



January 26, 2016

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## SENATE BILL No. 253

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DIGEST OF SB 253 (Updated January 21, 2016 2:18 pm - DI 106)

**Citations Affected:** IC 29-1; IC 29-3; IC 30-4; IC 30-5; IC 32-39; IC 34-30.

**Synopsis:** Uniform Fiduciary Access to Digital Assets Act. Enacts the Revised Uniform Fiduciary Access to Digital Assets Act of the National Conference of Commissioners on Uniform State Laws. Defines "digital asset" as an electronic record in which an individual has a right or interest. Defines "custodian" as a person that carries, maintains, processes, receives, or stores a digital asset. Defines "user" as a person for whom a custodian carries, maintains, processes, receives, or stores the digital asset. Defines "fiduciary" as an attorney in fact, guardian, personal representative, or trustee of a user. Authorizes a user to use an online tool to direct the custodian to disclose or not to disclose some or all of the user's digital assets. Provides that if an online tool allows the user to modify or delete a direction at all times, a user's direction to the custodian through use of the online tool concerning disclosure overrides a contrary direction by the user in a will, trust, power of attorney, or other record, but otherwise the user, in a will, trust, power of attorney, or other record, may allow or prohibit disclosure to a fiduciary of some or all of the user's digital assets. Requires a custodian, under certain circumstances, to disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user, or a catalogue of electronic communications sent or received by the user. Requires a custodian, under certain circumstances, to disclose to an attorney in fact the content of the electronic communications of the user, or a catalogue of electronic communications sent or received by  
(Continued next page)

**Effective:** July 1, 2016.

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### Waltz, Bray

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January 7, 2016, read first time and referred to Committee on Civil Law.  
January 25, 2016, amended, reported favorably — Do Pass.

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SB 253—LS 6594/DI 55



## Digest Continued

the user, if the user, through a power of attorney, conferred upon the attorney in fact authority over the content of electronic communications sent or received by the user. Requires a custodian, under certain circumstances, to disclose to a trustee the content of an electronic communication sent or received by a user and carried, maintained, processed, received, or stored by the custodian in the account of the trust, or to disclose to the trustee a catalogue of electronic communications sent or received by a user and stored, carried, or maintained by the custodian in the account of the trust. Provides that a court may grant a guardian access to the digital assets of the protected person and that, under certain circumstances, a custodian is required to disclose to a guardian a catalogue of electronic communications sent or received by the protected person. Authorizes a fiduciary of a user to request that a custodian terminate the user's account. Provides that, if the conditions for compliance are met, a custodian must comply with a request from a fiduciary to disclose digital assets or terminate an account within 60 days, and if the custodian fails to comply with the request, the fiduciary may apply for a court order directing compliance. Provides that the legal duties imposed on a fiduciary charged with managing tangible property also apply to a fiduciary charged with managing digital assets. Amends the law on unsupervised administration of a decedent's estate to provide that a distributee has the same rights as a personal representative to access the digital assets of the decedent. Makes conforming amendments. Provides that a custodian is immune from liability for an act done or omission made in good faith in compliance with the Revised Uniform Fiduciary Access to Digital Assets Act.

**SB 253—LS 6594/DI 55**



January 26, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## SENATE BILL No. 253

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A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 29-1-8-1, AS AMENDED BY P.L.51-2014,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2016]: Sec. 1. (a) Forty-five (45) days after the death of a  
4 decedent and upon being presented an affidavit that complies with  
5 subsection (b), a person:  
6 (1) indebted to the decedent; or  
7 (2) having possession of personal property or an instrument  
8 evidencing a debt, an obligation, a stock, or a chose in action  
9 belonging to the decedent;  
10 shall make payment of the indebtedness or deliver the personal  
11 property or the instrument evidencing a debt, an obligation, a stock, or  
12 a chose in action to a distributee claiming to be entitled to payment or  
13 delivery of property of the decedent as alleged in the affidavit.  
14 (b) The affidavit required by subsection (a) must be an affidavit  
15 made by or on behalf of the distributee and must state the following:

SB 253—LS 6594/DI 55



- 1 (1) That the value of the gross probate estate, wherever located  
 2 (less liens and encumbrances), does not exceed fifty thousand  
 3 dollars (\$50,000).  
 4 (2) That forty-five (45) days have elapsed since the death of the  
 5 decedent.  
 6 (3) That no application or petition for the appointment of a  
 7 personal representative is pending or has been granted in any  
 8 jurisdiction.  
 9 (4) The name and address of each distributee that is entitled to a  
 10 share of the property and the part of the property to which each  
 11 distributee is entitled.  
 12 (5) That the affiant has notified each distributee identified in the  
 13 affidavit of the affiant's intention to present an affidavit under this  
 14 section.  
 15 (6) That the affiant is entitled to payment or delivery of the  
 16 property on behalf of each distributee identified in the affidavit.  
 17 (c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5)  
 18 is part of the estate, nothing in this section shall prohibit a transfer of  
 19 the certificate of title to the motor vehicle if five (5) days have elapsed  
 20 since the death of the decedent and no appointment of a personal  
 21 representative is contemplated. A transfer under this subsection shall  
 22 be made by the bureau of motor vehicles upon receipt of an affidavit  
 23 containing a statement of the conditions required by subsection (b)(1)  
 24 and (b)(6). The affidavit must be duly executed by the distributees of  
 25 the estate.  
 26 (d) A transfer agent of a security shall change the registered  
 27 ownership on the books of a corporation from the decedent to a  
 28 distributee upon the presentation of an affidavit as provided in  
 29 subsection (a).  
 30 (e) For the purposes of subsection (a), an insurance company that,  
 31 by reason of the death of the decedent, becomes obligated to pay a  
 32 death benefit to the estate of the decedent is considered a person  
 33 indebted to the decedent.  
 34 (f) For purposes of subsection (a), property in a safe deposit box  
 35 rented by a decedent from a financial institution organized or  
 36 reorganized under the law of any state (as defined in IC 28-2-17-19) or  
 37 the United States is considered personal property belonging to the  
 38 decedent in the possession of the financial institution.  
 39 **(g) For purposes of subsection (a), a distributee has the same**  
 40 **rights as a personal representative under IC 32-39 to access a**  
 41 **digital asset (as defined in IC 32-39-1-10) of the decedent.**  
 42 SECTION 2. IC 29-1-13-1.1, AS ADDED BY P.L.12-2007,



1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2016]: Sec. 1.1. (a) As used in this section, "custodian" means  
3 any person who electronically stores the documents or information of  
4 another person:

5 (b) A custodian shall provide IC 32-39-2-4 and IC 32-39-2-5 apply  
6 to the **right of a personal representative who is acting on behalf of the**  
7 **estate of a deceased person who was domiciled in Indiana at the time**  
8 **of the person's death; to access: to or copies of any documents or**  
9 **information of the deceased person stored electronically by the**  
10 **custodian upon receipt by the custodian of:**

11 (1) a written request for access or copies made by the personal  
12 representative; accompanied by a copy of the death certificate and  
13 a certified copy of the personal representative's letters  
14 testamentary; or the content of an electronic communication  
15 (as defined in IC 32-39-1-6);

16 (2) an order of a court having probate jurisdiction of the deceased  
17 person's estate: a catalogue of electronic communications (as  
18 defined in IC 32-39-1-5); or

19 (3) any other digital asset (as defined in IC 32-39-1-10);  
20 of the deceased person.

21 (c) A custodian may not destroy or dispose of the electronically  
22 stored documents or information of the deceased person for two (2)  
23 years after the custodian receives a request or order under subsection  
24 (b):

25 (d) Nothing in this section shall be construed to require a custodian  
26 to disclose any information:

27 (1) in violation of any applicable federal law; or

28 (2) to which the deceased person would not have been permitted  
29 access in the ordinary course of business by the custodian:

30 SECTION 3. IC 29-3-1-1.6 IS ADDED TO THE INDIANA CODE  
31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
32 1, 2016]: Sec. 1.6. "Catalogue of electronic communications" has  
33 the meaning set forth in IC 32-39-1-5.

34 SECTION 4. IC 29-3-1-2.7 IS ADDED TO THE INDIANA CODE  
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
36 1, 2016]: Sec. 2.7. "Content of an electronic communication" has  
37 the meaning set forth in IC 32-39-1-6.

38 SECTION 5. IC 29-3-1-4.1 IS ADDED TO THE INDIANA CODE  
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
40 1, 2016]: Sec. 4.1. "Digital asset" has the meaning set forth in  
41 IC 32-39-1-10.

42 SECTION 6. IC 29-3-8-10 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
2 1, 2016]: **Sec. 10. (a) IC 32-39-2-11 applies to the right of a  
3 guardian to access:**

- 4 (1) the content of an electronic communication;  
5 (2) a catalogue of electronic communications; or  
6 (3) any other digital asset;

7 of a protected person.

