

⁴⁶ *Annual Report*, *supra* note 11, at 22.

⁴⁷ *Annual Report*, *supra* note 11, at 22.

formation of limited liability companies, which provide the owners with the advantages of both corporate-type limited liability and partnership tax treatment.⁴⁸

Historic enactments of ULC acts the Commission recommended also include the: (Uniform) Child Custody Jurisdiction and Enforcement Act (L.2004, c.147); (Uniform) Electronic Transactions Act (L.2001, c.116); (Uniform) Foreign-Money Claims Act (L.1993, c.317); (Uniform) Mediation Act (L.2004, c.157); (Uniform) Prudent Management of Institutional Funds Act (L.2009, c.64); Uniform Commercial Code Article 2A – Leases (L.1994, c.114); Uniform Commercial Code Article 3 – Negotiable Instruments (L.1995, c.28); Uniform Commercial Code Article 4 – Bank Deposits (L.1995, c.28); Uniform Commercial Code Article 4A – Funds Transfers (L.1994, c.114); Uniform Commercial Code Article 5 – Letters of Credit (L.1997, c.114); Uniform Commercial Code Article 8 – Investment Securities (L.1997, c.252); and Uniform Commercial Code Article 9 – Secured Transactions (L.2001, c.117).⁴⁹

The following pages feature summaries of some of the ULC acts recently considered by the Commission and the current status of the Commission's recommendations regarding each. The projects are divided into five areas that roughly correspond with the certain sections into which the Central Staff of the Office of Legislative Services ("OLS") is divided.⁵⁰ As might be expected, there are instances in which a bill may be appropriate for consideration by more than one section of OLS and by more than one legislative committee. The Commission defers to the judgment of OLS Staff and legislators with regard to the selection of the entities that will review a Commission recommendation.

II. SURVEY OF UNIFORM LAW COMMISSION ACTS RECENTLY CONSIDERED BY THE NEW JERSEY LAW REVISION COMMISSION

A. Judiciary

The Judiciary Section of New Jersey's Office of Legislative Services provides research and staff services to the Legislature in areas pertaining to the judiciary, criminal justice, civil rights, torts, property, and estates.⁵¹

⁴⁸ *Annual Report*, *supra* note 11, at 22.

⁴⁹ *Annual Report*, *supra* note 11, at 22.

⁵⁰ *Legislative Services*, N.J. LEGIS., <http://www.njleg.state.nj.us/legislativepub/cent.asp> (last visited Dec. 21, 2016).

⁵¹ *Id.*

i. Revised Uniform law on Notarial Acts

Identified as appropriate for consideration by the Judiciary Section of OLS and the Judiciary Committees of the Legislature, the Revised Uniform Law on Notarial Acts (“RULONA”) was promulgated by the ULC in 2010 to establish the uniform standards for obtaining and renewing a notary public commission, as well as uniform methods for notarizing documents.⁵² Like its predecessor, the 1982 Uniform Law on Notarial Acts, the revised act seeks to enhance the integrity and the efficiency of the notarial practice.⁵³ The RULONA provides minimum standards for notaries public and governs the recognition of interstate and foreign notarizations.⁵⁴ Unlike its predecessor, the RULONA introduces journaling obligations and heightens the personal appearance and identification requirements.⁵⁵

The RULONA: (1) expands the definition of a “notarial act” to include electronic records; (2) provides a definition for electronic signature and describes electronic images, when defining the official stamp and stamping device; (3) allows personal knowledge or satisfactory evidence to verify the identity of the individual appearing before the notary; (4) requires personal appearance of an individual who signs a record before the notary for both tangible and electronic records; and (5) provides the bases for notaries public to refuse performance.⁵⁶ It

⁵² S. 333, 217th Leg., 2016 Sess. (N.J. 2016); UNIF. LAW COMM’N, REVISED UNIF. LAW ON NOTARIAL ACTS, Prefatory Note (July 2010), http://www.uniformlaws.org/shared/docs/notarial_acts/rulona_final_10.pdf.

⁵³ UNIF. LAW COMM’N, REVISED UNIF. LAW ON NOTARIAL ACTS, Prefatory Note (July 2010), http://www.uniformlaws.org/shared/docs/notarial_acts/rulona_final_10.pdf.

⁵⁴ *See id.*

⁵⁵ *Id.* (explaining in the section comments that the ULC acknowledges that the resistance to the length of time to maintain the journal, along with the form which information is required under the uniform act resulted in the ULC designating the provision as an optional requirement under the RULONA); *see* N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE RULONA/N.J. NOTARIES PUBLIC ACT 40-41 (Sept. 18, 2014), <http://www.lawrev.state.nj.us/RULONA/rulonaFR091814.pdf>

(recommending a modified version of the journal provision which incorporates language proposed in previous New Jersey legislation and proposes adding the following subsection:

A notary public who is an attorney at law admitted to practice in this State, or who is employed by an attorney at law, or who is employed by or acting as an agent for a title insurance company licensed to do business in this State pursuant to P.L.2001, c.210, or other notarial officer may maintain a record of notarial acts in the form of files regularly maintained for the attorney’s law practice or the title insurance company’s business activities, as the case may be, in lieu of maintaining a journal).

⁵⁶ UNIF. LAW COMM’N, REVISED UNIF. LAW ON NOTARIAL ACTS §§ 1, 5, 6, & 8 (July 2010), http://www.uniformlaws.org/shared/docs/notarial_acts/rulona_final_10.pdf.

also governs notarial acts performed: (1) in other states; (2) by federally-recognized Native American tribes; (3) under federal authority; and (4) in foreign jurisdictions.⁵⁷

In 2014, the NJLRC issued a Final Report recommending comprehensive revisions of the New Jersey statutes governing notaries public, based on a modified version of the RULONA.⁵⁸ The Report recommends adding the following new sections to the 1979 Notaries Public Act: (1) a definitions section; (2) a course of study requirement; (3) an examination requirement for applicants; (4) a continuing education course requirement for notaries public renewing their commission; and (5) a journaling provision.⁵⁹ Senate Bill 333 and the associated Assembly Bill 1184, which reflect the recommendations contained in the Commission's Final Report regarding the revision of the statutes governing the qualifications and duties of notaries public and notarial officers, were introduced in 2016.⁶⁰

The RULONA received strong support from the National Notary Association, the American Society of Notaries, and dozens of state notary associations.⁶¹ It was enacted in six states and introduced in three others, including New Jersey, during the 2016 legislative session.⁶²

⁵⁷ *Id.* §§ 11-14; *see also id.* § 31 (stating that the RULONA was drafted to harmonize with the Electronic Signatures in Global and National Commerce Act ("Esign") and other uniform laws, including the Uniform Electronic Transactions Act ("UETA") and the Uniform Real Property Electronic Recording Act ("URPERA")).

⁵⁸ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE RULONA/N.J. NOTARIES PUBLIC ACT (Sept. 18, 2014), <http://www.lawrev.state.nj.us/RULONA/rulonaFR091814.pdf>.

⁵⁹ *Id.*

⁶⁰ S. 333 & A.B. 1184, 217th Leg., 2016 Sess. (N.J. 2016); S. 333, A.B. 1184, and the N.J. LAW REVISION COMM'N FINAL REPORT (recommending a modified version of the RULONA to the New Jersey Legislature, and was the subject of a previous SETON HALL LEG. J. article and more information may be found at Jayne J. Johnson, *Signing on the Dotted Line: Legislation to Revise New Jersey's Notaries Public Act*, 40 SETON HALL LEG. J. 247, 249 n.3 (Aug. 23, 2016) (citing the N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE RULONA/N.J. NOTARIES PUBLIC ACT (Sept. 18, 2014), <http://www.lawrev.state.nj.us/RULONA/rulonaFR091814.pdf>); *see* UNIF. LAW ON NOTARIAL ACTS; REVISED UNIF. LAW ON NOTARIAL ACTS § 5 (July 2010), http://www.uniformlaws.org/shared/docs/notarial_acts/rulona_final_10.pdf.

⁶¹ Letter from Kathleen Butler, Pres., Am. Soc'y of Notaries, to Robert Stein, Pres., Nat'l Conf. of Comm'rs on Unif. State Law Nat'l Notary Ass'n. (May 27, 2011), <http://www.uniformlaws.org/Shared/Docs/RULONA%20ASN%20Support%20Letter.pdf>; Letter from Mark Reiser, CEO, Nat'l Notary Ass'n., to Robert Stein, Nat'l Conf. of Comm'rs on Unif. State Law Nat'l Notary Ass'n. (Mar. 10, 2011), http://www.uniformlaws.org/Shared/Docs/RULONA_Letter%20from%20NNA_Reiser_031011.pdf.

⁶² *Legislative Fact Sheet – Law on Notarial Acts, Revised*, UNIF. LAW COMM'N, <http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Law%20on%20Notarial%20Acts,%>

ii. Uniform Collaborative Law Act

Released by the Uniform Law Commission in 2009, the Uniform Collaborative Law Act (“UCLA”) recommended the enactment of new statutory language designed to create a consistent framework for the use of the collaborative process of dispute resolution in matters that would otherwise be litigated.⁶³ Collaborative law is a voluntary, non-adversarial settlement process.⁶⁴

As modified for use in New Jersey, the collaborative process is limited to family law matters.⁶⁵ It is intended to provide important consumer protections and an enforceable privilege between parties and non-attorney collaborative professionals during the negotiation process.⁶⁶ The privilege, modeled after the one found in the Uniform Mediation Act, protects the parties and the non-party participants with regard to their communications.⁶⁷ It enables non-party participants to fulfill their role as neutral experts and participate candidly to benefit both parties.⁶⁸

As a part of the collaborative process, the parties, with the assistance of their lawyers, attempt to negotiate in good faith a mutually acceptable resolution of the underlying dispute without court involvement.⁶⁹ The collaborative lawyers, along with their clients and other collaborative professionals, work together to resolve the dispute as a team.⁷⁰ Other collaborative professionals may include financial practitioners, such as certified financial planners and certified public accountants; and mental health professionals, not limited to licensed clinical social workers, psychologists, licensed professional counselors, licensed marriage and family therapists, and psychiatrists trained in collaborative law.⁷¹

Adapting the Act for use in New Jersey required deference to the role of the judiciary in regulating attorneys and court practice and

20Revised.

⁶³ *Legislative Fact Sheet – Collaborative Law Act*, UNIF. LAW COMM’N, <http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Collaborative%20Law%20Act>.

⁶⁴ *Why States Should Adopt the UCLA*, UNIF. LAW COMM’N, <http://www.uniformlaws.org/Narrative.aspx?title=Why%20States%20Should%20Adopt%20the%20UCLA>.

⁶⁵ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO NEW JERSEY FAMILY COLLABORATIVE LAW ACT 8 (July 23, 2013), <http://www.lawrev.state.nj.us/ucla/njfclaFR0723131500.pdf>.

