

# Legislative History for Connecticut Act

## PA 16-145

HB5606

Senate 2949, 2955-2956 3

Judiciary 2613-2618, 2796-2798, 3004-3010 16

House Transcripts have not been received. They are available on CGA website, but are not the Official copy. Contact House Clerk for assistance (860) 240-0400 **19**

**Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings**

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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2016**

**VOL. 59  
PART 9  
2751 – 3097**

/je  
SENATE

199  
May 4, 2016

SENATOR DUFF (25TH):

On Calendar page 6, Calendar 389, House Bill 5177,  
I'd like to place that item on our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF (25TH):

On Calendar page 25, Calendar 556, House Bill 5245,  
I'd like to place that item on our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF (25TH):

On Calendar page 26, Calendar 561, House Bill 5340,  
I'd like to place that item on our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF (25TH):

On Calendar page 8, Calendar 419, House Bill 5606,  
I'd like to place that item on our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir. I'm sorry,  
Senator Leone, you were not objecting, right?

/je  
SENATE

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May 4, 2016

I'm ready.

THE CHAIR:

Would you please call off the Consent Calendar, sir.

THE CLERK:

On page 6, Calendar 389, House Bill 5177; page 8, Calendar 419, House Bill 5606; page 11, Calendar 448, House Bill 5546; page 11, Calendar 445, House Bill 5328; page 12, Calendar 456, House Bill 5277; page 13, Calendar 474, House Bill 5383; page 14, Calendar 483, House Bill 5279; page 16, Calendar 494, House Bill 5496; page 17, Calendar 495, House Bill 5324; page 19, Calendar 514, House Bill 5583; page 21, Calendar 529, House Bill 5466; page 23, Calendar 543, House Bill 5587; page 23, Calendar 542, House Bill 5437; page 25, Calendar 554, House Bill 5642; page 25, Calendar 556, House Bill 5245; page 26, Calendar 561, House Bill 5340; page 26, Calendar 562, House Bill 5247; page 30, Calendar 589, House bill 5469; page 31, Calendar 592, House Bill 5636; page 37, Calendar 397, House Joint Resolution Number 25.

THE CHAIR:

Mr. Clerk. Will you please call for a roll call vote on Consent Calendar 1. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.  
Immediate roll call on Consent Calendar Number 1 has been ordered in the Senate.

/je  
SENATE

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May 4, 2016

THE CHAIR:

All members have voted? All members have voted?  
The machine will be closed. Mr. Clerk, will you  
please call the tally on Consent Calendar 1.

THE CLERK:

On Consent Calendar 1,

Total Number Voting	36
Those voting Yea	36
Those voting Nay	0
Absent and not voting	0

THE CHAIR:

The bill passes. Senator Duff.

SENATOR DUFF (25TH):

Thank you, Madam President. For some markings,  
please.

THE CHAIR:

Please proceed, sir.

SENATOR DUFF (25TH):

Thank you, Madam President. If I could mark three  
items Go. Calendar page 23, Calendar 541, House  
Bill 5376; followed by Calendar page 2, Calendar  
538, House Bill 5233; followed by Calendar page 3,  
Calendar 272, Senate Bill 388.

THE CHAIR:

**STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 6  
2347 – 2800**

**2016**

## PUBLIC HEARING

SENATOR LOONEY (11TH): Thank you Representative again. Thank you for the great work that this committee does year in and year out and one of my greatest experiences and great joys in my years in the General Assembly is the years that I served as a member of this committee. It was, I think in many ways, I learned more on that committee than I did in my years of law school and many aspects of legal practice. Thank you so much.

REP. TONG (147TH): Thank you. Suzanne Brown Walsh. Good afternoon.

SUZANNE BROWN WALSH: Good afternoon. Representative Tong and members of the committee, thank you so much for hearing my testimony today.

I am here on behalf of the Connecticut Bar Association, Estates and Probate section, to support HOUSE BILL 5606, AN ACT CONCERNING THE CONNECTICUT REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT, which we call RUFADAA.

This is a consensus bill. It is supported by the Trust and Estates Bar as well as the tech industry and privacy advocates. I mention some of those companies specifically in my written testimony and I saw that the Internet Coalition has submitted written testimony in support of the bill.

