

By the Committee on Judiciary; and Senator Hukill

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1                   A bill to be entitled  
2       An act relating to digital assets; providing a  
3       directive to the Division of Law Revision and  
4       Information; creating s. 740.001, F.S.; providing a  
5       short title; creating s. 740.002, F.S.; defining  
6       terms; creating s. 740.003, F.S.; authorizing a user  
7       to use an online tool to allow a custodian to disclose  
8       or to prohibit a custodian from disclosing digital  
9       assets under certain circumstances; providing that  
10      specified user's direction overrides a contrary  
11      provision in a terms-of-service agreement under  
12      certain circumstances; creating s. 740.004, F.S.;  
13      providing construction; authorizing the modification  
14      of a fiduciary's assets under certain circumstances;  
15      creating s. 740.005, F.S.; providing procedures for  
16      the disclosure of digital assets; creating s. 740.006,  
17      F.S.; requiring a custodian to disclose the content of  
18      electronic communications of a deceased user under  
19      certain circumstances; creating s. 740.007, F.S.;  
20      requiring a custodian to disclose other digital assets  
21      of a deceased user under certain circumstances;  
22      creating s. 740.008, F.S.; requiring a custodian to  
23      disclose the content of electronic communications of a  
24      principal under certain circumstances; creating s.  
25      740.009, F.S.; requiring a custodian to disclose other  
26      digital assets of a principal under certain  
27      circumstances; creating s. 740.01, F.S.; requiring a  
28      custodian to disclose to a trustee who is the original  
29      user the digital assets held in trust under certain

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30 circumstances; creating s. 740.02, F.S.; requiring a  
31 custodian to disclose to a trustee who is not the  
32 original user the content of electronic communications  
33 held in trust under certain circumstances; creating s.  
34 740.03, F.S.; requiring a custodian to disclose to a  
35 trustee who is not the original user other digital  
36 assets under certain circumstances; creating s.  
37 740.04, F.S.; authorizing the court to grant a  
38 guardian the right to access a ward's digital assets  
39 under certain circumstances; requiring a custodian to  
40 disclose to a guardian a specified catalog of  
41 electronic communications and specified digital assets  
42 of a ward under certain circumstances; creating s.  
43 740.05, F.S.; imposing fiduciary duties; providing for  
44 the rights and responsibilities of certain  
45 fiduciaries; creating s. 740.06, F.S.; requiring  
46 compliance of a custodian; providing construction;  
47 providing for immunity from liability for a custodian  
48 and its officers, employees, and agents acting in good  
49 faith in complying with their duties; creating s.  
50 740.07, F.S.; providing construction; creating s.  
51 740.08, F.S.; providing applicability; creating s.  
52 740.09, F.S.; providing severability; providing an  
53 effective date.

54  
55 Be It Enacted by the Legislature of the State of Florida:

56  
57 Section 1. The Division of Law Revision and Information is  
58 directed to create chapter 740, Florida Statutes, consisting of

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59 ss. 740.001-740.09, Florida Statutes, to be entitled "Fiduciary  
60 Access to Digital Assets."

61 Section 2. Section 740.001, Florida Statutes, is created to  
62 read:

63 740.001 Short title.—This chapter may be cited as the  
64 "Florida Fiduciary Access to Digital Assets Act."

65 Section 3. Section 740.002, Florida Statutes, is created to  
66 read:

67 740.002 Definitions.—As used in this chapter, the term:

68 (1) "Account" means an arrangement under a terms-of-service  
69 agreement in which the custodian carries, maintains, processes,  
70 receives, or stores a digital asset of the user or provides  
71 goods or services to the user.

72 (2) "Agent" means a person that is granted authority to act  
73 for a principal under a durable or nondurable power of attorney,  
74 whether denominated an agent, an attorney in fact, or otherwise.  
75 The term includes an original agent, a co-agent, and a successor  
76 agent.

77 (3) "Carries" means to engage in the transmission of  
78 electronic communications.

79 (4) "Catalog of electronic communications" means  
80 information that identifies each person with which a user has  
81 had an electronic communication, the time and date of the  
82 communication, and the electronic address of the person.

83 (5) "Content of an electronic communication" means  
84 information concerning the substance or meaning of the  
85 communication which:

86 (a) Has been sent or received by a user;

87 (b) Is in electronic storage by a custodian providing an

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88 electronic communication service to the public or is carried or  
89 maintained by a custodian providing a remote computing service  
90 to the public; and

91 (c) Is not readily accessible to the public.