⁶⁶ *Id.* at 6-7.

⁶⁷ *Id.* at 7.

⁶⁸ *Id.*

⁶⁹ *Id.* at 2.

⁷⁰ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO NEW JERSEY FAMILY COLLABORATIVE LAW ACT 2 (July 23, 2013), <http://www.lawrev.state.nj.us/ucla/njfclaFR0723131500.pdf>.

⁷¹ *Id.*

procedure since the New Jersey Constitution affords the Supreme Court, and not the legislative or executive branches of government, jurisdiction over the practice of law and attorney conduct.⁷²

At the conclusion of the Commission's work in this area, the resulting Final Report received support from the New Jersey Council of Collaborative Practice Groups, individual collaborative professionals, the New Jersey State Bar Association, New Jersey's Uniform Law Commissioners, and the International Academy of Collaborative Professionals.⁷³

Enacted in some form in fifteen jurisdictions and introduced in three others during the 2016 legislative session, the New Jersey bills pertaining to the Family Collaborative Law Act, A1477 and S1224, were introduced by a number of sponsors from both parties in 2014.⁷⁴ Passed by both houses of the Legislature unanimously, the law was signed by Governor Christie.

iii. Uniform Premarital and Marital Agreements Act

Also in the realm of family law, the ULC in 2012 recommended the Uniform Premarital and Marital Agreement Act ("UPMAA") to update and replace the 1983 Uniform Premarital Agreement Act in order to fill "a gap in existing uniform marital laws" by including agreements made during marriage between spouses who desire to continue their marriage "but who wish to order the financial terms affecting their marriage."⁷⁵ The UPMAA has updated the definition of a premarital agreement to govern:

agreements between two individuals who intend to marry, which affirms, modifies, or waives a marital right or obligation during the marriage or at separation, marital dissolution, death of one of the spouses, or the occurrence or nonoccurrence of any other event. The term includes an amendment, signed before the individuals marry, of a premarital agreement.⁷⁶

⁷² *Id.* at 7.

⁷³ *Id.* at 9-10.

⁷⁴ UNIF. LAW COMM'N, *Acts – Collaborative Law Act*, <http://www.uniformlaws.org/Act.aspx?title=Collaborative%20Law%20Act> (last visited Dec. 21, 2016); S. 1224 & A.B. 1477, 216th Leg., 2014 Sess. (N.J. 2014).

⁷⁵ Mary Kay Kisthardt & Barbara Handschu, *New Uniform act Covers Postnups and Prenups: The Drafters of the Uniform Premarital and Marital Agreements Chose to Treat both Agreements in a Similar Fashion*, NAT'L L. J. & LEGAL TIMES (Sept. 24, 2012); UNIF. LAW COMM'N, UNIF. PREMARITAL AND MARITAL AGREEMENTS ACT (July 2012), http://www.uniformlaws.org/shared/docs/premarital%20and%20marital%20agreements/2012_pmaa_final.pdf.

⁷⁶ UNIF. LAW COMM'N, UNIF. PREMARITAL AND MARITAL AGREEMENTS ACT § 2(5) (July 2012), <http://www.uniformlaws.org/shared/docs/premarital%20and%20marital%20>

The UPMAA, unlike its predecessor, also governs marital or post-nuptial agreements to “bring clarity and consistency across a range of agreements between” spouses, and those contemplating marriage.⁷⁷

Marital agreements under the UPMAA are defined as:

an agreement between spouses who intend to remain married which affirms, modifies, or waives a marital right or obligation during the marriage or at separation, marital dissolution, death of one of the spouses, or the occurrence or nonoccurrence of any other event. The term includes an amendment, signed after the spouses marry, of a premarital agreement or marital agreement.⁷⁸

“The focus is on agreements that purport to modify or waive rights that would otherwise arise at a time of the dissolution of the marriage or the death of one of the spouses.”⁷⁹ The UPMAA treats premarital and marital agreements “under the same set of principles and requirements.”⁸⁰ The UPMAA adopts the prevailing view that the agreement to marry provides sufficient consideration to enforce a premarital agreement.⁸¹

The UPMAA is not intended to cover cohabitation agreements, property settlements, or separation agreements.⁸² “The scope of the UPMAA does not extend to acts or events that may affect the rights of the parties at the dissolution of the marriage or death of a spouse.”⁸³

After careful consideration, the NJLRC determined that the UPMAA departs from the course of New Jersey legislation and judicial decisions, which have declined to apply the same standard of review to premarital and marital agreements, characterizing the dynamics and pressures involved in each type of agreement as qualitatively different.⁸⁴ The NJLRC concluded that, although New Jersey courts are still grappling with some of the issues presented by amendments to the UPMAA, those revisions were intended to encourage fair and enforceable premarital agreements without the harm that may result from creating a

agreements/2012_pmaa_final.pdf.

⁷⁷ *Id.* at Prefatory Note.

⁷⁸ *Id.* § 2(2).

⁷⁹ *Id.* at Prefatory Note.

⁸⁰ *Id.*

⁸¹ *Id.* § 6 cmt.

⁸² UNIF. LAW COMM’N, UNIF. PREMARITAL AND MARITAL AGREEMENTS ACT § 2(5) (July 2012), http://www.uniformlaws.org/shared/docs/premarital%20and%20marital%20agreements/2012_pmaa_final.pdf.

⁸³ *Id.* (noting that the scope of the UPMAA does not extend to acts and events that may affect the rights of the parties at the dissolution of the marriage or death of a spouse).

⁸⁴ N.J. LAW REVISION COMM’N, DRAFT FINAL REPORT RELATING TO THE UNIF. PREMARITAL AND MARITAL AGREEMENTS ACT 8-9 (Mar. 9, 2015), <http://www.lawrev.state.nj.us/UPMAA/upmaaDF030915.pdf>.

statutory scheme that governs both premarital agreements and marital agreements.⁸⁵ As a result, the Commission recommended that the UPMAA not be enacted in New Jersey at this time.⁸⁶

iv. Uniform Probate Code

In addition to the work done in the area of family law, the Commission, in early 2016, began work on a project regarding the possible adoption of the Uniform Probate Code (“UPC”).⁸⁷ Preliminary research for the project was conducted by law students, working with the Commission on a *pro bono* basis, who were asked to identify provisions of the latest version of the UPC not yet incorporated into New Jersey probate law, which is found in Title 3B “Administration of Estates – Decedents and Others.”⁸⁸

The UPC differs from current New Jersey law in a variety of ways. For example, the UPC abolishes dower and curtesy (the right of a surviving spouse to receive a set portion of a decedent’s estate), while New Jersey retains those concepts—even though most other states do not.⁸⁹ Another substantial difference concerns witnesses to a will.⁹⁰ The UPC includes the concept of a notarized will in lieu of the attestation by two witnesses currently required in New Jersey.⁹¹ Although the danger that a notarized will would not represent the decedent’s wishes is difficult to quantify, some believe there is a risk of potential fraud.⁹²

As with other projects originating from the Uniform Law Commission, possible outcomes include a recommendation of all or part of the latest version of the UPC for adoption in New Jersey, or even a recommendation to adopt no part of it.

B. Human Services

The Human Services Section of New Jersey’s Office of Legislative Services provides research and staff services to the Legislature in areas affecting human services, welfare, health, senior citizens, disabled

⁸⁵ *Id.*

⁸⁶ *Id.* at 9.

⁸⁷ UNIF. LAW COMM’N, UNIF. PROBATE CODE (2010), available at http://www.uniformlaws.org/shared/docs/probate%20code/UPC_Final_2016aug1.pdf [hereinafter *Unif. Probate Code*].

⁸⁸ N.J. STAT. ANN. § 3b (2016).

⁸⁹ *Unif. Probate Code*, *supra* note 87, § 2-112.

⁹⁰ *Unif. Probate Code*, *supra* note 87, § 2-502.

⁹¹ *Unif. Probate Code*, *supra* note 87, § 2-504.

⁹² See Waggoner, Lawrence W., *The UPC Authorizes Notarized Wills.*, 34 ACTEC J. 83, 83-87 (2008).

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individuals, hospitals, and women and children.⁹³

i. Uniform Protection of Genetic Information in Employment Act

One of the uniform acts considered by the Commission that falls in the category of health is the Uniform Protection of Genetic Information in Employment Act (“UPGIEA”). Completed by the Uniform Law Commission in 2010, the UPGIEA was a response to the perceived need to uniformly regulate the disclosure and use of genetic information in the workplace, especially considering that employment provisions of federal law do not preempt state legislation that provides equal or greater protection.⁹⁴ The ULC recommends enactment of UPGIEA to: (1) encourage individuals to take genetic tests, (2) clear up confusion regarding whether the federal Genetic Information Nondiscrimination Act (“GINA”) preempts existing state laws, and (3) promote uniformity among states.⁹⁵

Consideration of the potential benefits of the UPGIEA required a review of the existing federal and state law already enacted in this area. The drafters of the UPGIEA explained that, while scientific developments in the field of genetics hold many promises for the future, individuals may be unwilling to take genetic tests unless they are confident that they can control the privacy of their genetic information and that their genetic information will not be used to harm them in the workplace for reasons not related to their ability to do the job.⁹⁶

New Jersey’s Genetic Privacy Act (“GPA”) treats genetic information as a person’s private property.⁹⁷ Enacted in 1996, the GPA is one of the most comprehensive laws protecting genetic information to be passed in any state.⁹⁸ N.J.S. 10:5-45 of the GPA provides that “[n]o person shall obtain genetic information from an individual, or from an individual’s DNA sample, without first obtaining informed consent from the individual or the individual’s representative.”⁹⁹ Correspondingly,

⁹³ *Legislative Services*, *supra* note 50.

⁹⁴ UNIF. LAW COMM’N, PROTECTION OF GENETIC INFORMATION IN EMPLOYMENT ACT SUMMARY (2013) at 1, available at <http://www.uniformlaws.org/ActSummary.aspx?title=Protection%20of%20Genetic%20Information%20in%20Employment%20Act>.

⁹⁵ *See id.*

⁹⁶ *See id.*

⁹⁷ Brianna Kostecka, *GINA Will Protect You, Just Not from Death: The Genetic Information Nondiscrimination Act and Its Failure to Include Life Insurance Within Its Protections*, 34 SETON HALL LEGIS. J. 93, 102 (2009).

⁹⁸ *Id.*

⁹⁹ N.J. STAT. ANN. § 10:5-45 (2015).