8 (b) This article:

9 (1) does not confer upon a guardian the power to access:

- 10 (A) the content of an electronic communication;  
11 (B) a catalogue of electronic communications; or  
12 (C) any other digital asset;

13 of a protected person unless a court expressly confers the  
14 power upon the guardian under IC 29-3-9-4.1; and

15 (2) confers upon a guardian the power to access:

- 16 (A) the content of an electronic communication;  
17 (B) a catalogue of electronic communications; or  
18 (C) any other digital asset;

19 of a protected person only to the extent that the court  
20 expressly confers the power upon the guardian under  
21 IC 29-3-9-4.1.

22 (c) For purposes of section 8 of this chapter, a power expressly  
23 conferred by a court upon a guardian under IC 29-3-9-4.1 is  
24 considered an additional responsibility and power within the  
25 meaning of section 8(a)(1) of this chapter.

26 SECTION 7. IC 29-3-9-4.1 IS ADDED TO THE INDIANA CODE  
27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
28 1, 2016]: **Sec. 4.1. (a) After notice to interested persons and upon  
29 authorization of a court, a guardian may access:**

- 30 (1) the content of an electronic communication;  
31 (2) a catalogue of electronic communications; or  
32 (3) any other digital asset;

33 of a protected person as provided in the order of the court. The  
34 court's authorization may apply generally or be restricted in scope.

35 (b) Before approving a guardian's exercise of the power to  
36 access an item described in subsection (a)(1) through (a)(3), the  
37 court shall consider primarily the decision that the protected  
38 person would have made, to the extent that the decision the  
39 protected person would have made can be ascertained.

40 SECTION 8. IC 30-4-3-3, AS AMENDED BY P.L.51-2014,  
41 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2016]: **Sec. 3. (a) Except as provided in the terms of the trust**



1 and subject to subsection (c), a trustee has the power to perform  
2 without court authorization, except as provided in sections 4(b) and  
3 5(a) of this chapter, every act necessary or appropriate for the purposes  
4 of the trust including, by way of illustration and not of limitation, the  
5 following powers:

6 (1) The power to:

7 (A) deal with the trust estate;

8 (B) buy, sell, or exchange and convey or transfer all property  
9 (real, personal, or mixed) for cash or on credit and at public or  
10 private sale with or without notice; and

11 (C) invest and reinvest the trust estate.

12 (2) The power to receive additions to the assets of the trust.

13 (3) The power to acquire an undivided interest in a trust asset in  
14 which the trustee, in any trust capacity, holds an undivided  
15 interest.

16 (4) The power to manage real property in every way, including:

17 (A) the adjusting of boundaries;

18 (B) erecting, altering, or demolishing buildings;

19 (C) dedicating of streets, alleys, or other public uses;

20 (D) subdividing;

21 (E) developing;

22 (F) obtaining vacation of plats;

23 (G) granting of easements and rights-of-way;

24 (H) partitioning;

25 (I) entering into party wall agreements; and

26 (J) obtaining title insurance for trust property.

27 (5) The power to:

28 (A) grant options concerning disposition of trust property,  
29 including the sale of covered security options; and

30 (B) take options for acquisition of trust property, including the  
31 purchase back of previously sold covered security options.

32 (6) The power to enter into a lease as lessor or lessee, with or  
33 without option to renew.

34 (7) The power to enter into arrangements for exploration and  
35 removal of minerals or other natural resources and enter into a  
36 pooling or unitization agreement.

37 (8) The power to continue the operation or management of any  
38 business or other enterprise placed in trust.

39 (9) The power to:

40 (A) borrow money, to be repaid from trust property or  
41 otherwise; and

42 (B) encumber, mortgage, pledge, or grant a security interest in



- 1 trust property in connection with the exercise of any power.  
2 (10) The power to:  
3 (A) advance money for the benefit of the trust estate and for all  
4 expenses or losses sustained in the administration of the trust;  
5 and  
6 (B) collect any money advanced, without interest or with  
7 interest, at no more than the lowest rate prevailing when  
8 advanced.  
9 (11) The power to prosecute or defend actions, claims, or  
10 proceedings for the protection of:  
11 (A) trust property; and  
12 (B) the trustee in the performance of the trustee's duties.  
13 (12) The power to:  
14 (A) pay or contest any claim;  
15 (B) settle a claim by or against the trust by compromise or  
16 arbitration; and  
17 (C) abandon or release, totally or partially, any claim  
18 belonging to the trust.  
19 (13) The power to insure the:  
20 (A) trust estate against damage or loss; and  
21 (B) trustee against liability with respect to third persons.  
22 (14) The power to pay taxes, assessments, and other expenses  
23 incurred in the:  
24 (A) acquisition, retention, and maintenance of the trust  
25 property; and  
26 (B) administration of the trust.  
27 (15) The power to:  
28 (A) vote securities, in person or by a general or special proxy;  
29 (B) hold the securities in the name of a nominee if the trustee  
30 is a corporate trustee; and  
31 (C) effect or approve, and deposit securities in connection  
32 with, any change in the form of the corporation, including:  
33 (i) dissolution;  
34 (ii) liquidation;  
35 (iii) reorganization;  
36 (iv) acquisition; and  
37 (v) merger.  
38 (16) The power to employ persons, including:  
39 (A) attorneys;  
40 (B) accountants;  
41 (C) investment advisors; and  
42 (D) agents;