92 (6) "Court" means a circuit court of this state.

93 (7) "Custodian" means a person that carries, maintains,  
94 processes, receives, or stores a digital asset of a user.

95 (8) "Designated recipient" means a person chosen by a user  
96 through an online tool to administer digital assets of the user.

97 (9) "Digital asset" means an electronic record in which an  
98 individual has a right or interest. The term does not include an  
99 underlying asset or liability unless the asset or liability is  
100 itself an electronic record.

101 (10) "Electronic" means relating to technology having  
102 electrical, digital, magnetic, wireless, optical,  
103 electromagnetic, or similar capabilities.

104 (11) "Electronic communication" has the same meaning as  
105 provided in 18 U.S.C. s. 2510(12).

106 (12) "Electronic communication service" means a custodian  
107 that provides to a user the ability to send or receive an  
108 electronic communication.

109 (13) "Fiduciary" means an original, additional, or  
110 successor personal representative, guardian, agent, or trustee.

111 (14) "Guardian" means a person who is appointed by the  
112 court as guardian of the property of a minor or an incapacitated  
113 individual. The term includes an original guardian, a co-  
114 guardian, and a successor guardian, as well as a person  
115 appointed by the court as an emergency temporary guardian of the  
116 property.

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117 (15) "Information" means data, text, images, videos,  
118 sounds, codes, computer programs, software, databases, or the  
119 like.

120 (16) "Online tool" means an electronic service provided by  
121 a custodian which allows the user, in an agreement distinct from  
122 the terms-of-service agreement between the custodian and user,  
123 to provide directions for disclosure or nondisclosure of digital  
124 assets to a third person.

125 (17) "Person" means an individual, estate, trust, business  
126 or nonprofit entity, public corporation, government or  
127 governmental subdivision, agency, or instrumentality, or other  
128 legal entity.

129 (18) "Personal representative" means the fiduciary  
130 appointed by the court to administer the estate of a deceased  
131 individual pursuant to letters of administration or an order  
132 appointing a curator or administrator ad litem for the estate.  
133 The term includes an original personal representative, a  
134 copersonal representative, and a successor personal  
135 representative, as well as a person who is entitled to receive  
136 and collect a deceased individual's property pursuant to an  
137 order of summary administration issued pursuant to chapter 735.

138 (19) "Power of attorney" means a record that grants an  
139 agent authority to act in the place of a principal pursuant to  
140 chapter 709.

141 (20) "Principal" means an individual who grants authority  
142 to an agent in a power of attorney.

143 (21) "Record" means information that is inscribed on a  
144 tangible medium or that is stored in an electronic or other  
145 medium and is retrievable in perceivable form.

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146       (22) "Remote computing service" means a custodian that  
147 provides to a user computer processing services or the storage  
148 of digital assets by means of an electronic communications  
149 system as defined in 18 U.S.C. s. 2510(14).

150       (23) "Terms-of-service agreement" means an agreement that  
151 controls the relationship between a user and a custodian.

152       (24) "Trustee" means a fiduciary that holds legal title to  
153 property under an agreement, declaration, or trust instrument  
154 that creates a beneficial interest in the settlor or other  
155 persons. The term includes an original trustee, a cotrustee, and  
156 a successor trustee.

157       (25) "User" means a person that has an account with a  
158 custodian.

159       (26) "Ward" means an individual for whom a guardian has  
160 been appointed.

161       (27) "Will" means an instrument admitted to probate,  
162 including a codicil, executed by an individual in the manner  
163 prescribed by the Florida Probate Code, which disposes of the  
164 individual's property on or after his or her death. The term  
165 includes an instrument that merely appoints a personal  
166 representative or revokes or revises another will.

167       Section 4. Section 740.003, Florida Statutes, is created to  
168 read:

169       740.003 User direction for disclosure of digital assets.—

170       (1) A user may use an online tool to direct the custodian  
171 to disclose or not to disclose some or all of the user's digital  
172 assets, including the content of electronic communications. If  
173 the online tool allows the user to modify or delete a direction  
174 at all times, a direction regarding disclosure using an online

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175 tool overrides a contrary direction by the user in a will,  
176 trust, power of attorney, or other record.

