

CIVIL LAW

Civil Actions		
<p>HB 09-1087 (Postponed Indefinitely) <i>Child Sex Offense Civil Action Accrual</i></p> <p>HB 09-1305 (Enacted) <i>Limit Cost Bond Requirements in Lawsuits</i></p>	<p>HB 09-1117 (Postponed Indefinitely) <i>Unearned Compensation Company Principals</i></p> <p>SB 09-054 (Enacted) <i>Maximum Civil Penalties Fair Trade Laws</i></p>	<p>HB 09-1194 (Postponed Indefinitely) <i>Royalty Action Accrues Discover Breach</i></p>
Damages		
<p>HB 09-1080 (Enacted) <i>Building Code Official Civil Immunity</i></p> <p>HB 09-1238 (Postponed Indefinitely) <i>Civil Forfeiture</i></p> <p>SB 09-246 (Postponed Indefinitely) <i>Homeowner Protection Act of 2009</i></p>	<p>HB 09-1113 (Postponed Indefinitely) <i>Limit Damages If No Insurance</i></p> <p>HB 09-1344 (Postponed Indefinitely) <i>Inflation Medical Malpractice Damages</i></p>	<p>HB 09-1193 (Postponed Indefinitely) <i>Negligence in Motor Carrier Agreements</i></p> <p>SB 09-010 (Enacted) <i>Defibrillator Immunity Civil Liability</i></p>
Uniform Laws		
<p>HB 09-1141 (Enacted) <i>Update Consumer Credit Protections</i></p> <p>HB 09-1241 (Enacted) <i>Probate Code Omnibus</i></p> <p>SB 09-139 (Enacted) <i>Uniform Principal and Income Act Amends</i></p>	<p>HB 09-1190 (Enacted) <i>Uniform Unsworn Foreign Declarations Act</i></p> <p>HB 09-1286 (Postponed Indefinitely) <i>Repeal and Reenact Uniform Parentage Act</i></p>	<p>HB 09-1198 (Enacted) <i>Uniform Power of Attorney Act</i></p> <p>HB 09-1287 (Enacted) <i>Enact Changes to Colorado Probate Code</i></p>
Probate		
<p>HB 09-1232 (Postponed Indefinitely) <i>Medical Orders for Scope of Treatment</i></p>	<p>HB 09-1260 (Enacted) <i>Designated Beneficiary Agreement</i></p>	

Civil Actions

House Bill 09-1305 allows the court or a defendant to require that a cost bond, of not more than \$5,000, be filed by a nonresident who files a lawsuit in Colorado. A cost bond pays for the fees in a lawsuit, including filing and court fees. If the nonresident does not file a cost bond when it is required, the court must dismiss the lawsuit.

Senate Bill 09-054 changes the limit on civil penalties that may be assessed under the Consumer Protection Act and the Colorado Antitrust Act of 1992. **Senate Bill 09-054** requires an individual who violates the Consumer Protection Act to pay a penalty of up to \$2,000 for each violation with a maximum penalty of \$500,000 for any series of related violations. In addition, the bill specifies that, in the case of online ticket sales, each ticket sold in violation of the Consumer

Protection Act is considered to be a separate violation. The cap for penalties assessed under the Colorado Antitrust Act of 1992 is increased from \$100,000 to \$250,000.

House Bill 09-1087, postponed indefinitely by the House Judiciary Committee, would have changed the date for filing a civil action in instances of a sexual offense against a child. Under current law, individuals have six years from the date that the offense is committed. This bill would allow for civil charges to be filed within six years of an individual determining that the injury was a result of a sexual offense, and the individual tells someone other than a medical professional about the injury.

House Bill 09-1117 would have enacted the Colorado Shareholder Protection Act. The act would have prohibited undercapitalized publicly traded companies from giving unearned compensation, such as separation payments or payments for travel or leisure, to their principals. Shareholders would have had a civil right of action in the event that the company engaged in this practice. This bill was postponed indefinitely by the House Business Affairs and Labor Committee.

House Bill 09-1194 would have extended the period of time for which a person may take legal action for unpaid royalties. With this bill, a cause of action for money owed due to a breach of a royalty obligation would have accrued on the date the breach was discovered or should have been discovered by the exercise of reasonable diligence. This bill was postponed indefinitely by the House Agriculture, Livestock, and Natural Resources Committee.

Damages

House Bill 09-1080 grants qualified immunity from civil liability to building code officials who provide, without compensation, damage assessment services at the scene of an emergency.

Senate Bill 09-010 provides limited immunity for using automated external defibrillators (AEDs) to the following individuals:

- a licensed physician who reviewed and approved the written plans for the AED; and
- an individual that provides training for AEDs.

House Bill 09-1113 would have limited the damages an individual can recover as a result of a motor vehicle accident if the individual involved in the accident did not have car insurance. This bill was postponed indefinitely by the House Judiciary Committee.

House Bill 09-1193 would have made void and unenforceable any motor carrier transportation contract with a provision that holds harmless a party from liability for loss or damage when the loss or damage was a result of that party's negligence. This bill was postponed indefinitely by the Senate Transportation Committee.