So the original RUFADAA was introduced in Connecticut last year and a total of 27 states and it resulted in zero enactments. As a result of that stellar record, we went back to the drawing board with the tech industry and redrafted the act.

## PUBLIC HEARING

Like the original act, the advised 25-15-1 basically clarifies that fiduciaries will have access to digital assets, so things like files on the laptops I see you both using, Cloud storage files, photos, social medial accounts and email accounts. Some of those digital assets, maybe most of them, are protected by federal privacy laws and some of them are not; however, none of them are specifically mentioned in probate codes.

I am aware that Connecticut has a limited email access statute, but I tried to use it and because it does not interact well with the federal privacy law, it does not work so well. The act is really important today. We all sort of live our lives digitally on a computer. We used computers.

To give you sort of a feel for this, the UK, United Kingdom Banking Association commissioned a study and the results were released almost two years ago. They showed that over one billion with a B pounds were transacted electronically daily and that is in the UK, a much smaller country, and that their customers, their citizens were downloading 15,000 mobile banking applications every day, so there is just a huge scale here and a huge scope.

I would like to mention one sort of amusing example of the value of digital assets and that is a fellow named John Jacobs, about five years ago, made a killing on virtual assets. He mortgaged his house for \$100,000, this is a true story, he bought a virtual asteroid or planet in the gaming platform Entropia Universe. He built a casino and some other destinations that gamers, avatars, would visit. They would spend fiat currency to participate in



## PUBLIC HEARING

these activities in this virtual world. He was earning \$200 thousand a year in fiat currency from his virtual world and he sold those assets for \$635 thousand so we really need this bill to sort of bring us up to speed and give fiduciary the tools they need to address modern digital assets. Fiduciary being conservators, personal representatives, agents who are powers of attorneys and trustees.

Just quickly, the revised act to date has been enacted in four states and is pending not only in Connecticut, but like 20 more, so we do expect widespread enactment and we expect that this will just be one phase to future laws on this topic. Thank you.

REP. TONG (147TH): I guess I lost the thread there at the end. What is the connection between this act the guy who stated the online business?

SUZANNE BROWN WALSH: So our probate laws don't mention digital assets specifically, they talk in terms of traditional assets, intangible and tangible. The act specifically addresses the affect of account terms of service agreements, fiduciary access and the circumstances to which fiduciaries would be given access. So in other words, it clarifies when a fiduciary would be able to collect, manage and distribute an asset like the virtual pieces in the gaming platform. So what you don't want is you don't want to be lawyer at a fiduciary representing John Jacobs, who has this \$635,000 virtual universe and not have the tools necessary to collect, manage or sell that asset.

## PUBLIC HEARING

REP. TONG (147TH): In the event that he needs a personal representative or conservator or somebody to manage those assets for?

SUZANNE BROWN WALSH: Correct. One of the things I learned during our process of drafting this act is that the tech industry is very much run by younger people who did not vision incapacity or death when they were designing their various product, so it is pretty important.

REP. TONG (147TH): Does this act have any impact on access to digital assets by law enforcement?

SUZANNE BROWN WALSH: No. It is an act to give fiduciaries access to the digital assets of the person they represent.

The only connection would be if I'm personal representative for a deceased member of law enforcement. Under the federal privacy laws, there are different rules that apply to third party access request by law enforcement and others. Fiduciary would be another, so law enforcement has - - so there are the federal privacy laws that tell the internet service providers that you cannot disclose. There are exceptions for law enforcement and there are two other exceptions for non-law enforcement.

So our act has nothing really to do with the law enforcement exceptions except I will say right now without the act, if you go in and make a request, let's say a Facebook, they tell you can't you get me a request from law enforcement. That is what they want to deal with because the provisions are

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dm/jh

JUDICIARY COMMITTEE  
PUBLIC HEARING

March 18, 2016  
10:30 A.M.

different and because there are no fiduciary provisions right now.

REP. TONG (147TH): Does it open the door or engender a larger conversation about law enforcement access to digital assets?

SUZANNE BROWN WALSH: They are unrelated.

REP. TONG (147th): Okay.

SUZANNE BROWN WALSH: Because they are separate pieces of the federal privacy laws. However, the one common thread is where you set that privacy bar, so in the original act, we set it much lower. In other words, we gave fiduciaries more access by default when a person had not planned and the privacy advocates wanted greater deference to privacy intent, so it is the same sort of policy issue, but it is a completely separate part of the law if that makes sense.