- 1 to advise and assist the trustee in the performance of the trustee's  
2 duties.
- 3 (17) The power to effect distribution of property in cash, in kind,  
4 or partly in cash and partly in kind, in divided or undivided  
5 interests.
- 6 (18) The power to execute and deliver all instruments necessary  
7 or appropriate to accomplishing or facilitating the exercise of the  
8 trustee's powers.
- 9 (19) With respect to an interest in a proprietorship, partnership,  
10 limited liability company, business trust, corporation, or another  
11 form of business or enterprise, the power to:
- 12 (A) continue the business or enterprise; and  
13 (B) take any action that may be taken by shareholders,  
14 members, or property owners, including:
- 15 (i) merging;  
16 (ii) dissolving; or  
17 (iii) changing the form of business organization or  
18 contributing additional capital.
- 19 (20) With respect to possible liability for violation of  
20 environmental law, the power to:
- 21 (A) inspect or investigate property:  
22 (i) the trustee holds or has been asked to hold; or  
23 (ii) owned or operated by an organization in which the  
24 trustee holds an interest or has been asked to hold an  
25 interest;
- 26 to determine the application of environmental law with respect  
27 to the property;
- 28 (B) take action to prevent, abate, or remedy an actual or  
29 potential violation of an environmental law affecting property  
30 held directly or indirectly by the trustee before or after the  
31 assertion of a claim or the initiation of governmental  
32 enforcement;
- 33 (C) decline to accept property into the trust or disclaim any  
34 power with respect to property that is or may be burdened with  
35 liability for violation of environmental law;
- 36 (D) compromise claims against the trust that may be asserted  
37 for an alleged violation of environmental law; and  
38 (E) pay the expense of any inspection, review, abatement, or  
39 remedial action to comply with environmental law.
- 40 (21) The power to exercise elections with respect to federal, state,  
41 and local taxes.
- 42 (22) The power to select a mode of payment under any employee



1 benefit plan or retirement plan, annuity, or life insurance payable  
 2 to the trustee and exercise rights under the plan, annuity, or  
 3 insurance, including the right to:

4 (A) indemnification:

5 (i) for expenses; and

6 (ii) against liabilities; and

7 (B) take appropriate action to collect the proceeds.

8 (23) The power to make loans out of trust property, including  
 9 loans to a beneficiary on terms and conditions the trustee  
 10 determines fair and reasonable under the circumstances. The  
 11 trustee has a lien on future distributions for repayment of the  
 12 loans.

13 (24) The power to pledge trust property to guarantee loans made  
 14 by others to the beneficiary on terms and conditions the trustee  
 15 considers to be fair and reasonable under the circumstances. The  
 16 trustee has a lien on future distributions for repayment of the  
 17 loans.

18 (25) The power to:

19 (A) appoint a trustee to act in another jurisdiction with respect  
 20 to trust property located in the other jurisdiction;

21 (B) confer on the appointed trustee all the appointing trustee's  
 22 powers and duties;

23 (C) require the appointed trustee to furnish security; and

24 (D) remove the appointed trustee.

25 (26) With regard to a beneficiary who is under a legal disability  
 26 or whom the trustee reasonably believes is incapacitated, the  
 27 power to pay an amount distributable to the beneficiary by:

28 (A) paying the amount directly to the beneficiary;

29 (B) applying the amount for the beneficiary's benefit;

30 (C) paying the amount to the beneficiary's guardian;

31 (D) paying the amount to the beneficiary's custodian under  
 32 IC 30-2-8.5 to create a custodianship or custodial trust;

33 (E) paying the amount to an adult relative or another person  
 34 having legal or physical care or custody of the beneficiary to  
 35 be expended on the beneficiary's behalf, if the trustee does not

36 know of a guardian, custodian, or custodial trustee; or

37 (F) managing the amount as a separate fund on the  
 38 beneficiary's behalf, subject to the beneficiary's continuing  
 39 right to withdraw the distribution.