N.J.S. 10:5-46 contains exceptions to the GPA.¹⁰⁰

New Jersey's GPA also prohibits employers from discriminating against individuals based on their genetic information.¹⁰¹ Employers cannot discriminate against a prospective employee on the basis of genetic information, the refusal to submit to a genetic test, or the refusal to "make available the results of a genetic test."¹⁰² New Jersey law also prohibits "unfair discrimination against an individual in the application of the results of a genetic test or genetic information in the issuance, withholding, extension, or renewal of a policy of life insurance."¹⁰³ If an insurer plans to use genetic test results, it must "notify the individual who is the subject of the genetic test that such a test [will] be required and [must] obtain the individual's written informed consent for the test prior to the administration of the test."¹⁰⁴ The insurer must also provide the results of the test to a "physician or other health care professional designated by the individual" and the individual can indicate in writing a desire "to be informed of the results of the test."¹⁰⁵

In New Jersey, there is a private right of action for victims of employment discrimination and a plaintiff may initiate suit by filing in Superior Court.¹⁰⁶

In addition to the New Jersey law in this area, the federal Genetic Information Nondiscrimination Act ("GINA") was enacted in 2008 in response to the explosion of advancements in the science of genetics and in recognition of the potential for discrimination based on genetic information.¹⁰⁷

GINA "[p]rohibits use of an individual's genetic information by employers in employment decisions such as hiring, firing, job assignments, and promotions" and "[p]rohibits employers from requesting, requiring, or purchasing genetic information about an individual employee or family member."¹⁰⁸ GINA "[d]oes not prohibit workplace collection of genetic information for toxic monitoring programs, employer-sponsored wellness programs, administration of

¹⁰⁰ *Id.*

¹⁰¹ *New Jersey Passes Genetic Privacy Bill*, THEBMJ (formerly the British Medical Journal) (July 13, 1996), <http://www.bmj.com/thebmj> (last visited June 30, 2015).

¹⁰² N.J. STAT. ANN. § 17B:30-12 (2015).

¹⁰³ N.J. STAT. ANN. § 17B:30-12(f) (2015).

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ See N.J. STAT. ANN. § 10:5-13 (2015).

¹⁰⁷ Genetic Information Nondiscrimination Act, Pub. L. No. 110-233, 122 Stat. 881 (2008).

¹⁰⁸ GENETIC DIAGNOSIS OF ENDOCRINE DISORDERS 294 (Roy E. Weiss & Samuel Refetoff eds., 2010).

federal and state Family and Medical Leave laws, and in certain cases of inadvertent acquisition of information . . . [h]owever, genetic information may not be used or disclosed by the employer.”¹⁰⁹

GINA provides definitions for such relevant terms as “genetic information” and “genetic test.”¹¹⁰ Examples of protected tests are: tests for BRCA1/BRCA2 (breast cancer) or HNPCC (colon cancer) mutations; classifications of genetic properties of an existing tumor to help determine therapy; tests for Huntington disease mutations; and carrier screening for disorders such as cystic fibrosis, sickle cell anemia, spinal, muscular atrophy, and the fragile X syndrome.¹¹¹ However, GINA does not protect routine tests such as complete blood counts (CBC, or blood panel), cholesterol tests, and liver-function tests or analysis—including DNA analysis—of infectious agents such as bacteria, viruses, and fungi.¹¹² An HIV test, for example, is *not* covered by GINA.¹¹³

GINA does not apply to members of the United States Military, to veterans obtaining health care through the Veterans Administration, or to the Indian Health Service.¹¹⁴ Nor does GINA include protection from genetic discrimination in life insurance, disability insurance, or long-term-care insurance.¹¹⁵ Under GINA, prohibitions contained in the Employee Retirement Income Security Act (“ERISA”) extend to genetic information and GINA expands the protections of the Health Insurance Portability and Accountability Act (“HIPAA”) by making genetic information subject to HIPAA’s privacy regulations.¹¹⁶

Regarding preemption of state law, the ULC has indicated that the GINA has created general uncertainty about the enforceability of state

¹⁰⁹ *Id.*

¹¹⁰ See generally Genetic Information Nondiscrimination Act, Pub.L. 110–233, 122 Stat. 881 (2008); see also *id.* at 122 Stat. 885 (d) (6) “Genetic information” and (d) (7) “Genetic test.”

¹¹¹ *Genetic Information Nondiscrimination Act of 2008*, GENETIC ALLIANCE, THE GENETICS AND PUB. POLICY CTR. AT JOHNS HOPKINS UNIV. AND THE NAT’L COAL. FOR HEALTH PROF’L EDUC. IN GENETICS, available at <http://www.ginahelp.org/ginahelp.pdf>.

¹¹² *Id.*

¹¹³ See *Frequently Asked Questions Regarding the Genetic Information Nondiscrimination Act*, U.S. DEP’T OF LABOR EMP. BENEFITS SECURITY ADMIN., available at <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/gina.pdf>.

¹¹⁴ *Some Health Systems Not Covered by GINA*, NAT’L COAL. FOR HEALTH PROF’L EDUC. IN GENETICS, available at <http://www.nchpeg.org>.

¹¹⁵ *Id.*

¹¹⁶ See *Frequently Asked Questions Regarding the Genetic Information Nondiscrimination Act*, U.S. DEP’T OF LABOR EMP. BENEFITS SECURITY ADMIN., available at <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/gina.pdf>.

genetic statutes in the context of employment.¹¹⁷ The ULC suggests that the UPGIEA would address the lack of uniformity among existing state statutes, which has created burdens on employers operating in more than one jurisdiction.¹¹⁸ The uniform act also closes a gap in the GINA by extending coverage to entities that credential or license workers along with employers, unions, employment agencies, and training programs, and by including employers with five or more employees, while giving states an option to extend coverage to smaller employers.¹¹⁹ Moreover, the UPGIEA:

[P]rotects employees by requiring their authorization for employer acquisition of their genetic information and voluntary genetic testing as part of an employee wellness program or a genetic monitoring program. It also allows employees to submit genetic information voluntarily so that it can be used for their protection, for example, in support of a request for reassignment to avoid a workplace substance to which a worker has a genetic susceptibility.

The act also recognizes the importance of genetic counseling for employees' decisions to have a genetic test and for interpreting the results; it requires genetic counseling before an employee or family member authorizes a genetic test and when a test predicts a disease or disorder, unless the individual waives genetic counseling in writing. The UPGIEA also regulates genetic testing by setting standards that require reporting the results to the employee.¹²⁰

Additionally, "in order to prevent employment discrimination based on genetic information, the act prohibits specific actions based on genetic information, makes genetic information confidential, and limits disclosures of that information."¹²¹ In fact, "it supplements GINA by allowing employees to direct disclosures to third parties and by giving employees a specific right to inspect and copy genetic information in the employer's possession and to submit corrected information."¹²²

While the Commission was mindful of the ULC's concerns regarding uniformity, New Jersey's GPA has been in place since 1996 and is a well-integrated work of legislation that already offers many of UPGIEA's protections. Nevertheless, the Final Report of the Commission concerning UPGIEA identified some areas where existing

¹¹⁷ UNIF. LAW COMM'N, PROTECTION OF GENETIC INFORMATION IN EMPLOYMENT ACT SUMMARY (2013), *available at* <http://www.uniformlaws.org/ActSummary.aspx?title=Protection%20of%20Genetic%20Information%20in%20Employment%20Act>.

¹¹⁸ *See id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

New Jersey law can be revised in order to bring it more in line with UPGIEA and provide supplemental protections to New Jersey residents. To this time, no bill has been introduced in New Jersey based on the UPGIEA.

ii. Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

Shifting focus from the area of health law to law concerning human services, a uniform act addressing interstate jurisdictional issues in the human services context is the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (“UAGPPJA”).¹²³ UAGPPJA was approved by the Uniform Law Commission in 2007 and recommended for enactment in all jurisdictions either as a stand-alone act or in support of the previously released Uniform Adult Guardianship and Protective Proceedings Act.¹²⁴

After recommending the Uniform Adult Guardianship and Protective Proceedings Act in 1997, the ULC recognized that jurisdictional disputes regarding incapacitated individuals have become commonplace and that multiple states could assert authority over an incapacitated person simultaneously.¹²⁵ While all states maintain jurisdiction over guardianship proceedings for an individual domiciled or physically present within the particular state, conflicts arise when an allegedly incapacitated individual is domiciled in one state but physically present in another, or in instances when the incapacitated individual owns two residences.¹²⁶ As a solution, UAGPPJA clarifies that an incapacitated adult’s home state has primary jurisdiction, while a state in which the adult has a significant connection maintains secondary jurisdiction.¹²⁷

UAGPPJA further proposed an integrated process for transferring

¹²³ UNIF. LAW COMM’N, UNIF. GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT (Feb. 5, 2015), available at http://www.uniformlaws.org/shared/docs/adult_guardianship/UAGPPJA_2011_Final%20Act_2015feb4.pdf [hereinafter *Guardianship and Protective Proceedings Jurisdiction Act*].

¹²⁴ *Guardianship and Protective Proceedings Jurisdiction Act*, *supra* note 123.

¹²⁵ *Guardianship and Protective Proceedings Jurisdiction Act*, *supra* note 123.

¹²⁶ *Guardianship and Protective Proceedings Jurisdiction Act*, *supra* note 123.

¹²⁷ *Guardianship and Protective Proceedings Jurisdiction Act*, *supra* note 123, § 20; N.J. LAW REV. COMM’N, FINAL REPORT RELATING TO NEW JERSEY ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT § 1, at 7 (2011) (explaining that, pursuant to UAGPPJA, a person’s “home state” is defined as the state in which the individual is physically present for at least six consecutive months immediately before the filing of a petition for a protective order or appointment of a guardian), available at <http://lawrev.state.nj.us/uagppja/uagppjaFR21811.pdf> [hereinafter *NJLRC Adult Guardianship and Protective Proceedings*].

uncontroversial adult guardianships from one jurisdiction to another without requiring the guardian to repeat the procedures required for the initial appointment.¹²⁸ “Such a transfer is often appropriate where the incapacitated person has moved or has been placed in a facility in another state, making it impossible for the original court to adequately monitor the proceeding.”¹²⁹

UAGPPJA also created an interstate registration mechanism which enabled a guardian properly authorized by one state to exercise authority in other jurisdictions pursuant to the original state’s order of appointment.¹³⁰

When the Commission evaluated UAGPPJA to determine whether it would be appropriate for adoption in New Jersey, the Commission noted that New Jersey has well-established guardianship procedures, governed by N.J.S. 3B:12-1 and N.J. Ct. R. 4:86-1 through 4:86-8.¹³¹ Guided by the testimony of several commenters, the Commission gave particular attention to the difference between UAGPPJA’s definition of “guardian” and “conservator” and New Jersey’s current statutes.¹³² Accordingly, the Commission’s Final Report revised UAGPPJA’s definitions to conform to existing New Jersey law and ensure that the jurisdictional benefits provided by the uniform act did not substantively change the framework for guardianship and protective proceedings

¹²⁸ *Guardianship and Protective Proceedings Jurisdiction Act*, *supra* note 123, §§ 301 - 302; *see also NJLRC Adult Guardianship and Protective Proceedings*, *supra* note 127, at 19-22 (substantially incorporating the substance of UAGPPJA Sections 301 and 302 into proposed N.J.S. 3B:12B-16 and 12B-17).