177 (2) If a user has not used an online tool to give direction  
178 under subsection (1) or if the custodian has not provided an  
179 online tool, the user may allow or prohibit disclosure to a  
180 fiduciary of some or all of the user's digital assets, including  
181 the content of electronic communications sent or received by the  
182 user, in a will, trust, power of attorney, or other record.

183 (3) A user's direction under subsection (1) or subsection  
184 (2) overrides a contrary provision in a terms-of-service  
185 agreement that does not require the user to act affirmatively  
186 and distinctly from the user's assent to the terms of service.

187 Section 5. Section 740.004, Florida Statutes, is created to  
188 read:

189 740.004 Terms-of-service agreement preserved.-

190 (1) This chapter does not change or impair a right of a  
191 custodian or a user under a terms-of-service agreement to access  
192 and use the digital assets of the user.

193 (2) This chapter does not give a fiduciary any new or  
194 expanded rights other than those held by the user for whom, or  
195 for whose estate or trust, the fiduciary acts or represents.

196 (3) A fiduciary's access to digital assets may be modified  
197 or eliminated by a user, by federal law, or by a terms-of-  
198 service agreement if the user has not provided direction under  
199 s. 740.003.

200 Section 6. Section 740.005, Florida Statutes, is created to  
201 read:

202 740.005 Procedure for disclosing digital assets.-

203 (1) When disclosing the digital assets of a user under this

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204 chapter, the custodian may, at its sole discretion:

205 (a) Grant a fiduciary or designated recipient full access  
206 to the user's account;

207 (b) Grant a fiduciary or designated recipient partial  
208 access to the user's account sufficient to perform the tasks  
209 with which the fiduciary or designated recipient is charged; or

210 (c) Provide a fiduciary or designated recipient a copy in a  
211 record of any digital asset that, on the date the custodian  
212 received the request for disclosure, the user could have  
213 accessed if the user were alive and had full capacity and access  
214 to the account.

215 (2) A custodian may assess a reasonable administrative  
216 charge for the cost of disclosing digital assets under this  
217 chapter.

218 (3) A custodian is not required to disclose under this  
219 chapter a digital asset deleted by a user.

220 (4) If a user directs or a fiduciary requests a custodian  
221 to disclose under this chapter some, but not all, of the user's  
222 digital assets to the fiduciary or a designated recipient, the  
223 custodian is not required to disclose the assets if segregation  
224 of the assets would impose an undue burden on the custodian. If  
225 the custodian believes the direction or request imposes an undue  
226 burden, the custodian or the fiduciary may seek an order from  
227 the court to disclose:

228 (a) A subset limited by date of the user's digital assets;

229 (b) All of the user's digital assets to the fiduciary or  
230 designated recipient, or to the court for review in chambers; or

231 (c) None of the user's digital assets.

232 Section 7. Section 740.006, Florida Statutes, is created to



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233 read:

234 740.006 Disclosure of content of electronic communications  
235 of deceased user.-If a deceased user consented to or a court  
236 directs the disclosure of the content of electronic  
237 communications of the user, the custodian shall disclose to the  
238 personal representative of the estate of the user the content of  
239 an electronic communication sent or received by the user if the  
240 personal representative gives to the custodian:

241 (1) A written request for disclosure which is in physical  
242 or electronic form;

243 (2) A certified copy of the death certificate of the user;

244 (3) A certified copy of the letters of administration, the  
245 order authorizing a curator or administrator ad litem, the order  
246 of summary administration issued pursuant to chapter 735, or  
247 other court order;

248 (4) Unless the user provided direction using an online  
249 tool, a copy of the user's will, trust, power of attorney, or  
250 other record evidencing the user's consent to disclosure of the  
251 content of electronic communications; and

252 (5) If requested by the custodian:

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

256 (b) Evidence linking the account to the user; or

257 (c) A finding by the court that:

258 1. The user had a specific account with the custodian,  
259 identifiable by information specified in paragraph (a);

260 2. Disclosure of the content of electronic communications  
261 of the user would not violate 18 U.S.C. s. 2701 et seq., 47

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262 U.S.C. s. 222, or other applicable law;

263 3. Unless the user provided direction using an online tool,  
264 the user consented to disclosure of the content of electronic  
265 communications; or

266 4. Disclosure of the content of electronic communications  
267 of the user is reasonably necessary for the administration of  
268 the estate.