REP. TONG (147TH): Yes. You know where I am going with this?

SUZANNE BROWN WALSH: I do. It is the same.

REP. TONG (147th): It is the same issue.

SUZANNE BROWN WALSH: Proprietor issue, correct.

REP. TONG (147TH): In the Apple Computer situation.

SUZANNE BROWN WALSH: Well it is in a sense of where do we draw the line. Where do we allow the access when I the user haven't decided. Where do I let you

as my executor go into my files and where do we say no, he had to have told you you could do this, yes.

REP. TONG (147TH): It's another issue I think bears more discussion. I suspect one of the reasons why you were 0-27 last year is because lawmakers and policy makers are just trying to catch their breath and to catch up with these issues. Even though we live them, we haven't worked with them in our hands enough, I think. I'm not sure if we know yet where to draw that line. I think the Apple case and the case of the investigating of the shooters presents very thorny issues. I would commend you in that I think we need a larger conversation about these issues and without that, it is probably going to be hard to pass legislation around these issues.

SUZANNE BROWN WALSH: I will point out though that I would have argued and we would have argued for greater access in the original act. This is a consensus bill and the ACLU and other privacy, the CDT, other privacy organizations have approved it. They think that this strikes a fair balance in this context and as far as encryption goes, I have nothing for encryption. Encryption isn't addressed. There is no fiduciary right to, you know, we can't break encryption and that doesn't, it is affected or this act doesn't affect that. I always tell my clients if you got your files encrypted, there nothing I do will help you with that.

REP. TONG (147TH): Thank you. Any questions?  
Thank you very much.

SUZANNE BROWN WALSH: Thank you very much.

## PUBLIC HEARING

STEVE EPPLER-EPSTEIN: We deeply appreciate that, thank you.

REP. FOX (148th): Anything further? Thank you very much.

STEVE EPPLER-EPSTEIN: Thank you.

REP. FOX (148th): Mark Dost. Good evening.

MARK DOST: Good evening members of the committee. My name is Mark Dost.

I am an attorney and reside and work in Waterbury in Representative Berger's and Senator Hartley's districts. I am a member of the Executive Committee of the Estates and Probates Section and Elder Law section of the Connecticut Bar Association.

For the past year, the Elder Law Section and a fellow of the American College of Trust and Estate Council have come to support HB-5606, the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act. I work with hundreds of clients each year to plan for the management of their finances and healthcare during incapacity and plan for the disposition of their assets following death.

The legal tools that we use for financial management including powers of attorneys of wills are generally very effective in granting authority to fiduciaries to carry out their duties. When an individual dies, their executors or administrators are required to marshal up his assets and identify debts and other financial obligations so they may pay his creditors, taxes that might be due and distribute what's left over to a spouse, children or other beneficiaries.

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dm/jh

JUDICIARY COMMITTEE  
PUBLIC HEARING

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10:30 A.M.

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Connecticut law requires executors or administrators to perform these duties and gives them the necessary authority with one very big exception, the authority to access the individual's digital assets. When Internet users open an account or subscribe to a service and blindly click the terms of service agreement, they often unwittingly forfeit the right of their agents, executors and other fiduciaries to access their digital accounts during periods of incapacity and death.

In the past, executors and other fiduciaries could access financial information simply by waiting for statements to arrive in the mail. That is still often the case, but times are changing. For the past several years, more and more of us are turning to digital management of our accounts and conducting all of our financial activity and receiving all of our financial records online. However ease of access during our lifetimes, often turns to no access after our deaths.

Executors, administrators and other fiduciaries are often prevented from accessing online accounts because right of access to the account is determined not by statute or will, but by the provider's terms of service agreement which often prohibits access.

The issue of fiduciary access to a consumer's account should be determined by the consumer, but not by unread terms of service agreements that offer the consumer no choice.

Our executors, administrators and other fiduciaries need to be able to do their jobs and for that to happen, the law needs to stop in. The Revised Uniform Act remedies the problem by enabling the

individuals to give their fiduciaries access to their digital assess. It also respects the user's privacy rights by enabling individuals to prohibit access to some digital assets including electronic communication such as email. The act puts the consumer in charge.