¹²⁹ *NJLRC Adult Guardianship and Protective Proceedings*, *supra* note 127, at 20.

¹³⁰ *Guardianship and Protective Proceedings Jurisdiction Act*, *supra* note 123, §§ 401-403; *see also NJLRC Adult Guardianship and Protective Proceedings*, *supra* note 127, at 22 (substantially incorporating the substance of UAGPPJA Sections 401-403 into proposed N.J.S. 3B:12B-18 and 12B-19).

¹³¹ New Jersey recognizes four types of guardians for incapacitated persons: general guardians; limited guardians; special guardians and pendent lite temporary guardians. If a court finds that an allegedly incapacitated person is without capacity to govern or manage the person’s own well-being and financial affairs, then the court will appoint a general guardian to exercise all rights and powers of the incapacitated person. If the court finds that the incapacitated person lacks capacity to do some, but not all of the tasks necessary for self-care, then the court will appoint a limited guardian. Special guardians assist the court in providing for any protective arrangements and serve until discharged by the order of appointment after reporting to the court of all matters done in accordance with the order. Pendent lite guardians may be appointed temporarily, pending a hearing for the appointment of a general or limited guardian, to act for the alleged incapacitated person only for those services the court determines are necessary to deal with critical needs or risk of substantial harm to the person. *See* N.J. STAT. ANN. § 3B:12-24.1.

¹³² *Minutes of Commission Meeting*, N.J. LAW REVISION COMM’N (Nov. 18, 2010), <http://lawrev.state.nj.us/minutes/minutes%202010/MIN111810.pdf>; *Minutes of Commission Meeting*, N.J. LAW REVISION COMM’N (Dec. 16, 2010), <http://lawrev.state.nj.us/minutes/minutes%202010/MIN121610.pdf>.

established by the New Jersey Legislature.¹³³

The Commission further recommended changes to existing New Jersey statutes regarding the process for transferring guardianship to conform to UAGPPJA, determining that a uniform approach to this process would be beneficial for New Jersey.¹³⁴ Finally, the Commission recognized that the New Jersey Constitution gives the courts control of “the rules governing the administration of all courts in the State, and subject to the law, the practice and procedure in all such courts” and recommended that the New Jersey Supreme Court “adopt rules to determine the manner for taking depositions and testimony in accordance with UAGPPJA.”¹³⁵ In light of the Commission’s revisions to UAGPPJA to preserve New Jersey’s substantive guardianship process, the Commission retitled the act as the New Jersey Adult Guardianship and Protective Proceedings Act (“NJAGPPJA”).¹³⁶

The Legislature accepted the Commission’s recommendations, introducing and passing NJAGPPJA in 2012, and it was signed by Governor Christie that year.¹³⁷ Thus far, UAGPPJA has been enacted in 47 jurisdictions and introduced in one additional jurisdiction.¹³⁸

iii. Uniform Fiduciary Access to Digital Assets Act

Also falling under the human services umbrella is the Uniform Fiduciary Access to Digital Assets Act (“UFADAA”). Today, nearly everyone has digital assets, “including documents, photographs, email, and social media accounts.”¹³⁹ When the account owner dies or becomes unable to manage his or her own affairs, fiduciaries are frequently prevented from accessing those digital assets by password protection or by restrictive terms of service.¹⁴⁰ Those digital assets, however, “may

¹³³ See generally *NJLRC Adult Guardianship and Protective Proceedings*, *supra* note 127.

¹³⁴ *NJLRC Adult Guardianship and Protective Proceedings* *supra* note 127, at 10 (proposing Section 3B:12-4); at 23 (proposing Section 3B:12B-22). N.J. CONST. art. VI, § 2, pgh 3.

¹³⁵ *NJLRC Adult Guardianship and Protective Proceedings*, *supra* note 127, at 12.

¹³⁶ *NJLRC Adult Guardianship and Protective Proceedings*, *supra* note 127.

¹³⁷ N.J. Stat. Ann. § 3B:12B-1 (West 2016).

¹³⁸ *Legislative Fact Sheet- Adult Guardianship and Protective Proceedings Jurisdiction Act*, UNIF. LAW COMM’N, <http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Adult%20Guardianship%20and%20Protective%20Proceedings%20Jurisdiction%20Act>.

¹³⁹ *Why Your State Should Adopt the Uniform Fiduciary Access to Digital Assets Act*, UNIF. LAW COMM’N, (2015), <http://www.uniformlaws.org/shared/docs/Fiduciary%20Access%20to%20Digital%20Assets/Revised%202015/Revised%20UFADAA%20-%20Why%20Your%20State%20Should%20Adopt%20-%20Sep%202015.pdf> (last visited Sept. 23, 2016).

¹⁴⁰ *Id.*

have real value, both monetary and sentimental.”¹⁴¹ They also “present novel privacy concerns.”¹⁴²

Released by ULC in 2014, and revised in 2015 to address concerns raised by the custodians of digital assets, the goals of the UFADAA include: (1) giving Internet users control of their digital property; (2) providing efficient uniformity for all concerned; (3) respecting privacy interests; (4) addressing the common types of fiduciaries; and (5) working hand-in-hand with existing federal and state law.¹⁴³ The UFADAA is designed to modernize fiduciary law for the Internet age. It endeavors to provide authority for fiduciaries to manage digital assets in accordance with the user’s estate plan, while protecting a user’s private communications from unwarranted disclosure.¹⁴⁴

Already enacted in 20 jurisdictions, the Act was introduced in twelve jurisdictions, including New Jersey, during the 2016 legislative session.¹⁴⁵ The work of the NJLRC in this area of the law was informal in nature and did not result in the issuance of a Report. Instead, the Commission responded to requests for information from the legislative branch, and worked with the ULC in response to concerns raised to insure that interested legislators had timely access to relevant information. A3433/S2527 were introduced during New Jersey’s 2016 legislative session.¹⁴⁶

C. Law and Public Safety

The OLS Law and Public Safety Section devotes its attention to issues involving public safety, motor vehicles, alcoholic beverages, police/firemen, corrections, juvenile justice and probation, parole and consumer affairs, weapons, Megan’s law, and homeland security.¹⁴⁷

i. Uniform Act on Prevention of and Remedies for Human Trafficking

The crime of human trafficking has long existed in both World and U.S. history. The most modern conception of crimes of human servitude have been framed in the terms “prostitute/pimp.” In recent times, the

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ UNIF. LAW COMM’N, FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015), *available at* [http://www.uniformlaws.org/Act.aspx?title=Fiduciary%20Access%20to%20Digital%20Assets%20Act,%20Revised%20\(2015\)](http://www.uniformlaws.org/Act.aspx?title=Fiduciary%20Access%20to%20Digital%20Assets%20Act,%20Revised%20(2015)).

¹⁴⁶ *Bills 2016-2017*, N.J. LEG., <http://www.njleg.state.nj.us/bills/BillView.asp> (last visited Dec. 14, 2016).

¹⁴⁷ *Legislative Services*, *supra* note 50.

popular and statutory language surrounding human servitude has adapted to better convey both the pervasive nature and varied presentation of the crime.¹⁴⁸ It no longer suffices to address those selling other individuals as “pimps” or as “those promoting prostitution;” they are engaging in the trafficking of humans.¹⁴⁹ Similarly, many individuals identified as prostitutes may be forced or coerced to remain participants in commercial sexual activities.¹⁵⁰ Also, these types of crimes are not limited to sexual services – many individuals are trafficked to perform manual labor or other physical tasks.¹⁵¹ The linguistic re-categorization of these offenses has opened the door to legal schemes that more accurately recognize perpetrators and victims.¹⁵²

The ULC acknowledged and addressed the pernicious crime of human trafficking in its publication of the Uniform Act on Prevention of and Remedies for Human Trafficking (“UPHRT”). In its prefatory note, the ULC noted that “[m]illions are subjected to human trafficking every year. In 2012, the International Labour Organization issued a comprehensive and sophisticated statistical analysis, finding 20.9 million people in forced labor worldwide. . .”¹⁵³ In response, the ULC adopted the UPHRT which sought to model a clear and complete set of criminal proscriptions and essential victim remedies and protections, as well as to encourage state coordination.¹⁵⁴ In particular, the UPHRT seeks to: (1) identify and define uniform and comprehensive criminal offenses, (2) provide remedies, protection and services to human trafficking victims, and (3) cost-effectively promote prevention and educational efforts.¹⁵⁵

Around the same time, New Jersey recognized the scourge of human trafficking and has taken an aggressive approach to combating this

¹⁴⁸ N.J. LAW REV. COMM’N, DRAFT TENTATIVE REPORT RELATING TO UNIF. ACT ON PREVENTION OF AND REMEDIES FOR HUMAN TRAFFICKING ACT, at 8 (2016), *available at* <http://lawrev.state.nj.us/Humantrafficking/humantraffickingDTR020915.pdf> [hereinafter *NJLRC Draft Human Trafficking*].

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*; *see also Sex Trafficking*, NAT’L HUMAN TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/type-trafficking/sex-trafficking>.

¹⁵¹ *See NJLRC Draft Human Trafficking*, *supra* note 148; *see also Labor Trafficking*, NAT’L HUMAN TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/type-trafficking/labor-trafficking>.

¹⁵² *See NJLRC Draft Human Trafficking*, *supra* note 148.

¹⁵³ UNIF. LAW COMM’N, UNIF. ACT ON PREVENTION OF AND REMEDIES FOR HUMAN TRAFFICKING, Prefatory Note (July 2013), *available at* http://www.uniformlaws.org/shared/docs/Prevention%20of%20and%20Remedies%20for%20Human%20Trafficking/2013AM_UPRHT_As%20approved.pdf.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

crime.¹⁵⁶ In 2013, New Jersey updated its human trafficking laws by passing the Human Trafficking Prevention, Protection and Treatment Act (the “HTPPT Act”) which amended and supplemented various portions of existing law.¹⁵⁷ The HTPPT Act was widely applauded for its expansive and tough stance on human trafficking.¹⁵⁸

The Commission has been working in tandem with the Rutgers Law School International Human Rights Clinic and New Jersey’s Human Trafficking Commission to ensure that New Jersey’s HTPPT Act incorporates the best elements of UPRHT in a manner consistent with the State’s existing, robust statutory scheme. So far, the Commission has released a Draft Tentative Report recommending more explicit business entity liability and a Final Report recommending that forced sexually explicit performances be statutorily designated a human trafficking offense.¹⁵⁹ The Commission will continue to provide assistance to lawmakers and government commissions with future legislative efforts to ensure that New Jersey’s human trafficking laws remain among the most comprehensive in the nation.

ii. Uniform Certificate of Title of Vessels Act

The ULC promulgated the Uniform Certificate of Title of Vessels Act (“UCOTVA or the uniform act”) in July 2011 “(i) to deter and impede theft; (ii) to facilitate ownership transfers and financing; and (iii) to protect buyers and others acquiring an interest in an undocumented vessel.”¹⁶⁰ The UCOTVA requires states to brand the title of vessels

¹⁵⁶ *NJLRC Draft Human Trafficking*, *supra* note 148, at 8.