269 Section 8. Section 740.007, Florida Statutes, is created to  
270 read:

271 740.007 Disclosure of other digital assets of deceased  
272 user.—Unless a user prohibited disclosure of digital assets or  
273 the court directs otherwise, a custodian shall disclose to the  
274 personal representative of the estate of a deceased user a  
275 catalog of electronic communications sent or received by the  
276 user and digital assets of the user, except the content of  
277 electronic communications, if the personal representative gives  
278 to the custodian:

279 (1) A written request for disclosure which is in physical  
280 or electronic form;

281 (2) A certified copy of the death certificate of the user;

282 (3) A certified copy of the letters of administration, the  
283 order authorizing a curator or administrator ad litem, the order  
284 of summary administration issued pursuant to chapter 735, or  
285 other court order; and

286 (4) If requested by the custodian:

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

290 (b) Evidence linking the account to the user;

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291 (c) An affidavit stating that disclosure of the user's  
292 digital assets is reasonably necessary for the administration of  
293 the estate; or

294 (d) An order of the court finding that:

295 1. The user had a specific account with the custodian,  
296 identifiable by information specified in paragraph (a); or

297 2. Disclosure of the user's digital assets is reasonably  
298 necessary for the administration of the estate.

299 Section 9. Section 740.008, Florida Statutes, is created to  
300 read:

301 740.008 Disclosure of content of electronic communications  
302 of principal.—To the extent a power of attorney expressly grants  
303 an agent authority over the content of electronic communications  
304 sent or received by the principal and unless directed otherwise  
305 by the principal or the court, a custodian shall disclose to the  
306 agent the content if the agent gives to the custodian:

307 (1) A written request for disclosure which is in physical  
308 or electronic form;

309 (2) An original or copy of the power of attorney expressly  
310 granting the agent authority over the content of electronic  
311 communications of the principal;

312 (3) A certification by the agent, under penalty of perjury,  
313 that the power of attorney is in effect; and

314 (4) If requested by the custodian:

315 (a) A number, username, address, or other unique subscriber  
316 or account identifier assigned by the custodian to identify the  
317 principal's account; or

318 (b) Evidence linking the account to the principal.

319 Section 10. Section 740.009, Florida Statutes, is created

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320 to read:

321 740.009 Disclosure of other digital assets of principal.-  
322 Unless otherwise ordered by the court, directed by the  
323 principal, or provided by a power of attorney, a custodian shall  
324 disclose to an agent with specific authority over the digital  
325 assets or with general authority to act on behalf of the  
326 principal a catalog of electronic communications sent or  
327 received by the principal, and digital assets of the principal,  
328 except the content of electronic communications, if the agent  
329 gives the custodian:

330 (1) A written request for disclosure which is in physical  
331 or electronic form;

332 (2) An original or a copy of the power of attorney which  
333 gives the agent specific authority over digital assets or  
334 general authority to act on behalf of the principal;

335 (3) A certification by the agent, under penalty of perjury,  
336 that the power of attorney is in effect; and

337 (4) If requested by the custodian:

338 (a) A number, username, address, or other unique subscriber  
339 or account identifier assigned by the custodian to identify the  
340 principal's account; or

341 (b) Evidence linking the account to the principal.

342 Section 11. Section 740.01, Florida Statutes, is created to  
343 read:

344 740.01 Disclosure of digital assets held in trust when  
345 trustee is the original user.-Unless otherwise ordered by the  
346 court or provided in a trust, a custodian shall disclose to a  
347 trustee that is an original user of an account any digital asset  
348 of the account held in trust, including a catalog of electronic

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349 communications of the trustee and the content of electronic  
350 communications.

351 Section 12. Section 740.02, Florida Statutes, is created to  
352 read:

353 740.02 Disclosure of content of electronic communications  
354 held in trust when trustee is not the original user.—Unless  
355 otherwise ordered by the court, directed by the user, or  
356 provided in a trust, a custodian shall disclose to a trustee  
357 that is not an original user of an account the content of an  
358 electronic communication sent or received by an original or  
359 successor user and carried, maintained, processed, received, or  
360 stored by the custodian in the account of the trust if the  
361 trustee gives the custodian:

362 (1) A written request for disclosure which is in physical  
363 or electronic form;

364 (2) A certified copy of the trust instrument, or a  
365 certification of trust under s. 736.1017, which includes consent  
366 to disclosure of the content of electronic communications to the  
367 trustee;

368 (3) A certification by the trustee, under penalty of  
369 perjury, that the trust exists and that the trustee is a  
370 currently acting trustee of the trust; and

371 (4) If requested by the custodian:

372 (a) A number, username, address, or other unique subscriber  
373 or account identifier assigned by the custodian to identify the  
374 trust's account; or

375 (b) Evidence linking the account to the trust.