The Revised Uniform Act was adopted by the Uniform Law Commission only last summer in 2015 and already four states; Florida, Tennessee, Wyoming, and Oregon, have enacted the legislation. Uniform Act has been introduced in 22 other states this year underscoring its importance and the urgency of its passage. The act complies with federal law and the act as revised has received the endorsement of AARP, Google, Facebook.

In Connecticut, the act has also been endorsed by the Connecticut Bar Association. The committee today heard testimony from Attorney Brown-Walsh from Hartford. Attorney Walsh is the chair of the Uniform Law Commission Committee that drafted this landmark legislation and should be a source of pride to all of us in Connecticut that one of our own played such an important role in the development of this uniform act and reconciling the competing interest of consumers and industry.

In conclusion, I urge the committee to support this very important legislation and given Connecticut residents the right to give their executors, administrators and other fiduciaries access to their digital assess. Thank you.

REP. FOX (148th): Thank you. Any questions? Thank you very much.

**STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 7  
2801 – 3244**

**2016**



Re: House Bill 5606, AAC The Connecticut Revised Uniform Fiduciary Access to Digital Assets Act

Judiciary Committee

Public Hearing: Friday, March 18, 2016

**WRITTEN TESTIMONY OF MARK W. DOST**

**IN SUPPORT OF HB 5606**

Senator Coleman, Representative Tong, and other members of the Committee, my name is Mark Dost. I am an attorney and reside and work in Waterbury in Representative Berger's and Senator Hartley's districts. I am a member of the Executive Committee of the Estates and Probate Section and Elder Law Section of the Connecticut Bar Association, a past chair of the Elder Law Section, and a Fellow of the American College of Trust and Estate Counsel. I have come to support HB 5606, The Connecticut Revised Uniform Fiduciary Access to Digital Assets Act.

I work with hundreds of clients each year to plan for the management of their finances and their health care during incapacity and to plan for the disposition of their assets following death. The legal tools that we use for financial management – including powers of attorney and wills – are generally very effective in granting authority to fiduciaries to carry out their duties. When an individual dies, his executors or administrators are required to marshal his assets and identify his debts and other financial obligations, so that they may pay his creditors, pay any taxes that may be due, and distribute what is left over to his spouse, children, or other beneficiaries. Connecticut law *requires* executors or administrators to perform these duties and gives them the necessary authority, with one very big exception: the authority to access the individual's digital assets.

When internet users open an account or subscribe to a service and blindly click the "terms-of-service agreement," they often unwittingly forfeit the right of their agents, executors, and other fiduciaries to access their digital accounts during periods of incapacity and after death. In the past, executors and other fiduciaries could access financial information simply by waiting for statements to arrive in the mail. That's still often the case, but times are changing. In the past several years, more and more of us are turning to digital management of our accounts and are conducting all of our financial activity and receiving all of our financial records on-line. However, ease of access during our lifetimes often turns to *no* access after our deaths. Executors, administrators, and other fiduciaries are often prevented from accessing on-line accounts, because the right of access to the account is determined not by statute or by last will and testament, but by the provider's terms-of-service agreement, which often prohibits access.

The issue of fiduciary access to a consumer's account should be determined by the consumer, not by unread terms-of-service agreements that offer the consumer no choice. Our executors, administrators, and other fiduciaries need to be able to do their jobs. And for that to happen, the law needs to step in.

The revised Uniform Act remedies the problem, by enabling individuals to give their fiduciaries access to their digital assets. It also respects users' privacy rights, by enabling individuals to *prohibit* access to some digital assets, including electronic communications such as email. The act puts the consumer in charge.

The revised Uniform Act was adopted by the Uniform Law Commission only last summer, in 2015, and already four states – Florida, Tennessee, Wyoming, and Oregon – have enacted the legislation. The Uniform Act has been introduced in 22 other states this year, underscoring its importance and the urgency of its passage. The Act complies with federal law. And the Act, as revised, has received the endorsement of AARP and of Google and Facebook. In Connecticut, the Act has been endorsed by the Connecticut Bar Association.

The Committee will today hear testimony from Attorney Suzanne Brown Walsh from Hartford. Attorney Walsh is the chair of the Uniform Law Commission committee that drafted this landmark legislation, and it should be a source of pride to all of us in Connecticut that one of our own played such an important role in the development of this Uniform Act and in reconciling the competing interests of consumers and industry.