¹⁵⁷ Human Trafficking, Prevention, Protection and Treatment Act, Pub. L. 2013, c.51 (2013).

¹⁵⁸ See, e.g., Kate Keisel, *New Jersey’s Human Trafficking Act Establishes Comprehensive Measures to Support Survivors and Stop Traffickers* (Mar. 21, 2013), <https://polarisproject.org/news/press-releases/new-jersey%E2%80%99s-human-trafficking-act-establishes-comprehensive-measures-support>; Kate Keisel, *Comprehensive Anti-Trafficking Legislation Signed into Law in New Jersey* (May 6, 2013), <https://polarisproject.org/news/press-releases/comprehensive-anti-trafficking-legislation-signed-law-new-jersey>;

Human Trafficking Laws Get Stricter, Awareness Grows, BURLINGTON CNTY TIMES, (Sept. 30, 2014), available at http://www.burlingtoncountytimes.com/tabs/hidden-victims/human-trafficking-laws-get-stricter-awareness-grows/article_39095680-6c33-5b86-8124-4eee4f4dd8e2.html; see also *NJ Coalition Against Human Trafficking Applauds Governor Christie for Making Tough Anti-Trafficking Legislation in NJ*, N.J. COALITION AGAINST HUMAN TRAFFICKING, <http://www.njhumantrafficking.org/coalition-pr-christie>.

¹⁵⁹ *NJLRC Draft Human Trafficking*, *supra* note 148, at 8; N.J. LAW REV. COMM’N, FINAL REPORT RELATING TO UNIF. ACT ON PREVENTION OF AND REMEDIES FOR HUMAN TRAFFICKING ACT 6, (2016) <http://lawrev.state.nj.us/Humantrafficking/humantraffickingDFR060616.pdf>.

¹⁶⁰ UNIF. LAW COMM’N, UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT, at Prefatory Note

involved in a casualty or sinking which compromised the integrity of the vessel's hull.¹⁶¹ Under the uniform act, vessel titling will more closely resemble the requirements for titling a motor vehicle.¹⁶²

New Jersey is among the thirty-four jurisdictions that already requires a certificate of title for certain vessels.¹⁶³ "Vessel titling in New Jersey is administered by the state's Motor Vehicle Commission pursuant to the Boat Ownership Certificate Act ("BOCA")." The BOCA was enacted in 1984, and was amended shortly before taking effect in 1987 to provide for many of the concerns the uniform act seeks to address.¹⁶⁴

The branding requirements of the uniform act, establishing that the certificate of title identifies any damage to the vessel's hull, exceed the safeguards provided to consumers under the existing New Jersey law.¹⁶⁵ In accord, the Commission recommended to the state legislature a modified version of the uniform act, the New Jersey Certificate of Title of Vessels Act ("NJCOTVA"), which includes the uniform branding requirement, along with other provisions to strengthen the existing vessel titling scheme in New Jersey.¹⁶⁶

The branding provision of the uniform act requires states to brand the title of vessels that have sustained hull damage.¹⁶⁷ This differs from

(July 2011), available at http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf [hereinafter *Certificate of Title Act*].

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ See *id.* (noting 33 states and the District of Columbia "require certain undocumented vessels to be covered by a certificate of title"); see 53 A.B. 141, P.L.1984, c. 152 (N.J. 1984) (Introductory Statement); see also N.J. LAW REV. COMM'N, FINAL REPORT RELATING TO THE N.J. CERTIFICATE OF TITLE FOR VESSELS ACT § 6 (2013), <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf> [hereinafter *NJLRC Certificate Of Title Act*].

¹⁶⁴ See *NJLRC Certificate Of Title Act*, *supra* note 163, § 6; see also N.J. STAT. ANN. §§ 12:7A-4, 7-9, 16-17, 21-22.

¹⁶⁵ See *Certificate Of Title Act*, *supra* note 160.

¹⁶⁶ *Legislative Fact Sheet - Certificate Of Title For Vessels Act*, (July 2011) <http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Certificate%20of%20Title%20for%20Vessels%20Act>.

¹⁶⁷ *NJLRC Certificate of Title Act*, *supra* note 163, § 6(72) (Use of the term "hull damaged" in the branding provision was challenged for being overbroad and potentially leading to inconsistent judicial interpretations.) See Memorandum from Robert S. Fisher, Esq., to Stephen L. Sepinuck, Drafting Committee Member for the Uniform Certificate of Title for Vessels Act (Mar. 18, 2011), http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf (requesting a clear, plain language definition to identify what constitutes vessel "compromise" or "hull damage").

Despite the possible challenges a broad interpretation of the term "hull damaged" may pose, the branding provision promotes boating safety by creating a duty to brand in a wide variety of damage situations. In accord, the branding provision has received a favorable response from the boating community and the marine industry. See *Legislative Fact Sheet - Certificate Of Title For Vessels Act*, *supra* note 166.

the BOCA requirement which calls for surrender of the certificate of title to the Motor Vehicle Commission if the vessel is “changed in any manner so that it is not the marine equipment described in the certificate of ownership” but does not include provisions for enforcement or penalty for failure to comply.¹⁶⁸ “The branding provision has received a favorable response from the boating community and the marine industry, and even if New Jersey adopted no other part of the UCOTVA, it could adopt the branding provision by amending N.J.S. 12:7A-23 to require disclosure of hull damage.”¹⁶⁹

The uniform act addresses a wide variety of vessel titling issues and generally covers subject matter in greater detail than the New Jersey statute.¹⁷⁰ In accord, to prevent duplicative provisions, the NJCOTVA proposes repealing select sections of the New Jersey statute.¹⁷¹ In other instances, the NJLRC recommends retaining provisions of the state statute, to deal with administrative and enforcement issues that are not covered by the uniform act.¹⁷²

The NJCOTVA also proposes merging provisions of the uniform act with the New Jersey statute.¹⁷³ For example, under the NJCOTVA, the definition of “state of principal use” incorporates existing New Jersey statutory requirements into the uniform definition to ensure broad coverage of watercraft present in New Jersey.¹⁷⁴

New Jersey, with its significant boating industry, may find, like Virginia and Connecticut which enacted the UCOTVA, that adopting provisions of the uniform act will better facilitate boat transfers and acquisitions, while enhancing the safeguards provided for boating consumers.¹⁷⁵ The uniform act and the NJLRC Final Report that recommends a modified version of the UCOTVA were the subject of a

¹⁶⁸ N.J. STAT. ANN. § 12:7A-23 (West 2016); see *Certificate Of Title Act*, *supra* note 160, § 6.

¹⁶⁹ *NJLRC Certificate of Title Act*, *supra* note 163, § 2(31).

¹⁷⁰ See *Certificate Of Title Act*, *supra* note 160, at Prefatory Note; see N.J. STAT. ANN. §§ 12:7A-23 to -29 (West 2016).

¹⁷¹ *NJLRC Certificate of Title Act*, *supra* note 163, § 30 (listing sections recommended for repeal).

¹⁷² *NJLRC Certificate of Title Act*, *supra* note 163, §§ 22, 23, 26, 28.

¹⁷³ *NJLRC Certificate of Title Act*, *supra* note 163, §§ 2, 6, 8, 10.

¹⁷⁴ *NJLRC Certificate of Title Act*, *supra* note 163, § 2.

¹⁷⁵ See *Legislative Fact Sheet - Certificate Of Title For Vessels Act*, *supra* note 166; see also Memorandum from the Nat'l Marine Manfrs. Ass'n's Release, *Economic Significance of Recreational Boating in N.J.*, <http://www.mtanj.org/PDF/NMMAEconomicSignificanceNJ.pdf> (reporting that the New Jersey recreational boating industry generates \$2.2 billion in annual economic activity); see also *Marine Conservation Agreements*, <http://www.nj.gov/dep/shoreprotection/> (last visited Sep. 20, 2016) (describing the New Jersey coastal region which consists of 127 miles of coastline, 1,792 miles of tidal shoreline, and 83 miles of bay).

previous Seton Hall Legislative Journal article.¹⁷⁶ To date, a bill based on the uniform act has not been introduced in the state legislature.

D. Commerce, Labor, and Industry

The Commerce, Labor and Industry section of OLS is responsible for providing research and support on issues involving commerce, industry, regulated professions, labor and employment, banking, insurance, and workers' and unemployment compensation.¹⁷⁷

i. Uniform Voidable Transaction Act

Uniform acts pertaining to commercial interactions have, over the years, been among the more widely enacted of the ULC's work. The Uniform Fraudulent Conveyance Act and its successors is one example of such an act.

The earliest state statutes addressing debtors who sought to defeat creditors by transferring assets to another party were modeled after the Corpus Juris Civilis, the Roman "Civil Code."¹⁷⁸ References to English law, particularly the Badges of Fraud, and to a lesser degree the Fraudulent Conveyance Act of 1571, known as the Statute of 13 Elizabeth, were also included in early American statutes.¹⁷⁹

The Roman Civil Code influenced both English and American laws governing fraudulent transfers, which is significant to the work of the ULC because the Latin word origins underscore the present need to clarify this area of the law.¹⁸⁰ The phrase "fraudulent transfers" has its root in the Latin word "fraus," which is most accurately defined as "disadvantage" or "prejudice," as opposed to "misrepresentation" or common law "fraud," as it was historically defined.¹⁸¹

The ULC updated the Uniform Fraudulent Conveyance Act in 1984, amending the title and the act by removing the term "conveyance" and replacing it with "transfer," to reflect the intended scope of the Act.¹⁸²

¹⁷⁶ Laura Tharney and Jayne J. Johnson, "All Hands On Deck: New Jersey Law Revision Comm'n Recommends Modified Unif. Laws to Safeguard the Public and Address Disasters and their Aftermath," 38 SETON HALL LEGIS. J. 337 (2014).

¹⁷⁷ *Legislative Services*, *supra* note 50.

¹⁷⁸ Jay Adkisson, *The Uniform Voidable Transactions Act – What's with the Name Change?*, FORBES (2014), <http://onforb.es/1szIHWe> (last visited Mar. 19, 2015).