376 Section 13. Section 740.03, Florida Statutes, is created to  
377 read:

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378       740.03 Disclosure of other digital assets held in trust  
379 when trustee is not the original user.—Unless otherwise ordered  
380 by the court, directed by the user, or provided in a trust, a  
381 custodian shall disclose to a trustee that is not an original  
382 user of an account, a catalog of electronic communications sent  
383 or received by an original or successor user and stored,  
384 carried, or maintained by the custodian in an account of the  
385 trust and any digital assets in which the trust has a right or  
386 interest, other than the content of electronic communications,  
387 if the trustee gives the custodian:

388           (1) A written request for disclosure which is in physical  
389 or electronic form;

390           (2) A certified copy of the trust instrument, or a  
391 certification of trust under s. 736.1017;

392           (3) A certification by the trustee, under penalty of  
393 perjury, that the trust exists and that the trustee is a  
394 currently acting trustee of the trust; and

395           (4) If requested by the custodian:

396           (a) A number, username, address, or other unique subscriber  
397 or account identifier assigned by the custodian to identify the  
398 trust's account; or

399           (b) Evidence linking the account to the trust.

400       Section 14. Section 740.04, Florida Statutes, is created to  
401 read:

402       740.04 Disclosure of digital assets to guardian of ward.—

403           (1) After an opportunity for a hearing under chapter 744,  
404 the court may grant a guardian access to the digital assets of a  
405 ward.

406           (2) Unless otherwise ordered by the court or directed by

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407 the user, a custodian shall disclose to a guardian the catalog  
408 of electronic communications sent or received by the ward and  
409 any digital assets in which the ward has a right or interest,  
410 other than the content of electronic communications, if the  
411 guardian gives the custodian:

412 (a) A written request for disclosure which is in physical  
413 or electronic form;

414 (b) A certified copy of letters of plenary guardianship of  
415 the property or the court order that gives the guardian  
416 authority over the digital assets of the ward; and

417 (c) If requested by the custodian:

418 1. A number, username, address, or other unique subscriber  
419 or account identifier assigned by the custodian to identify the  
420 ward's account; or

421 2. Evidence linking the account to the ward.

422 (3) A guardian with general authority to manage the  
423 property of a ward may request a custodian of the digital assets  
424 of the ward to suspend or terminate an account of the ward for  
425 good cause. A request made under this section must be  
426 accompanied by a certified copy of the court order giving the  
427 guardian authority over the ward's property.

428 Section 15. Section 740.05, Florida Statutes, is created to  
429 read:

430 740.05 Fiduciary duty and authority.—

431 (1) The legal duties imposed on a fiduciary charged with  
432 managing tangible property apply to the management of digital  
433 assets, including:

434 (a) The duty of care;

435 (b) The duty of loyalty; and

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- 436 (c) The duty of confidentiality.
- 437 (2) A fiduciary's authority with respect to a digital asset  
438 of a user:
- 439 (a) Except as otherwise provided in s. 740.003, is subject  
440 to the applicable terms-of-service agreement;
- 441 (b) Is subject to other applicable law, including copyright  
442 law;
- 443 (c) Is limited by the scope of the fiduciary's duties; and
- 444 (d) May not be used to impersonate the user.
- 445 (3) A fiduciary with authority over the tangible personal  
446 property of a decedent, ward, principal, or settlor has the  
447 right to access any digital asset in which the decedent, ward,  
448 principal, or settlor had or has a right or interest and that is  
449 not held by a custodian or subject to a terms-of-service  
450 agreement.
- 451 (4) A fiduciary acting within the scope of the fiduciary's  
452 duties is an authorized user of the property of the decedent,  
453 ward, principal, or settlor for the purpose of applicable  
454 computer fraud and unauthorized computer access laws, including  
455 under chapter 815.
- 456 (5) A fiduciary with authority over the tangible personal  
457 property of a decedent, ward, principal, or settlor:
- 458 (a) Has the right to access the property and any digital  
459 asset stored in it; and
- 460 (b) Is an authorized user for the purpose of computer fraud  
461 and unauthorized computer access laws, including under chapter  
462 815.
- 463 (6) A custodian may disclose information in an account to a  
464 fiduciary of the user when the information is required to



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465 terminate an account used to access digital assets licensed to  
466 the user.

