



SPONSOR: Rep. Scott & Sen. Bushweller  
Reps. Heffernan, B. Short, Wilson

HOUSE OF REPRESENTATIVES  
146th GENERAL ASSEMBLY

HOUSE BILL NO. 396

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO ADMINISTRATION OF DECEDENTS' ESTATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 19, Title 12, of the Delaware Code by adding a new § 1913 as follows:

2 § 1913. Access and control of decedents' digital assets and digital accounts.

3 (a) Definitions.--

4 (1) "Digital assets" means, but is not limited to, files, including but not limited to, emails, documents, images,  
5 audio, video, and similar digital files which currently exist or may exist as technology develops or such comparable items  
6 as technology develops, stored on electronic communication devices, including, but not limited to, desktops, laptops,  
7 tablets, peripherals, storage devices, mobile telephones, smartphones, and any similar device which currently exists or may  
8 exist as technology develops or such comparable items as technology develops, regardless of the ownership of the physical  
9 device upon which the digital asset is stored.

10 (2) "Digital accounts" means, but is not limited to, email accounts, software licenses, social network accounts,  
11 social media accounts, file sharing accounts, financial management accounts, domain registration accounts, domain name  
12 service accounts, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online  
13 accounts which currently exist or may exist as technology develops or such comparable items as technology develops.

14 (3) "Service provider" means any entity which hosts, supports, and provides users access to digital accounts where  
15 digital assets are stored, accessed, shared and otherwise used.

16 (b) Service providers, requirements.--

17 Service providers shall provide, to the executor or administrator of the estate of a deceased person who was domiciled  
18 in Delaware at the time of death, access to and control of digital assets, and the ability to take control of, conduct, continue,  
19 or terminate digital accounts upon receipt of the following:

20 (1) A written request for access or copies made by the executor or administrator, accompanied by a copy of the  
21 death certificate and a copy of the letters testamentary or letters of administration; or

22 (2) An order of the Court of Chancery.

(c) Nothing in this section shall require a custodian to disclose any information in violation of federal law.

SYNOPSIS

Existing Delaware law does not address estate property interests in digital assets and digital accounts. This bill will provide executors and administrators of estates control of deceased persons' digital assets and digital accounts during the probate process. This bill will identify the service providers' obligations to provide access and control of the assets and accounts.