



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0621

by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

755 ILCS 70/7
755 ILCS 70/14

Amends the Revised Uniform Fiduciary Access to Digital Assets Act (2015). Deletes language requiring a representative of a decedent to provide a custodian with a finding by the court that disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Section 2701 et seq., as amended, 47 U.S.C. Section 222, as amended, or other applicable law. Provides that a custodian shall disclose digital assets to the guardian of a person with a disability if the guardian gives the custodian specified documentation. Makes other changes. Effective immediately.

LRB100 00325 HEP 10329 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Revised Uniform Fiduciary Access to Digital
5 Assets Act (2015) is amended by changing Sections 7 and 14 as
6 follows:

7 (755 ILCS 70/7)

8 Sec. 7. Disclosure of content of electronic communications
9 of deceased user. If a deceased user consented or a court
10 directs disclosure of the contents of electronic
11 communications of the user, the custodian shall disclose to the
12 personal representative of the estate of the user the content
13 of an electronic communication sent or received by the user if
14 the representative gives the custodian:

15 (1) a written request for disclosure in physical or
16 electronic form;

17 (2) a certified copy of the death certificate of the
18 user;

19 (3) a certified copy of the letter of appointment of
20 the representative or a court order;

21 (4) unless the user provided direction using an online
22 tool, a copy of the user's will, trust, power of attorney,
23 or other record evidencing the user's consent to disclosure

1 of the content of electronic communications; and

2 (5) if requested by the custodian:

3 (A) a number, username, address, or other unique
4 subscriber or account identifier assigned by the
5 custodian to identify the user's account;

6 (B) evidence linking the account to the user; or

7 (C) a finding by the court that:

8 (i) the user had a specific account with the
9 custodian, identifiable by the information
10 specified in subparagraph (A);

11 (ii) (blank) ~~disclosure of the content of~~
12 ~~electronic communications of the user would not~~
13 ~~violate 18 U.S.C. Section 2701 et seq., as amended,~~
14 ~~47 U.S.C. Section 222, as amended, or other~~
15 ~~applicable law;~~

16 (iii) unless the user provided direction using
17 an online tool, the user consented to disclosure of
18 the content of electronic communications; or

19 (iv) disclosure of the content of electronic
20 communications of the user is permitted under this
21 Act and reasonably necessary for administration of
22 the estate.

23 (Source: P.A. 99-775, eff. 8-12-16.)

24 (755 ILCS 70/14)

25 Sec. 14. Disclosure of contents of electronic

1 communications and digital assets to guardian of person with a
2 disability.

3 (a) After an opportunity for a hearing under Article XIa of
4 the Probate Act of 1975, the court may direct the disclosure of
5 the digital assets of a person with a disability to his or her
6 guardian. A custodian shall make such a disclosure if the
7 guardian gives the custodian:

8 (1) a written request for disclosure in physical or
9 electronic form;

10 (2) a certified copy of the court order directing
11 disclosure of such assets; and

12 (3) if requested by the custodian:

13 (A) a number, username, address, or other unique
14 subscriber or account identifier assigned by the
15 custodian to identify the account of the person with a
16 disability; or

17 (B) evidence linking the account to the person with
18 a disability.

19 (b) Unless otherwise ordered by the court or directed by
20 the user, a custodian shall disclose to a guardian the
21 catalogue of electronic communications sent or received by a
22 person with a disability and any digital assets, other than the
23 content of electronic communications, in which the person with
24 a disability has a right or interest if the guardian gives the
25 custodian:

26 (1) a written request for disclosure in physical or

1 electronic form;

2 (2) a certified copy of the court order that gives the
3 guardian authority over the digital assets of the person
4 with a disability; and

5 (3) if requested by the custodian:

6 (A) a number, username, address, or other unique
7 subscriber or account identifier assigned by the
8 custodian to identify the account of the person with a
9 disability; or

10 (B) evidence linking the account to the person with
11 a disability.

12 (c) A guardian with general authority to manage the assets
13 of a person with a disability may request a custodian of the
14 digital assets of the person with a disability to suspend or
15 terminate an account of the person with a disability for good
16 cause. A request made under this Section must be accompanied by
17 a certified copy of the court order giving the guardian
18 authority over the ~~protected person's~~ property of the person
19 with a disability.

20 (Source: P.A. 99-775, eff. 8-12-16.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.