40 (27) The power to:

41 (A) combine at least two (2) trusts into one (1) trust; or

42 (B) divide one (1) trust into at least two (2) trusts;



1 after notice to the qualified beneficiaries, if the result does not  
2 impair the rights of any beneficiary or adversely affect  
3 achievement of the purposes of the trust.

4 (b) Any act under subsection (a)(4), an option under subsection  
5 (a)(5), a lease under subsection (a)(6), an arrangement under  
6 subsection (a)(7), and an encumbrance, mortgage, pledge, or security  
7 interest under subsection (a)(9) may be for a term either within or  
8 extending beyond the term of the trust.

9 (c) In acquiring, investing, reinvesting, exchanging, retaining,  
10 selling, and managing property for any trust, the trustee thereof shall  
11 exercise the judgment and care required by IC 30-4-3.5. Within the  
12 limitations of the foregoing standard, the trustee is authorized to  
13 acquire and retain every kind of property, real, personal, or mixed, and  
14 every kind of investment, including specifically, but without in any way  
15 limiting the generality of the foregoing, bonds, debentures, and other  
16 corporate obligations, stocks, preferred or common, and real estate  
17 mortgages, which persons of prudence, discretion, and intelligence  
18 acquire or retain for their own account, and within the limitations of the  
19 foregoing standard, the trustee is authorized to retain property properly  
20 acquired, without limitation as to time and without regard to its  
21 suitability for original purchase. Within the limitations of the foregoing  
22 standard, the trustee is authorized to sell covered security options and  
23 to purchase back previously sold covered security options.

24 (d) If a distribution of particular trust assets is to be made to two (2)  
25 or more beneficiaries entitled to receive fractional shares in those  
26 assets, the trustee may distribute the particular assets without  
27 distributing to each beneficiary a pro rata share of each asset. However,  
28 the trustee shall:

29 (1) distribute to each beneficiary a pro rata share of the total fair  
30 market value of all of the particular assets as of the date of  
31 distribution; and

32 (2) cause the distribution to result in a fair and equitable division  
33 among the beneficiaries of capital gain or loss on the assets.

34 (e) If the trust is terminated or partially terminated, the trustee may  
35 send to the beneficiaries a proposal for distribution. If the proposal for  
36 distribution informs the beneficiary that the beneficiary:

37 (1) has a right to object to the proposed distribution; and

38 (2) must object not later than thirty (30) days after the proposal  
39 for distribution was sent;

40 the right of the beneficiary to object to the proposed distribution  
41 terminates if the beneficiary fails to notify the trustee of an objection  
42 within the time limit set forth in subdivision (2).



1 (f) When any real or personal property subject to a lien (as defined  
 2 by IC 29-1-17-9(a)) is specifically distributable, the distributee shall  
 3 take the property subject to the lien unless the terms of the trust provide  
 4 expressly or by necessary implication that the lien be otherwise paid.  
 5 If:

6 (1) an event occurs that makes the property distributable; and

7 (2) the holder of a lien on the property receives payment on a  
 8 claim based upon the obligation secured by the lien;

9 the property subject to the lien shall be charged with the reimbursement  
 10 to the trust of the amount of the payment for the benefit of the  
 11 beneficiaries entitled to the distribution, unless the terms of the trust  
 12 provide expressly or by necessary implication that the payment be  
 13 charged against the residue of the trust estate.

14 (g) For purposes of subsection (f), a general directive or authority  
 15 in the trust for payment of debts does not imply an intent that the  
 16 distribution of property subject to a lien be made free from the lien.

17 **(h) IC 32-39-2-8, IC 32-39-2-9, and IC 32-39-2-10 apply to the  
 18 right of a trustee acting under a trust to access:**

19 **(1) the content of an electronic communication (as defined in  
 20 IC 32-39-1-6);**

21 **(2) a catalogue of electronic communications (as defined in  
 22 IC 32-39-1-5); or**

23 **(3) any other digital asset (as defined in IC 32-39-1-10).**

24 SECTION 9. IC 30-5-2-2.3 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 26 1, 2016]: **Sec. 2.3. "Catalogue of electronic communications" has  
 27 the meaning set forth in IC 32-39-1-5.**

28 SECTION 10. IC 30-5-2-2.7 IS ADDED TO THE INDIANA CODE  
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 30 1, 2016]: **Sec. 2.7. "Content of an electronic communication" has  
 31 the meaning set forth in IC 32-39-1-6.**

32 SECTION 11. IC 30-5-2-3.5 IS ADDED TO THE INDIANA CODE  
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 34 1, 2016]: **Sec. 3.5. "Digital asset" has the meaning set forth in  
 35 IC 32-39-1-10.**

36 SECTION 12. IC 30-5-3-8 IS ADDED TO THE INDIANA CODE  
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 38 1, 2016]: **Sec. 8. (a) IC 32-39-2-6 applies to the right of an attorney  
 39 in fact to access the content of an electronic communication of the  
 40 principal.**

41 **(b) IC 32-39-2-7 applies to the right of an attorney in fact to  
 42 access:**



- 1           (1) a catalogue of electronic communications sent or received
- 2           by the principal; and
- 3           (2) a digital asset in which the principal has a right or interest
- 4           other than:

- 5                 (A) the information described in subsection (a); or
- 6                 (B) a digital asset described in subdivision (1).