In conclusion, I urge the Committee to support this very important legislation and give Connecticut residents the right to give their executors, administrators, and other fiduciaries access to their digital assets.

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Testimony of Suzanne Brown Walsh  
Estates & Probate Section  
CT Bar Association

In SUPPORT of

**HB5606, AAC the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act**

Judiciary Committee  
Friday, March 18, 2016

Senator Coleman, Representative Tong, thank you for the opportunity to offer testimony in SUPPORT of HB 5606.

My name is Suzanne Brown Walsh. I am one of Connecticut's Uniform Law Commissioners, a partner in the Trusts & Estates practice group of Murtha Cullina LLP, and past Chair of both the Estates & Probate and Elder Law Sections of the Connecticut Bar Association. I am also Vice Chair of the American College of Trusts and Estates Counsel's Digital Property Task Force.

I submit this testimony on behalf of the Estates & Probate Section of the CBA and urge you to SUPPORT the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act (CT RUFADAA), which is based on a revised uniform act produced by the Uniform Law Commission (ULC).

The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable. Connecticut has a long and successful history of enacting ULC acts including the Uniform Commercial Code, the Uniform Anatomical Gifts Act, the Uniform Transfers to Minors Act, and dozens of others. I chaired the ULC's drafting committee on Fiduciary Access to Digital Assets, and its Reporter was Professor Naomi Cahn of the GWU Law School in Washington, DC.

RB 5606 is necessary because the law has not kept pace with technological advances in the Internet age. A generation ago, a human being delivered our mail, photos were kept in albums, documents were filed in file cabinets, and money was deposited at the corner bank. For most people today, at least some of their property and communications are stored as data on a computer server and accessed via the Internet. While Connecticut citizens have complete control over what happens to their tangible and intangible private property when they die or lose their legal capacity that is not always the case for their digital assets. HB5606 solves that problem.



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Digital assets are things like email, digital photos, electronic documents, music, movies, games, social media accounts and virtual currency such as Bitcoin. Digital assets can be extremely valuable—domain names have sold for more than \$35 million and the components of a virtual space station and asteroid sold five years ago for \$635,000 in the virtual gaming platform Entropia Universe.

This bill will give Connecticut citizens the power to plan for the management and disposition of their digital assets in the same way they can make plans for their tangible property: by providing instructions in a will, trust, or power of attorney or by using simple online planning tools.

Some of you may recall a similar bill last year that was strongly opposed by the Internet industry. This uniform act was revised over the summer and is now supported by the same firms that opposed the prior version. The revised act has been formally endorsed by the Association of American Retired Persons, the Center for Democracy and Technology, Facebook, Google and the National Academy of Elder Law Attorneys.

The 2015 revisions addressed privacy concerns and a potential conflict with federal privacy law. The revised act also encourages Internet services to offer online tools that allow the user to name a designated representative to receive account access if the user dies or loses capacity.

RB 5606 will authorize access to digital assets by four common types of fiduciaries:

1. Personal representatives of decedents' estates,
2. Court-appointed conservators of incapacitated persons' property,
3. Agents under a power of attorney, and
4. Trustees.

Enacting this legislation will give Connecticut citizens the ability to plan for disposition of their digital assets in the same way they can plan for their tangible assets. I ask for your support to advance this important legislation for the digital age.

Contact information:

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March 17, 2016

Honorable Eric Coleman, Co-Chair  
Honorable William Tong, Co-Chair  
Joint Judiciary Committee  
Legislative Office Building, Room 2500  
Hartford, CT 06106

Dear Senator Coleman and Representative Tong:

I am the executive director of the Internet Coalition (IC), a national trade association that represents member companies in state public policy discussions. The IC serves as an informational resource, striving to protect and foster the Internet economy and the benefits it provides consumers.

We applaud your committee's interest in HB 5606, the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act, which is scheduled for a hearing in your committee on March 18.

The IC wants to take this opportunity to express to you our support for passage of this bill as it currently strikes the right balance between protecting internet user privacy with the need for fiduciary access to digital assets.

As introduced, the bill currently gives an appropriate level of legal authority to fiduciaries to access and manage a decedent internet user's digital assets, according to that person's estate plan. HB 5606 protects a user's private communications from unwarranted disclosure. It is consistent with federal privacy laws, which protects user emails and social media conversations. This bill rightly prevents companies that store user communications from releasing such information to fiduciaries, unless the decedent had previously consented to the disclosure. It also protects a user's private communications from unwarranted disclosure.