House Bill 09-1238 concerned the statutes related to civil forfeiture. Under current statute, any building that is classified as a class 1 public nuisance is subject to seizure and forfeiture. **House Bill 09-1238** would have added buildings used for trafficking in or smuggling of humans to the definition of a class 1 public nuisance. In addition, the bill would have repealed requirements for forfeiture actions, including the requirement that the owner of the property is first convicted of a

criminal offense before forfeiture proceedings may begin. Finally, the bill specified how the proceeds from the seized property would have been distributed. This bill was postponed indefinitely by the House Judiciary Committee.

House Bill 09-1344 would have required the Insurance Commissioner to hold a hearing in the event of a rate increase of more than 5 percent if the hearing was requested by an individual with specified qualifications, such as knowledge of the insurance laws and an understanding of actuarial principles. Medical malpractice insurers would have been required to pay a fee, set by the Division of Insurance, to pay for the costs for regulating the insurers. The introduced version of this bill included a provision, which was removed by the House Judiciary Committee, to increase the damage cap for medical malpractice by the rate of inflation each year. This bill was lost in the House.

Senate Bill 09-246 would have required interest to be paid as damages in claims for construction defects to encourage the speedy resolution of the defects. Interest at a rate of 6 percent per year beginning when the defect was first installed or the date that the defect was transferred to the current owner, whichever occurred later would have been added to the amount of damages awarded. This bill was postponed indefinitely by the Senate State, Veterans, & Military Affairs Committee.

Uniform Laws

A number of bills were considered by the General Assembly that enacted uniform laws recommended by the National Conference of Commissioners on Uniform State Laws and the Colorado Commission on Uniform State Laws.

House Bill 09-1141 modifies several provisions of the Uniform Consumer Credit Code (UCCC). The UCCC regulates the terms and conditions for consumer credit. For instance, it sets maximum rates and charges for certain fees. Specifically, the bill allows the administrator of the Uniform Consumer Credit Code to determine licensing fees that relate to the code. The bill specifies that individuals are entitled to a free credit report annually. In addition, it sets the reserve balance for the fees paid into the Uniform Consumer Credit Code Cash Fund.

House Bill 09-1190 enacts the Uniform Unsworn Foreign Declarations Act which allows an individual who is located outside of the boundaries of the United States to make unsworn declarations in some cases where a sworn declaration would be required if the individual were located in the United States. The unsworn declaration does not apply to depositions, oaths of office, or any oath that is required to be given before a public official who is not a notary public.

House Bill 09-1198 enacts the Uniform Power of Attorney Act. This act applies to powers of attorney and it repeals the current law concerning powers of attorney and substitutes the uniform act in statute. The new uniform law provides a set of default rules governing how people can deal with their property in case of future incapacity.

House Bill 09-1241 makes changes to the Uniform Principal and Income Act. The bill makes changes to the probate code in a variety of ways, including altering the fiduciary duties for trusts and estates, the powers of trustees, administration of unitrusts, and disposition of natural resources. The bill also enacts the Uniform Principal and Income Act of 1955.

House Bill 09-1287 enacts changes to the Colorado Probate Code recommended by the Colorado Commission on Uniform State Laws. Changes made to the Probate Code address:

- increasing cost of living adjustments based on the consumer price index;
- establishing intestate succession for the surviving spouse in situations where other relatives also exist;
- establishing the parent-child relationship for the purposes of intestate succession; and
- creating gestational agreements.

Senate Bill 09-139 makes changes to the Uniform Principal and Income Act. The bill modifies the statute concerning deferred compensation and other payments and the procedures for determining how trust payments are made. It also changes the requirements for income taxes paid by trustees. Finally, the bill specifies which trusts are governed by these statutory changes.

House Bill 09-1286 would have repealed and reenacted the Uniform Parentage Act which is a part of the Colorado Children's Code. The bill would have updated the provisions of the Parentage Act to reflect modern technologies used for conception and genetic testing. This bill was postponed indefinitely by the House Judiciary Committee.

Probate

House Bill 09-1260 amends the Probate Code to allow individuals to enter into designated beneficiary agreements for the purposes of estate planning. Individuals who enter into designated beneficiary agreements with each other have the right to:

- acquire property as joint tenants and with the right of survivorship;
- be designated as beneficiaries for the purposes of a nonprobate transfer in the case of death;
- be designated as a beneficiary in a life or health insurance policy;
- be designated as a beneficiary for a retirement plan;
- have priority for appointment as a personal representative;
- make nursing home or hospital visits;
- make medical decisions, including withholding or withdrawing life-sustaining medical procedures and making or revoking organ donations;
- inherit property;
- receive workers' compensation benefits;
- sue for wrongful death; and
- direct the disposition of last remains.

House Bill 09-1232 would have directed the State Board of Health to develop rules and protocols for implementing standardized medical orders for scope of treatment forms by January 10, 2010. These protocols were to include a method for identifying people who have a medical order for scope of treatment and requiring that the orders include certain standard information, such as name, sex, date of birth, signature, and information about the health care professional treating the individual. Medical providers were required to comply with the properly executed medical orders and would not be civilly or criminally liable for complying with the orders. This bill was postponed indefinitely by the House Health and Human Services Committee.