7           SECTION 13. IC 30-5-5-14.5 IS ADDED TO THE INDIANA  
 8           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 9           [EFFECTIVE JULY 1, 2016]: **Sec. 14.5. (a) Language conferring**  
 10          **general authority with respect to electronic records, reports, and**  
 11          **statements authorizes the attorney in fact to do the following:**

- 12                 (1) Gain access to any computer, storage device, network,
- 13                 communications device, or other computing machinery that
- 14                 the principal owns, leases, or otherwise has license to access.
- 15                 (2) Gain access to any user account the principal maintains
- 16                 with an online service provider.
- 17                 (3) Access, retrieve, copy, or store:
- 18                         (A) the content of an electronic communication of the
- 19                         principal;
- 20                         (B) a catalogue of electronic communications sent or
- 21                         received by the principal; or
- 22                         (C) any other digital asset in which the principal has a
- 23                         right or interest.
- 24                 (4) Perform any act in connection with the preparation,
- 25                 execution, filing, storage, or other use of electronic records,
- 26                 reports, and statements of or concerning the principal's
- 27                 affairs that the attorney in fact may perform in connection
- 28                 with the preparation, execution, filing, storage, or other use of
- 29                 written records, reports, and statements of or concerning the
- 30                 principal's affairs.

31          (b) The powers described in this section are exercisable equally  
 32          with respect to electronic records, reports, or statements of or  
 33          concerning the affairs of the principal at the time of the giving of  
 34          the power of attorney or are created after that time, whether  
 35          arising in Indiana or in another jurisdiction.

36          SECTION 14. IC 32-39 IS ADDED TO THE INDIANA CODE AS  
 37          A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 38          2016]:

39          **ARTICLE 39. REVISED UNIFORM FIDUCIARY ACCESS**  
 40          **TO DIGITAL ASSETS ACT**

41          **Chapter 1. Application and Definitions**

42          **Sec. 1. (a) This article applies to the following:**



- 1           **(1) A fiduciary acting under a will or power of attorney,**
- 2           **regardless of when the will or power of attorney was executed.**
- 3           **(2) A personal representative acting for a decedent, regardless**
- 4           **of the date of death of the decedent.**
- 5           **(3) A guardianship proceeding, regardless of when the**
- 6           **guardianship proceeding commenced or whether the**
- 7           **guardianship proceeding is pending.**
- 8           **(4) A trustee acting under a trust, regardless of when the trust**
- 9           **was created.**
- 10          **(b) This article applies to a custodian that carries, maintains,**
- 11          **processes, receives, or stores a digital asset of a user if the user:**
- 12               **(1) resides in Indiana; or**
- 13               **(2) resided in Indiana at the time of the user's death.**
- 14          **(c) This article does not apply to a digital asset of an employer**
- 15          **used by an employee in the ordinary course of the employer's**
- 16          **business.**
- 17          **Sec. 2. As used in this article, "account" means an arrangement**
- 18          **under a terms-of-service agreement in which a custodian carries,**
- 19          **maintains, processes, receives, or stores a digital asset of the user**
- 20          **or provides goods or services to the user.**
- 21          **Sec. 3. As used in this article, "attorney in fact" includes an**
- 22          **attorney in fact granted authority under a durable power of**
- 23          **attorney or a nondurable power of attorney.**
- 24          **Sec. 4. As used in this article, "carries" means engages in the**
- 25          **transmission of an electronic communication.**
- 26          **Sec. 5. As used in this article, "catalogue of electronic**
- 27          **communications" means information that identifies each person**
- 28          **with which a user has had an electronic communication, the time**
- 29          **and date of the communication, and the electronic address of the**
- 30          **person.**
- 31          **Sec. 6. As used in this article, "content of an electronic**
- 32          **communication" means information concerning the substance or**
- 33          **meaning of the communication that:**
- 34               **(1) has been sent or received by a user;**
- 35               **(2) is in electronic storage by a custodian providing an**
- 36               **electronic communication service to the public or is carried or**
- 37               **maintained by a custodian providing a remote computing**
- 38               **service to the public; and**
- 39               **(3) is not readily accessible to the public.**
- 40          **Sec. 7. As used in this article, "court" means:**
- 41               **(1) a circuit court;**
- 42               **(2) a superior court;**



1           (3) a probate court; or

2           (4) a juvenile court.