Fiduciaries can still see the contents of private communications when the decedent expressly has allowed for it via online tool, will, trust, power of attorney or other written evidence of user consent. Otherwise, fiduciaries may access a catalogue of the decedent's communications so they may perform duties such as compiling inventory, or obtaining information such as a user's life insurance company or bank name. The fiduciary could then contact those companies directly for copies of the user's account statements.

Since this bill strikes the right balance between protecting internet user privacy with the need for fiduciary access to digital assets and does so without conflicting with federal laws, we ask that you please advance HB 5606 without amendments. Thank you for considering our views. Please let me know if you have questions or would like further information.

Sincerely,

Handwritten signature of Tammy Cota in black ink.  
Tammy Cota

cc: Joint Judiciary Committee members



**Uniform Law Commission**  
NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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**WHY YOUR STATE SHOULD ADOPT THE  
REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)**

The Revised Uniform Fiduciary Access to Digital Assets Act (Revised UFADAA) modernizes fiduciary law for the Internet age. Fiduciaries are the people appointed to manage our property when we die or lose the capacity to manage it ourselves. Nearly everyone today has digital assets, such as documents, photographs, email, and social media accounts, and fiduciaries are often prevented from accessing those accounts by password protection or restrictive terms of service. Digital assets may have real value, both monetary and sentimental, but 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.

- ***Revised UFADAA gives Internet users control.*** Revised UFADAA allows users to specify whether their digital assets should be preserved, distributed to heirs, or destroyed.
- ***Revised UFADAA provides efficient uniformity for all concerned.*** Digital assets travel across state lines nearly instantaneously. In our modern mobile society, people relocate more often than ever. Because state law governs fiduciaries, a uniform law ensures that fiduciaries in every state will have equal access to digital assets and custodians will have a single legal standard with which to comply.
- ***Revised UFADAA respects privacy interests.*** Private communications like email and social media conversations are protected by federal privacy law. Revised UFADAA prevents the companies that store our communications from releasing them to fiduciaries unless the user consented to disclosure.
- ***Revised UFADAA addresses four common types of fiduciaries.*** Revised UFADAA provides appropriate default rules governing access to digital assets for executors of a decedent's estate, agents under a power of attorney, conservators, and trustees.
- ***Revised UFADAA works hand-in-hand with federal and state law.*** Under Revised UFADAA, fiduciaries must provide proof of their authority in the form of a certified document. Custodians of digital assets that comply with a fiduciary's apparently authorized request for access are immune from any liability under statutes that prohibit unauthorized access. A fiduciary's authority over digital assets is limited by federal law, including the Copyright Act and the Electronic Communications Privacy Act.

For further information about Revised UFADAA, please contact ULC Legislative Counsel Benjamin Orzeske at 312-450-6621 or [borzeske@uniformlaws.org](mailto:borzeske@uniformlaws.org).

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.



Contact Us: 312.450.6600

## Legislative Fact Sheet - Fiduciary Access to Digital Assets Act, Revised (2015)

Act: Fiduciary Access to Digital Assets Act, Revised (2015)

**Origin** Completed by the Uniform Law Commission in 2014 and Revised in 2015.

**Description** A fiduciary is a person appointed to manage the property of another person, subject to strict duties to act in the other person's best interest. Common types of fiduciaries include executors of a decedent's estate, trustees, conservators, and agents under a power of attorney. This act extends the traditional power of a fiduciary to manage tangible property to include management of a person's digital assets. The act allows fiduciaries to manage digital property like computer files, web domains, and virtual currency, but restricts a fiduciary's access to electronic communications such as email, text messages, and social media accounts unless the original user consented in a will, trust, power of attorney, or other record.

**Endorsements** Association of American Retired Persons  
Center for Democracy and Technology  
Facebook  
Google  
National Academy of Elder Law Attorneys

**Enactments** Florida, Oregon, Tennessee, Wyoming

**2016 Introductions** Alabama, Arizona, Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Michigan, Mississippi, Nebraska, New Jersey, Oklahoma, Pennsylvania, South Carolina, Utah, Washington, West Virginia, Wisconsin

**Staff Liaison(s)** Katie Robinson, Benjamin Orzeske

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