

RECOMMENDATIONS OF THE NORTH DAKOTA COMMISSION ON UNIFORM STATE LAWS - 2019 LEGISLATIVE SESSION

North Dakota Century Code Section 54-55-01 establishes the North Dakota Commission on Uniform State Laws, consisting of:

- An individual engaged in the practice of law in this state (Jacob Rodenbiker);
- The dean or a full-time member of the faculty of the law school of the University of North Dakota (Bradley Myers);
- A law-trained judge of a court of record in this state (Supreme Court Justice Jerod E. Tufte);
- A member of the House of Representatives (Representative Lawrence R. Klemin);
- A member of the Senate (Senator David Hogue);
- A member of the Legislative Council staff (Jennifer S. N. Clark);
- A member appointed by the Attorney General (Parrell D. Grossman);
- Any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the National Conference of Commissioners on Uniform State Laws (Owen L. Anderson, Jay E. Buringrud, District Judge Gail H. Hagerty); and
- Any residents of this state who have been previously appointed to at least 5 years of service on the commission (David Nething and Candace Zierdt).

Commissioners are required to attend the annual meeting of the National Conference of Commissioners on Uniform State Laws (ULC) and to promote uniformity in state laws on those subjects for which uniformity may be deemed desirable and practicable. Under Section 54-55-04, the commission may submit its recommendations for enactment of the uniform and model laws to the Legislative Management for its review and recommendation.

The commission meets during the annual meeting of the ULC and determines which uniform or model Acts to recommend to the next regular session of the Legislative Assembly. At its annual meeting on July 24, 2018, the commission recommended the following three uniform Acts for introduction during the 2019 legislative session and one uniform Act for the North Dakota Supreme Court Joint Procedure Committee to consider adopting:

- Uniform Family Law Arbitration Act, which the ULC approved in 2016. States' laws vary when it comes to arbitrating family law matters such as spousal support, division of property, child custody, and child support. The Uniform Family Law Arbitration Act standardizes the arbitration of family law. The Act is based in part on the Revised Uniform Arbitration Act (RUAA), though it departs from the RUAA in areas in which family law arbitration differs from commercial arbitration, such as standards for arbitration of child custody and child support, arbitrator qualifications and powers, and protections for victims of domestic violence. This Act is intended to create a comprehensive family law arbitration system for the states. The Act has been enacted in two states. The commission recommends the North Dakota Supreme Court Joint Procedure Committee consider adopting the appropriate portions of this Act in the form of court rules. A copy of the ULC summary of the Act is attached as [Appendix A](#).
- Uniform Nonparental Child Custody and Visitation Act, which the ULC approved in 2018. The Uniform Nonparent Custody and Visitation Act addresses the rights of third parties other than parents to custody of or visitation with a child. Those rights are also affected by the decision of the United States Supreme Court in *Troxel v. Granville*, 530 U.S. 57 (2000), which held courts must give deference to decisions of fit parents concerning the raising of children, including concerning grandparents' visitation rights. The Act recognizes a right to seek custody or visitation for two categories of individuals: (1) nonparents who have served as consistent caretakers of a child without expectation of compensation, and (2) other nonparents who have a substantial relationship with a child and who demonstrate denial of custody or visitation would result in harm to the child.
- Revised Uniform Law on Notarial Acts, Amendment, which the ULC approved in 2018. The Amendment to the Revised Uniform Law on Notarial Acts (RULONA) authorizes notaries public to perform notarial acts in the state in which they are commissioned for remotely located individuals using audio-visual communication technology regardless of where the individual may be located. This amendment is not limited to foreign located individuals, it extends the authority to any remotely located individuals. This amendment was prepared in response to a rapidly emerging trend among the states to authorize the performance of notarial acts by means of audio-visual technology. The ability of notaries public to perform notarial acts by audio-

visual technology is being promoted by the American Land Title Association and the Mortgage Bankers Association. They have prepared a Model On-Line Notary Act that contains provisions very similar to these RULONA amendments, but which are not incorporated into the framework of RULONA.

- Uniform Unsworn Domestic Declarations Act, which the ULC approved in 2016. The purpose of the Uniform Unsworn Domestic Declarations Act is to permit the use of unsworn declarations made under penalty of perjury in state courts. Under the Act, unsworn declarations may be used in lieu of affidavits, verifications, or other sworn court filings if they were made under penalty of perjury and use substantially similar language to the model form provided. The Act builds upon the Uniform Unsworn Foreign Declarations Act (UUFDA), which covers unsworn declarations made outside the United States, which North Dakota enacted in 2011. States that have the UUFDA should enact the Uniform Unsworn Domestic Declarations Act, states that have not enacted UUFDA should enact the Uniform Unsworn Declarations Act. The Act has been enacted in South Dakota. A copy of the ULC summary of the Act is attached as [Appendix B](#).

ATTACH:2