¹⁷⁹ *Id.*; see also Kenneth C. Kettering, *Securitization and its Discontents: The Dynamics of Financial Product Development*, 29 CARDOZO L. REV. 1553, 1585-1590 (2008).

¹⁸⁰ See Adkisson, *supra* note 178.

¹⁸¹ See Adkisson, *supra* note 178.

¹⁸² See Adkisson, *supra* note 178 (stating that the "[m]ost common example of the 'fraud' error is found in the cases that interpret the Federal Rule of Civil Procedure § 9(b) which requires, '[i]n alleging fraud... a party must state with particularity the circumstances constituting 'fraud' ... Although a fraudulent transfer as we have seen has nothing to do with

Forty-three states, the District of Columbia, and the U.S. Virgin Islands enacted the Uniform Fraudulent Transfer Act (“UFTA”) after the ULC promulgated it in 1984.¹⁸³

The 2014 amendments replace the term “fraudulent” with the term “voidable” to more accurately describe the circumstances addressed by the Act.¹⁸⁴ Likewise, the term “transfers” replaced “transactions” to include situations where a debt is incurred, as well as those where debts are transferred.¹⁸⁵ These amendments are the first revisions to the UFTA since 1984.¹⁸⁶ To date, the amendments were enacted in the following states: California, Georgia, Idaho, Iowa, Kentucky, Minnesota, New Mexico, North Carolina and North Dakota, and were introduced in Colorado, Indiana, Massachusetts, Michigan, Nevada, New York, Rhode Island, and South Carolina.¹⁸⁷

The Uniform Voidable Transaction Act (“UVTA”) is not a comprehensive revision of the UFTA, but instead, incorporates narrowly tailored amendments to clarify select provisions of the UFTA.¹⁸⁸ The amendments include changes to the: (1) Title—the name of the act was changed from the “Uniform Fraudulent Transfer Act” to the “Uniform Voidable Transactions Act;” (2) Presumption and Burden of Proof—(i) establishing a “preponderance of evidence” standard for the entire Act; (3) Special Definition for Insolvency of Partnership—removing the requirement that the net worth of a general partner must be included in determining the insolvency of a partnership.¹⁸⁹

The ULC Drafting Committee maintains that the translation from Latin to English of the term “fraud” resulted in a misleading description of fraudulent transfers, requiring the creditor to demonstrate the debtor’s

‘fraud’ as in the misrepresentational sense”) (finding that the phrase fraudulent transfers “contributed to the widespread use of the shorthand terminology” including the “oxymoronic” term “constructive fraud” to describe recovery under the Act for claims that did not involve fraud); *see also* Kettering, *supra* note 179.

¹⁸³ See UNIF. LAW COMM’N, UNIF. VOIDABLE TRANSACTIONS, Prefatory Note (2014), available at http://www.uniformlaws.org/shared/docs/Fraudulent%20Transfer/2014Feb_AUVTA_CLEAN.pdf [hereinafter *Voidable Transactions Act*].

¹⁸⁴ *Id.*

¹⁸⁵ See Adkisson, *supra* note 178.

¹⁸⁶ UNIF. LAW COMM’N, VOIDABLE TRANSACTIONS ACT SUMMARY (2014) <http://www.uniformlaws.org/shared/docs/fraudulent%20transfer/UVTA%20%20Summary.pdf>.

¹⁸⁷ *Legislative Fact Sheet – Voidable Transactions Act*, UNIF. LAW COMM’N, available at [http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Voidable%20Transactions%20Act%20Amendments%20\(2014\)%20-%20Formerly%20Fraudulent%20Transfer%20Act](http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Voidable%20Transactions%20Act%20Amendments%20(2014)%20-%20Formerly%20Fraudulent%20Transfer%20Act).

¹⁸⁸ *Voidable Transactions Act*, *supra* note 183, §§ 8, 15, and Prefatory Note.

¹⁸⁹ *Voidable Transactions Act*, *supra* note 183, §§ 8, 15, and Prefatory Note.

intent to misrepresent.¹⁹⁰ The ULC Drafting Committee maintains that “[f]raud is not, and never has been, a necessary element of a claim under the Act.”¹⁹¹ To the peril of many litigants, confusion arose from the use of the term “fraud” and resulted in judicial decisions that apply the rules for pleading common law fraud to claims involving debtors seeking to thwart their creditors.¹⁹²

The NJLRC proposed amendments to N.J.S. 25:2-20, et seq., changing the title, along with the aforementioned revisions, and proposed adding the following new sections to the existing statute: (1) a choice of law provision—N.J.S. 25:2-32; (2) supplementary provisions—N.J.S. 25:2-33; (3) a provision addressing the uniformity of application and construction—N.J.S. 25:2-34; and (4) a section addressing the relation between the Act and electronic signatures in the Global and National Commerce Act—N.J.S. 25:2-35.¹⁹³

The Commission decided not to include in its recommendations to the Legislature the provision governing series organizations.¹⁹⁴ Delaware enacted the first statutory provision creating the series organization or series limited liability corporation (“LLC”) in 1996.¹⁹⁵ A series LLC is a singular business entity with internal legal barriers that segregate property, obligations, assets, and liabilities into administrative subunits according to individualized business objectives.¹⁹⁶ New Jersey law does not yet recognize series LLCs.¹⁹⁷ This was deemed prudent, given the nature of this business form, to forego inclusion of the provision at this time.¹⁹⁸

Assembly Bill 3742, introduced in the New Jersey Legislature

¹⁹⁰ *Voidable Transactions Act*, *supra* note 183.

¹⁹¹ *Voidable Transactions Act*, *supra* note 183.

¹⁹² *Voidable Transactions Act*, *supra* note 183.

¹⁹³ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE UNIF. VOIDABLE TRANSACTION ACT 25-27 (2015), available at http://www.lawrev.state.nj.us/UVTA/uvta_FR031915r.pdf [hereinafter *NJLRC Voidable Transaction Act*].

¹⁹⁴ *Id.* at 25-29.

¹⁹⁵ DEL. CODE ANN. tit. 6, § 17-218, and series provisions for statutory trusts; *Id.* § 3804; Larry E. Ribstein & Robert R. Keatinge, RIBSTEIN AND KEATINGE ON LIMITED LIABILITY COMPANIES § 4:17 (2d ed. 2004) (noting that some states have series statutes for business entities in addition to limited liability companies. Delaware, for example, also provides for series limited partnerships).

¹⁹⁶ See Amanda J. Bahena, *Series LLCs: The Asset Protection Dream Machines?*, 35 J. CORP. L. 799, 802 (2010); RIBSTEIN & KEATINGE, *supra* note 195, § 4:17; Thomas E. Rutledge, *Again, for the Want of A Theory: The Challenge of the “Series” to Business Organization Law*, 46 AM. BUS. L.J. 311, 315-320 (2009); Jennifer Avery et al., *Series LLCs: Nuts and Bolts, Benefits and Risks, and the Uncertainties That Remain*, 45 TEX. J. BUS. L. 9, 10 (Fall 2012).

¹⁹⁷ See N.J. STAT. ANN. §§ 25:2-20 (West 2016).

¹⁹⁸ *NJLRC Voidable Transaction Act* *supra* note 193, at 25-27.

during the 2016 legislative session, is based on the recommendation of the NJLRC to enact the UVTA.¹⁹⁹

ii. Revised Uniform Unincorporated Nonprofit Association Act

In addition to its work in the area of commercial interactions, the Uniform Law Commission has promulgated multiple uniform acts regarding the formation of business entities.²⁰⁰ These uniform acts meet one of the ULC's stated goals in facilitating interstate economic relations.²⁰¹ The ULC has noted that those acts which "facilitate the flow of commercial transactions across state lines, such as the Uniform Commercial Code, Uniform Electronic Transactions Act, Revised Uniform Partnership Act, and Revised Uniform Limited Liability Company Act," are met with the widest acceptance among state legislatures.²⁰²

Business entities need not be profit-minded; nonprofit business organizations play an increasingly important role in fulfilling societal needs. The National Center for Charitable Statistics reports that over 1.4 million nonprofit organizations operate within the United States.²⁰³ According to the most recent data, more than 31,000 non-profits operate within New Jersey and collectively employ approximately 7% of the workforce.²⁰⁴ The intent of statutes and regulations governing these nonprofit organizations is balancing the potentially overly burdensome compliance mechanisms with the need to combat potential abuses of the nonprofit structure.²⁰⁵

A nonprofit association is an entity that is not organized under any

¹⁹⁹ A.B. 3742, 217th Leg., 2016 Sess. (N.J. 2016).

²⁰⁰ *Committees – Harmonization of Business Entity Acts*, UNIF. LAW COMM'N, available at <http://www.uniformlaws.org/Committee.aspx?title=Harmonization%20of%20Business%20Entity%20Acts>. The ULC considers each individual business entity act to be part of a larger "Harmonization of Business Entity Acts" project which seeks to harmonize the concepts and language used in the various unincorporated business entity acts.

²⁰¹ *Criteria for New Projects*, UNIF. LAW COMM'N, available at <http://uniformlaws.org/Narrative.aspx?title=Criteria%20for%20New%20Projects>.

²⁰² *Id.*

²⁰³ *Number of Nonprofit Organizations in the United States, 2003-2013*, NAT'L CTR. FOR CHARITABLE STATISTICS, <http://nccsweb.urban.org/PubApps/profile1.php?state=US> (reporting a 2.8% increase in nonprofit organizations between 2003 and 2013).

²⁰⁴ See generally *New Jersey's Non-Profit Sector: An Economic Force for Strengthening the Garden State*, THE CTR. FOR NON-PROFITS (2009-10), http://www.njnonprofits.org/EconForce2009_10.pdf.

²⁰⁵ James J. Fishman, *Wrong Way Corrigan and Recent Developments in the Nonprofit Landscape: A Need for New Legal Approaches*, 76 FORDHAM L. REV. 567, 574 (2007).

statutory law.²⁰⁶ Many nonprofit organizations begin as small enterprises; incorporating such a nonprofit entity requires a commitment of time and financial resources that may be difficult for the fledgling organization and might not be pursued.²⁰⁷ Lacking the protections provided by business entity statutes, these unincorporated associations are governed by “a hodgepodge of common law principles and statutes governing some of their legal aspects.”²⁰⁸

The ULC recognized these unique issues and initially adopted the Uniform Unincorporated Nonprofit Associations Act in 1996, which focused on the most troublesome issues facing unincorporated nonprofit associations: the tort and contractual liability of members, property ownership, and status as an entity having the capacity to sue and to be sued.²⁰⁹ Thirteen jurisdictions adopted the 1996 uniform act.²¹⁰

In 2008, the ULC was determined to take a more comprehensive approach towards unincorporated nonprofit associations and adopted Revised Uniform Unincorporated Nonprofit Association Act (“RUUNAA”).²¹¹ Like its predecessor, RUUNAA acts as a “default” law for nonprofit associations by improving upon common law principles, but further adds provisions regarding the internal governance, dissolution, and merger of unincorporated nonprofits.²¹² RUUNAA has been enacted in four States and the District of Columbia, and has been introduced in one additional state.²¹³

Historical versions of New Jersey’s nonprofit corporation statute contained provisions applicable to unincorporated nonprofit associations.²¹⁴ In drafting the Nonprofit Corporations Act, the Nonprofit

²⁰⁶ REVISED UNIF. UNINCORPORATED NONPROFIT ASS’N ACT, Prefatory Note (2008).