3           **Sec. 8.** As used in this article, "custodian" means a person that  
4 carries, maintains, processes, receives, or stores a digital asset of  
5 a user.

6           **Sec. 9.** As used in this article, "designated recipient" means a  
7 person chosen by a user using an online tool to administer digital  
8 assets of the user.

9           **Sec. 10.** As used in this article, "digital asset" means an  
10 electronic record in which an individual has a right or interest. The  
11 term does not include an underlying asset or liability unless the  
12 asset or liability is itself an electronic record.

13           **Sec. 11.** As used in this article, "electronic" means relating to  
14 technology having electrical, digital, magnetic, wireless, optical,  
15 electromagnetic, or similar capabilities.

16           **Sec. 12.** As used in this article, "electronic communication" has  
17 the meaning set forth in 18 U.S.C. 2510(12).

18           **Sec. 13.** As used in this article, "electronic communication  
19 service" means a custodian that provides to a user the ability to  
20 send or receive an electronic communication.

21           **Sec. 14.** As used in this article, "fiduciary" means:

22           (1) an attorney in fact;

23           (2) a guardian;

24           (3) a personal representative; or

25           (4) a trustee.

26           The term includes an additional or successor attorney in fact,  
27 guardian, personal representative, or trustee as well as an original  
28 attorney in fact, guardian, personal representative, or trustee.

29           **Sec. 15.** As used in this article, "guardian" means a person  
30 appointed by a court to manage the estate of a living individual.  
31 The term includes a limited guardian.

32           **Sec. 16.** As used in this article, "information" means data, text,  
33 images, videos, sounds, codes, computer programs, software,  
34 databases, or the like.

35           **Sec. 17.** As used in this article, "online tool" means an electronic  
36 service provided by a custodian that allows the user, in an  
37 agreement distinct from the terms-of-service agreement between  
38 the custodian and user, to provide directions for disclosure or  
39 nondisclosure of digital assets to a third person.

40           **Sec. 18.** As used in this article, "person" means:

41           (1) an individual;

42           (2) an estate;



- 1           (3) a business or nonprofit entity;  
 2           (4) a public corporation;  
 3           (5) a government or subdivision, agency, or instrumentality of  
 4           a government; or  
 5           (6) another legal entity.

6           **Sec. 19.** As used in this article, "personal representative" means  
 7           an executor, an administrator, a special administrator, or a person  
 8           that performs substantially the same function as an executor,  
 9           administrator, or special administrator under the law of Indiana  
 10          other than this article.

11          **Sec. 20.** As used in this article, "power of attorney" means a  
 12          record that grants an attorney in fact authority to act in the place  
 13          of a principal.

14          **Sec. 21.** As used in this article, "principal" means an individual  
 15          who grants authority to an attorney in fact in a power of attorney.

16          **Sec. 22.** As used in this article, "protected person" means an  
 17          individual for whom a guardian has been appointed. The term  
 18          includes an individual for whom an application for the  
 19          appointment of a guardian is pending.

20          **Sec. 23.** As used in this article, "record" means information that  
 21          is inscribed on a tangible medium or that is stored in an electronic  
 22          or other medium and is retrievable in perceivable form.

23          **Sec. 24.** As used in this article, "remote computing service"  
 24          means a custodian that provides to a user computer processing  
 25          services or the storage of digital assets by means of an electronic  
 26          communications system, as defined in 18 U.S.C. 2510(14).

27          **Sec. 25.** As used in this article, "terms-of-service agreement"  
 28          means an agreement that controls the relationship between a user  
 29          and a custodian.

30          **Sec. 26.** As used in this article, "trustee" means a fiduciary with  
 31          legal title to property under an agreement or declaration that  
 32          creates a beneficial interest in another. The term includes a  
 33          successor trustee.

34          **Sec. 27.** As used in this article, "user" means a person that has  
 35          an account with a custodian.

36          **Sec. 28.** As used in this article, "will" includes a codicil, a  
 37          testamentary instrument that only appoints an executor, and an  
 38          instrument that revokes or revises a testamentary instrument.

