

Legislative Update
Alabama State Bar Annual Meeting
July 2017

Senator Cam Ward
Representative Mike Jones

Alabama Law Institute Legislation

Revised Uniform Fiduciary Access to Digital Assets Act (Act 2017-316)

Representative Juandalynn Givan
Senator Cam Ward

The Revised Uniform Fiduciary Access to Digital Assets Act (Revised UFADAA) modernizes fiduciary law to accommodate our digital lives. Nearly everyone now has digital assets, such as documents, photographs, email, and social media accounts. Often times, fiduciaries are prevented from accessing those accounts by various means of protection or restrictive terms of service. While digital assets may value, both monetary and sentimental, they also present novel privacy concerns. UFADAA provides legal 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. A detailed explanation of this act as it was proposed appeared in the March Edition of the Alabama Lawyer.

Alimony Amendments (Act 2017-164)

Representative Mike Jones
Senator Linda Coleman-Madison

Years of competing alimony proposals and consideration by the Legislature, culminated in these tweaks to the law. This act continues the court's discretion of awarding interim alimony, but enumerates the factors for the court to consider when determining whether to award interim alimony. Courts may also order the litigation cost and expenses, including attorney fees, necessary to pursue or defend the action out of marital property.

The act also continues a court's discretion of awarding periodic alimony, including rehabilitative alimony after a final decree, while establishing priorities, limitations, and factors to be considered when making an award. First, unless the court expressly finds that rehabilitative alimony is not feasible, the court is to only award rehabilitative alimony, which is limited to five years, absent extraordinary circumstances. Second, if the court determines that rehabilitative alimony is not feasible or has failed, the court may award periodic alimony. Generally, for marriages of less than 20 years, periodic alimony shall be limited to a period not to exceed the length of the marriage. Both rehabilitative and periodic alimony continue to terminate upon remarriage or cohabitation as provided in prior law.

Modification of both rehabilitative and periodic alimony continues to be allowed based on a showing of a material change in circumstances. The act retains prior law that if there is neither an award of alimony nor a reservation of

jurisdiction for awarding alimony at the time of the divorce, the court can never subsequently award alimony.

Division of Retirement Benefits Upon Divorce Act (Act 2017-162)

Representative Merika Coleman
Senator Linda Coleman-Madison

These modifications to the division of retirement benefits go hand in hand with the amendments to the alimony statutes. Under the act the court retains the discretion to award retirement benefits to the non-employed spouse within certain limitations. The court may not award more than 50% of the non-employed spouse's retirement benefits accrued during the marriage, however the proposal eliminates the threshold requirements that the parties must be married for at least ten years before the court could consider awarding retirement benefits.

The court is granted broad discretion to use any equitable method of valuing, dividing and distribution of the benefits, but the proposal eliminates the costly requirement of providing evidence of the present value of the retirement benefits in all cases and provides a more equitable result by requiring that each party equally bear the burden or benefit of the passive gains or losses of the retirement benefits during the time between the award of the benefits and their distribution.

Courts

Probate Court Costs (Act 2017-293)

Grants the Probate Court discretion as to when it collected fees and collect security deposits to cover expected costs.

Judge of Probate Powers (Act 2017-388)

Gives the probate judge the same power to hold someone in contempt as a circuit court judge, provided that the county in which the probate judge sits requires the probate judge to be an attorney or is a licensed attorney.

Judicial Resources Allocation Committee (Act 2017-42)

This bill establishes the Judicial Resources Allocation Commission. The bill authorizes the committee to establish criteria for resources allocation and to make allocations based on the developed standards.

Penalties and Prison

Medicaid Suspension for Inmates Bill (Act 2017-298)

This bill would allow for the suspension of Medicaid eligibility for qualifying county inmates or juveniles under jurisdiction of the juvenile court. The bill would allow reinstatement if the individual received inpatient care in a medical institution for more than 24 hours. The bill also mandates the development of a process whereby the county would reimburse the Medicaid Agency for any state match for any inmate or juvenile receiving inpatient care in a medical institution for more than 24 hours.

Felony Voter Disqualification Act (Act 2017-378)

This act clarifies what crimes constitute crimes of moral turpitude for purposes of affecting the right to vote bringing uniformity across all registrars in the state.

Historic Monuments and Restoration

Memorial Preservation Act (Act 2017-354)

These bills would prohibit the relocation, removal, alteration, renaming, or other disturbance of monuments located on public property and ensure that qualifying monuments are maintained and preserved. The bill would also create the Alabama Committee on Memorial Preservation, which would then be tasked with overseeing the Acts implementation.

Income Tax Credit for Restoring Historic Buildings (Act 2017-380)

This bill would renew and establish new income tax credits for taxpayers who undertake the rehabilitation, preservation, or development of certified historic structures.

Insurance Coverage of Autism Spectrum Disorder (Act 2017-337)

This bill would require insurance plans to coverage the treatment of autism within certain parameters and limits.