²⁰⁷ *Thinking of Forming a Non-Profit? What to Consider Before You Begin*, THE CTR. FOR NON-PROFITS, 2014, at 11, <http://www.njnonprofits.org/ThinkingOfForming.pdf> (last visited May 5, 2015) (detailing New Jersey filing fees and reporting requirements).

²⁰⁸ UNIF. LAW COMM’N, REVISED UNIF. UNINCORPORATED NONPROFIT ASS’N ACT, Prefatory Note (2008) available at http://www.uniformlaws.org/shared/docs/unincorporated%20nonprofit%20association/ruunaa_final_08.pdf [hereinafter *Unincorporated Nonprofit Ass’n Act*].

²⁰⁹ *Id.*

²¹⁰ Elizabeth S. Miller, *Doctoring the Law of Nonprofit Associations with a Band-Aid or a Body Cast: A Look at the 1996 and 2008 Uniform Unincorporated Nonprofit Association Acts*, 38 WM. MITCHELL L. REV. 852, 853 (2012).

²¹¹ See generally *Unincorporated Nonprofit Ass’n Act*, *supra* note 208.

²¹² Miller, *supra* note 210, at 867.

²¹³ Enacting states include: Pennsylvania, Iowa, Arkansas, and Kentucky. A proposed bill is pending in South Carolina. See generally *Unincorporated Nonprofit Ass’n Act*, *supra* note 208.

²¹⁴ N.J. STAT. ANN. § 15A:1-3 (1983) (“To the extent that Title 15 of the Revised Statutes . . . included provisions for such associations, those provisions have been repealed and have not been included in this act.”).

Law Revision Committee expressly declined to include protections or rights for unincorporated associations, stating “since . . . formation of nonprofit associations without incorporation should be discouraged, no provision for them is included in this act.”²¹⁵ The Nonprofit Law Revision Committee further cautioned that unincorporated associations could unexpectedly expose members to contract or tort liabilities under the common law.²¹⁶

Unincorporated for-profit associations are contemplated by and subject to certain provisions of New Jersey’s Business Corporations Act.²¹⁷ While not governed by the provisions of the Nonprofit Corporations Act, nonprofit associations benefit from the tort liability protections of New Jersey’s robust Charitable Immunity Act.²¹⁸

The Nonprofit Law Revision Committee’s statement in 1980 encouraging the incorporation of nonprofit entities does not contemplate the relatively recent ability to organize new enterprises as limited liability companies.²¹⁹ While only a viable option since 1988, limited liability company formations outnumber corporate formations in many states.²²⁰ The flexibility provided by an LLC, in addition to the looser standard governing operating agreements, may encourage unincorporated associations to organize as LLCs lessening the need for a default law such as RUUNA.

If relevant stakeholders assert that unincorporated nonprofit associations require statutory protections in New Jersey, it may be

²¹⁵ *Id.*

²¹⁶ *Id.* (“Accordingly such organizations are discouraged because the members rarely anticipate such liabilities or provide for casualty insurance.”).

²¹⁷ N.J. STAT. ANN. § 14A:1-2.1 defines “other business entity” as “a partnership, limited liability company, statutory trust . . . or any other unincorporated business;” Title 15A (the Nonprofit Corporations Act) does not contain a similar definition; and Title 14A’s definition of “other business entity” is operational in certain Business Corporations Act provisions. *See e.g.* N.J. STAT. ANN. § 14A:10-1 (detailing procedures for merger or consolidation).

²¹⁸ The statute reads in relevant part:

[n]o nonprofit corporation, society or association organized exclusively for religious, charitable or educational purposes or its trustees, directors, officers, employees, agents, servants or volunteers shall . . . be liable to respond in damages to any person who shall suffer damage from the negligence of any agent or servant of such corporation, society or association, where such person is a beneficiary, to whatever degree, of the works of such nonprofit corporation, society or association

N.J. STAT. ANN. § 2A:53A-7 (1959).

²¹⁹ N.J. STAT. ANN. § 15A:1-3 (1983). New Jersey’s enacted its first law addressing limited liability companies in 1993. *See* N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE UNIF. LIMITED LIABILITY COMPANY ACT 2 (2011), <http://www.lawrev.state.nj.us/ulc/lcFR121911.pdf> (referencing now repealed N.J.S.A. § 42:2B-1).

²²⁰ Kleinberger, Daniel S., *A Myth Deconstructed: “The Emperor’s New Clothes” on the Low-Profit Limited Liability Company*, 35 DEL. J. CORP. L. 879, 886 (2010).

preferable to draft law that conforms more closely to New Jersey's existing Nonprofit Corporations Act and Business Corporations Act. In conjunction with the potential revision of Title 15A, the Commission will continue outreach regarding RUUNAA to ascertain whether this Act has relevance in New Jersey.

iii. Uniform Principal and Interest Act

The Uniform Principal and Income Acts of 1931 and 1962 deal with four questions affecting the rights of beneficiaries:

(1) How is income earned during the probate of an estate to be distributed to trusts and to persons who receive outright bequests of specific property, pecuniary gifts, and the residue?; (2) When an income interest in a trust begins (i.e., when a person who creates the trust dies or when she transfers property to a trust during life), what property is principal that will eventually go to the remainder beneficiaries and what is income?; (3) When an income interest ends, who gets the income that has been received but not distributed, or that is due but not yet collected, or that has accrued but is not yet due?; (4) After an income interest begins and before it ends, how should its receipts and disbursements be allocated to or between principal and income?²²¹

The ULC's 2008 amendments to the Act are small in size in relation to the whole Act. The amendments have been deemed significant because they address tax issues caused by the current law (the 2000 version).²²² The changes are of three types: new rules that deal with situations not covered by prior Acts; clarification of provisions contained in the 1962 Act; and changes to rules in the prior Acts.²²³

The amended Act recommends changes to the existing uniform law, which was enacted in New Jersey, to:

(1) update traditional income and allocation rules to reflect modern law of trust investment; (2) provide for the transition to investment regime based on the principles in the Uniform Prudent Investor Act (investing for total return, rather than for a certain level of income); (3) include provisions for investment modalities that did not exist in 1962 (derivatives, options, deferred payment obligations and synthetic financial assets); and (4) deal with imbalances as a result of tax laws and make adjustments between principal and income to correct inequalities caused by tax elections or peculiarities of

²²¹ UNIF. LAW COMM'N, UNIF. PRINCIPAL AND INCOME ACT, at Prefatory Note (Feb. 9, 2009), http://www.uniformlaws.org/shared/docs/principal%20and%20income/upia_final_08_clean.pdf [hereinafter *Principal and Income Act*].

²²² N.J. LAW REVISION COMM'N, REVISED FINAL REPORT RELATING TO UNIF. PRINCIPAL AND INCOME ACT 3 (2013), <http://www.lawrev.state.nj.us/upia/upiaRFR071813.pdf> [hereinafter *NJLRC Principal and Income Act*].

²²³ *Id.*

fiduciary income tax rules.²²⁴

The 2008 Act has been enacted in thirty-six jurisdictions and introduced in one other jurisdiction in the 2016 legislative session.²²⁵ It has not yet been enacted or introduced in New Jersey.

E. State Government

For subject-matter areas including state government pensions, elections, employees and personnel; casinos and gambling; federal and interstate relations; and veterans, the State Government Section of New Jersey's Office of Legislative Services provides research and staff services to the Legislature.²²⁶

i. Uniform Electronic Legal Materials Act

In the area of state government, the ULC, with the encouragement of entities concerned with continued access to government materials, recognized that electronic legal materials provide unprecedented accessibility, but remain both fragile and potentially ephemeral. The Federal government has made significant efforts at providing accessible and authenticated electronic materials, but has struggled at times with the vulnerability of electronic publications.²²⁷ States producing legal information in an electronic format must also consider the most secure and trustworthy method for producing these materials.²²⁸

The ULC recognized that “[p]roviding information online is integral to the conduct of state government in the [twenty-first] century” and, in 2011, released the Uniform Electronic Legal Material Act (“UELMA”) to promote the authentication and preservation of these online

²²⁴ *Id.*

²²⁵ *Acts – Principal and Income Amendments (2008)*, UNIF. LAW COMM’N, <http://www.uniformlaws.org/Act.aspx?title=Principal%20and%20Income%20Amendments%20> (last visited Sept. 23, 2016).

²²⁶ *Legislative Services*, *supra* note 50.

²²⁷ Recent upgrades to the Federal PACER system provide a cautionary tale. On Aug. 10, 2014, decades of legal material from several U.S. Courts of Appeals were deleted from the federal PACER website as a result of system incompatibilities. Nadia Prupis, *Decade of Court Cases Quietly Wiped from Online Database*, COMMON DREAMS (Aug. 28, 2014), <http://commondreams.org/news/2014/08/28/decade-court-cases-quietly-wiped-online-database>. After being confronted by the media about the deletions, the Administrative Office of the U.S. Courts developed a plan to restore the documents from existing print records. Andrew Peterson, *Online Court archive PACER says it will restore access to missing records*, THE WASH. POST (Sept. 19, 2014), <http://www.washingtonpost.com/blogs/the-switch/wp/2014/09/19/online-court-archive-pacer-says-it-will-restore-access-to-missing-records/>.