467 (7) A fiduciary of a user may request a custodian to  
468 terminate the user's account. A request for termination must be  
469 in writing, in paper or electronic form, and accompanied by:

470 (a) If the user is deceased, a certified copy of the death  
471 certificate of the user;

472 (b) A certified copy of the letters of administration; the  
473 order authorizing a curator or administrator ad litem; the order  
474 of summary administration issued pursuant to chapter 735; or the  
475 court order, power of attorney, or trust giving the fiduciary  
476 authority over the account; and

477 (c) If requested by the custodian:

478 1. A number, username, address, or other unique subscriber  
479 or account identifier assigned by the custodian to identify the  
480 user's account;

481 2. Evidence linking the account to the user; or

482 3. A finding by the court that the user had a specific  
483 account with the custodian, identifiable by the information  
484 specified in subparagraph 1.

485 Section 16. Section 740.06, Florida Statutes, is created to  
486 read:

487 740.06 Custodian compliance and immunity.—

488 (1) Not later than 60 days after receipt of the information  
489 required under ss. 740.006-740.04, a custodian shall comply with  
490 a request under this chapter from a fiduciary or designated  
491 recipient to disclose digital assets or terminate an account. If  
492 the custodian fails to comply, the fiduciary or designated  
493 representative may apply to the court for an order directing

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494 compliance.

495 (2) An order under subsection (1) directing compliance must  
496 contain a finding that compliance is not in violation of 18  
497 U.S.C. s. 2702.

498 (3) A custodian may notify a user that a request for  
499 disclosure or to terminate an account was made under this  
500 chapter.

501 (4) A custodian may deny a request under this chapter from  
502 a fiduciary or designated representative for disclosure of  
503 digital assets or to terminate an account if the custodian is  
504 aware of any lawful access to the account following the receipt  
505 of the fiduciary's request.

506 (5) This chapter does not limit a custodian's ability to  
507 obtain or require a fiduciary or designated recipient requesting  
508 disclosure or termination under this chapter to obtain a court  
509 order that:

510 (a) Specifies that an account belongs to the ward or  
511 principal;

512 (b) Specifies that there is sufficient consent from the  
513 ward or principal to support the requested disclosure; and

514 (c) Contains a finding required by a law other than this  
515 chapter.

516 (6) A custodian and its officers, employees, and agents are  
517 immune from liability for an act or omission done in good faith  
518 in compliance with this chapter.

519 Section 17. Section 740.07, Florida Statutes, is created to  
520 read:

521 740.07 Relation to Electronic Signatures in Global and  
522 National Commerce Act.—This chapter modifies, limits, and

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523 supersedes the Electronic Signatures in Global and National  
524 Commerce Act, 15 U.S.C. ss. 7001 et seq., but does not modify,  
525 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),  
526 or authorize electronic delivery of any of the notices described  
527 in s. 103(b) of that act, 15 U.S.C. s. 7003(b).

528 Section 18. Section 740.08, Florida Statutes, is created to  
529 read:

530 740.08 Applicability.-

531 (1) Subject to subsection (3), this chapter applies to:

532 (a) A fiduciary acting under a will, trust, or power of  
533 attorney executed before, on, or after July 1, 2016;

534 (b) A personal representative acting for a decedent who  
535 died before, on, or after July 1, 2016;

536 (c) A guardian appointed through a guardianship proceeding,  
537 whether pending in a court or commenced before, on, or after  
538 July 1, 2016; and

539 (d) A trustee acting under a trust created before, on, or  
540 after July 1, 2016.

541 (2) This chapter applies to a custodian if the user resides  
542 in this state or resided in this state at the time of the user's  
543 death.

544 (3) This chapter does not apply to a digital asset of an  
545 employer used by an employee in the ordinary course of the  
546 employer's business.

547 Section 19. Section 740.09, Florida Statutes, is created to  
548 read:

549 740.09 Severability.-If any provision of this chapter or  
550 its application to any person or circumstance is held invalid,  
551 the invalidity does not affect other provisions or applications

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552 of this chapter which can be given effect without the invalid  
553 provision or application, and to this end the provisions of this  
554 chapter are severable.

555 Section 20. This act shall take effect July 1, 2016.