²²⁸ UNIF. LAW COMM’N, UNIF. ELECTRONIC LEGAL MATERIAL ACT, at Prefatory Note (2011), available at http://www.uniformlaws.org/shared/docs/electronic%20legal%20material/uelfma_final_2011.pdf [hereinafter *Electronic Legal Material Act*].

materials.²²⁹ In its basic form, UELMA consists of the following components:

- (1) State entities are not mandated to publish their statutes, regulations, cases, opinions, etc. (“Legal Material”) electronically; (2) If a state entity publishes its Legal Materials *only* electronically, the Electronic Material *shall* be designated “official” and must be (a) authenticated, (b) preserved and (c) secured; If a state entity publishes its Legal Materials in other official mediums, the Electronic Legal Material *may* be designated “official” and would then be required to be (a) authenticated, (b) preserved and (c) secured; (4) The Act applies only to Legal Materials published after the legislation’s stated effective date.²³⁰

In its Prefatory Note, UELMA states that “[p]roviding information online is integral to the conduct of state government in the [twenty-first] century” and that “[t]he ease and speed with which information can be created, updated and distributed electronically, especially in contrast to the time required for the production of print materials, enables governments to meet their obligations to provide legal information to the public in a timely and cost-effective manner.”²³¹ Electronic information, the Prefatory Note cautions, is susceptible to being altered, accidentally or maliciously, at each point where it is stored, transferred or accessed and these alterations may be undetectable by the consumer.²³² In addition, the ease with which electronic material may be altered raises the issue of how legal information with long-term historical value will be preserved for future use. With regard to the issue of preservation, the benefits associated with electronic materials are described as “severely limited” if the information becomes unusable because of technological changes.²³³

UELMA is designed to be an outcomes-based approach to the authentication and preservation of legal materials.²³⁴ The goals of the Act are to “enable end-users to verify the trustworthiness of the legal materials” and to “provide a framework for states to preserve legal material in perpetuity in a manner that allows for permanent access.”²³⁵

Thirteen states have adopted UELMA and an additional six states have introduced it for consideration.²³⁶ The American Association of Law Libraries, the New Jersey Law Librarians Association, and the

²²⁹ *Id.*

²³⁰ *Electronic Legal Material Act, supra* note 228.

²³¹ *Electronic Legal Material Act, supra* note 228.

²³² *Electronic Legal Material Act, supra* note 228.

²³³ *Electronic Legal Material Act, supra* note 228.

²³⁴ *Electronic Legal Material Act, supra* note 228.

²³⁵ *Electronic Legal Material Act, supra* note 228.

²³⁶ *Electronic Legal Material Act, supra* note 228.

American Bar Association all promote adoption of the UELMA.²³⁷

Commenters informed the Commission that New Jersey's legal materials are not consistently available online, and while some government offices are voluntarily putting legal materials online, the documents can be difficult to find and search.²³⁸ The Commission discussed different approaches to UELMA.

The Commission ultimately decided that New Jersey's approach should consider "(1) identifying materials currently available electronically and requiring mandatory publication; (2) including a uniform manner of authentication; (3) emphasizing the preservation of materials in a digital form, rather than alternate forms; and (4) creating consequences for noncompliance, or in the alternative, creating provisions along the lines of the federal model."²³⁹

Over the course of several meetings, the Commission discussed revisions to UELMA's provisions and released a Draft Tentative Report ("DTR") on March 7, 2016.²⁴⁰ The DTR:

(1) incorporates references to New Jersey's existing publication mandates; (2) applies to existing electronic legal materials, while UELMA only applies to materials published on or after the effective date; (3) dispenses with UELMA's mechanism for optionally designating material as official, while the DTR deems published legal material to be official and subject to the authentication, preservation and security mandates; (4) permits an official publisher to delegate its duties, which UELMA does not contemplate delegation; (5) provides greater specificity regarding the type of electronic information that must be preserved; (6) grants New Jersey's Division of Revenue and Enterprise Services the regulatory authority to effectuate the act's purposes; (7) references an enforcement mechanism; (8) declines to include court materials in the definition of "legal materials," but encourages the New Jersey Supreme Court to adopt court rules consistent with the purposes of the act.²⁴¹

The Commission released its Final Report on the UELMA in

²³⁷ *Electronic Legal Material Act*, *supra* note 228.

²³⁸ *Minutes of Commission Meeting*, N.J. LAW REVISION COMM'N (June 21, 2012), available at <http://www.lawrev.state.nj.us/minutes/minutes%202012/MIN062112.pdf>.

²³⁹ *Minutes of Commission Meeting*, N.J. LAW REVISION COMM'N (June 20, 2013), available at <http://www.lawrev.state.nj.us/minutes/minutes%202013/MIN062013.pdf>.

²⁴⁰ The Commission considered various aspects of UELMA at the following meetings: June 21, 2012; April 18, 2013; June 20, 2013; April 16, 2015; June 18, 2015; February 18, 2016; and March 17, 2016.

²⁴¹ N.J. LAW REVISION COMM'N, DRAFT TENTATIVE REPORT ON THE UNIF. ELECTRONIC LEGAL MATERIAL ACT (2016), available at <http://lawrev.state.nj.us/UELMA/uelmaRDTR030716.pdf>.

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November 2016, recommending its adoption, as modified, to address concerns particular to New Jersey.²⁴²

ii. Uniform Foreign-Country Money Judgment Recognition Act

In July 2005, the ULC approved and recommended for enactment in all the States the Uniform Foreign-Country Money Judgments Recognition Act (“UF-CMJRA”), which provides updated rules and procedures for the recognition of foreign judgments.²⁴³

The Commission began work in this area and favorably viewed the UF-CMJRA for the following reasons: it provides a clear and systematic method of seeking recognition of foreign-country money judgments, improves the 1962 Act, and continues the ongoing trend towards uniformity and consistency among the states.

When the Commission works in a particular area of the law, it defers to lawmakers working on similar undertakings. On February 5, 2015, Assemblyman Patrick J. Diegnan, Jr., introduced Assembly Bill 4163, entitled the “Foreign Country Money-Judgments Recognition Act of 2015,” which would amend the 2005 UF-CMJRA with several substantive changes.²⁴⁴ In response, the Commission finalized its work in this area, by recommending the enactment of Assembly Bill 4163 and offering its support to the Legislature regarding its passage.²⁴⁵

iii. Uniform Military and Overseas Voters Act

Seeking a degree of uniformity with regard to elections, the Uniform Military and Overseas Voters Act (“UMOVA”) was completed by the ULC in 2010 and, since that time, has been enacted in sixteen jurisdictions.²⁴⁶ In 2012, the NJLRC released a Final Report recognizing that New Jersey has a body of law pertaining to voting by overseas residents that “has been in place since 1976 and is a well-integrated part

²⁴² N.J. LAW REVISION COMM’N, FINAL REPORT ON THE UNIF. ELECTRONIC LEGAL MATERIAL ACT (2016), *available at* <http://www.lawrev.state.nj.us/UELMA/uelfmaFR111716.pdf>.

²⁴³ UNIF. LAW COMM’N, FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT SUMMARY (2016), *available at* <http://www.uniformlaws.org/ActSummary.aspx?title=Foreign-Country%20Money%20Judgments%20Recognition%20Act>.

²⁴⁴ See N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE UNIF. FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT (2015), *available at* <http://www.lawrev.state.nj.us/ufcmjra/ufcmjraFR021915.pdf>.

²⁴⁵ *Id.*

²⁴⁶ UNIF. LAW COMM’N, UNIFORM MILITARY AND OVERSEAS VOTERS ACT (2010), *available at* http://www.uniformlaws.org/shared/docs/military%20and%20overseas%20voters/umova_final_10.pdf.

of New Jersey voting practices and procedures[.]” The NJLRC report also recommended that key provisions of UMOVA not yet addressed by the New Jersey law should be added to the existing Overseas Residents Absentee Voting Law (“ORAVL”).²⁴⁷

These provisions included an expansion of the definition of “overseas voter” to include voters eligible to vote in New Jersey, but not born in the State, and, consistent with the Vote by Mail Law, permitting the use of Federal Postcard Application Form to register to vote in any election (i.e. not just federal elections).²⁴⁸ Underlying the proposed changes to the law was a concern that, “despite enactment of federal legislation to facilitate the ability of military personnel and overseas civilians to vote in American elections, ‘over five million military personnel and overseas civilians face a variety of legal and logistical obstacles to participating in American elections.’”²⁴⁹

A2815/S92, incorporating the work of the Commission, were introduced during the 2016 legislative session and approved by both the Senate and the Assembly, but were conditionally vetoed by the Governor in December 2016.²⁵⁰

iv. Uniform Interstate Family Support Act

In 2014, the United States implemented the 2007 Hague Convention on Maintenance. That legislation required all states to enact the 2008 Amendments to the Uniform Interstate Family Support Act as a condition to the continued receipt of federal funds for state child support programs.²⁵¹ The Amendments modified the then-current version of UIFSA’s international provisions to comport with the obligations of the

²⁴⁷ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO UNIF. MILITARY AND OVERSEAS VOTERS ACT 3 (2012), available at <http://www.lawrev.state.nj.us/UMOVA/umovaFR31912.pdf> [hereinafter *NJLRC Military and Overseas Voters Act*].

²⁴⁸ N.J.S. 19:63-1, 4-6.

²⁴⁹ Such federal legislation includes the *Uniformed and Overseas Citizens Absentee Voting Act of 1986* (“UOCAVA”), 42 U.S.C. § 1973(f), which requires that the states and territories allow members of the United States uniformed services and merchant marine, their family members, and United States citizens residing outside the United States, to register and vote absentee in elections for federal offices. There are other provisions of the law pertaining to implementation of voting procedures. The UOCAVA was amended with enactment of the *Military and Overseas Voter Empowerment Act of 2009* (“MOVE Act”). MOVE requires states, among other things, to (1) establish procedures for absentee military and overseas voters to obtain from the states federal election voter registration applications and absentee ballot applications by mail and electronically, and (2) ensure that absentee military and overseas voters have time to vote. *NJLRC Military and Overseas Voters Act*, *supra* note 247.

²⁵⁰ *Bills 2016-17*, *supra* note 146.

²⁵¹ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO UNIF. INTERSTATE FAMILY SUPPORT ACT 2 (2014), available at <http://www.lawrev.state.nj.us/UIFSA/uifsaFR121814.pdf>.

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United States under the 2007 Convention, including language allowing enforcement in international cases.²⁵²

During the review of this Act, the Commission consulted with the Department of Human Services (“DHS”) and the Administrative Office of the Courts (“AOC”) for technical assistance to determine whether there were New Jersey-specific provisions that should be included in the uniform Act.²⁵³ Amending the law that existed in New Jersey in 2014 involved incorporating two sets of Uniform Law Commission amendments. These amendments were, as recommended by DHS and the AOC, drafted as a new law to replace the version of the Uniform Interstate Family Support Act compiled as 2A:4-30.65.²⁵⁴ A replacement law allowed the preservation of the numbering and captions of the uniform law for ease of location and reference.²⁵⁵ Uniform numbering and captions are of assistance to those who use the law in interstate support matters.

The Commission released its Final Report in 2014.²⁵⁶ A2373/S995 were approved by the Legislature and signed by Governor Christie in advance of the deadline established by federal law.²⁵⁷

III. CONCLUSION

The vision of the Commission is to enhance New Jersey’s long tradition of law revision and to support the Legislature in its efforts to improve the law in response to the existing and emerging needs of New Jersey citizens. The Commission recognizes and appreciates the manner in which the work of the ULC is of assistance in achieving that goal.

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ *Bills 2016-17, supra* note 146.