39          **Chapter 2. Fiduciary's Access to Digital Assets**

40          **Sec. 1.** (a) A user may use an online tool to direct the custodian  
 41          that carries, maintains, processes, receives, or stores the user's  
 42          digital assets:





1           (1) to disclose; or  
 2           (2) not to disclose;  
 3           some or all of the user's digital assets, including the content of  
 4           electronic communications to a designated recipient. If the online  
 5           tool allows the user to modify or delete a direction at all times, a  
 6           direction by a user to the custodian regarding disclosure through  
 7           use of an online tool overrides a contrary direction by the user in  
 8           a will, trust, power of attorney, or other record.  
 9           (b) If a user has not used an online tool to give a direction under  
 10          subsection (a) or if the custodian has not provided an online tool,  
 11          the user, in a will, trust, power of attorney, or other record, may:  
 12          (1) allow; or  
 13          (2) prohibit;  
 14          disclosure to a fiduciary of some or all of the user's digital assets,  
 15          including the content of electronic communications sent or received  
 16          by the user.  
 17          (c) A user's:  
 18          (1) direction through the use of an online tool under  
 19          subsection (a); or  
 20          (2) provision in a will, trust, power of attorney, or other  
 21          record under subsection (b);  
 22          overrides a contrary provision in a terms-of-service agreement that  
 23          does not require the user to act affirmatively and distinctly from  
 24          the user's assent to the terms of service.  
 25          Sec. 2. (a) This article does not change or impair a right of:  
 26          (1) a custodian; or  
 27          (2) a user;  
 28          under a terms-of-service agreement to access and use digital assets  
 29          of the user.  
 30          (b) This article does not give a fiduciary or designated recipient  
 31          any new or expanded rights other than the rights held by the user:  
 32          (1) for whom the fiduciary or designated recipient acts;  
 33          (2) who is represented by the fiduciary or designated  
 34          recipient; or  
 35          (3) whose estate the fiduciary represents or acts for.  
 36          (c) A fiduciary's access to a user's digital assets may be modified  
 37          or eliminated:  
 38          (1) by the user;  
 39          (2) by federal law; or  
 40          (3) by a terms-of-service agreement;  
 41          if the user has not given a direction under section 1(a) of this  
 42          chapter or allowed or prohibited disclosure through a will, trust,



1 power of attorney, or other record under section 1(b) of this  
2 chapter.

3 Sec. 3. (a) When disclosing digital assets of a user under this  
4 chapter, the custodian, at the custodian's sole discretion, may:

5 (1) grant a fiduciary or designated recipient full access to the  
6 user's account;

7 (2) grant a fiduciary or designated recipient partial access to  
8 the user's account sufficient to perform the tasks with which  
9 the fiduciary or designated recipient is charged; or

10 (3) provide a fiduciary or designated recipient a copy of a  
11 record of any digital asset that, on the date on which the  
12 custodian received the request for disclosure, the user could  
13 have accessed if the user:

14 (A) were alive;

15 (B) had full capacity; and

16 (C) had access to the account.

17 (b) A custodian may assess a reasonable administrative charge  
18 for the cost of disclosing digital assets under this chapter.

19 (c) A custodian need not disclose under this chapter a digital  
20 asset that has been deleted by a user.

21 (d) Subject to subsection (e), if:

22 (1) a user directs a custodian to disclose to a fiduciary or  
23 designated recipient; or

24 (2) a fiduciary or designated recipient requests disclosure by  
25 a custodian of;

26 some, but not all, of the user's digital assets under this chapter, the  
27 custodian need not disclose the digital assets if segregation of the  
28 digital assets would impose an undue burden on the custodian.

29 (e) If a custodian believes that a direction or request for the  
30 disclosure of some but not all of a user's digital assets as described  
31 in subsection (d) would impose an undue burden on the custodian,  
32 the custodian or fiduciary may seek an order from a court for the  
33 custodian:

34 (1) to disclose:

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

37 (B) all of the user's digital assets; or

38 (C) none of the user's digital assets;

39 to the fiduciary or designated recipient; or

40 (2) to disclose all of the user's digital assets to the court for  
41 review in camera.

42 Sec. 4. If a deceased user consented to, or a court directs,



1 disclosure of the contents of electronic communications of the user,  
 2 the custodian shall disclose to the personal representative of the  
 3 estate of the user the content of an electronic communication sent  
 4 or received by the user if the personal representative gives the  
 5 custodian the following:

6 (1) A written request for disclosure in physical or electronic  
 7 form.

8 (2) A certified or authenticated copy of the death certificate of  
 9 the user.

10 (3) A copy of the letters (as defined in IC 29-1-1-3(a)(17)) of  
 11 the personal representative or of the order of no supervision  
 12 or order of unsupervised administration issued to the  
 13 personal representative under IC 29-1-7.5.

14 (4) Unless the user provided direction using an online tool, a  
 15 copy of the user's will, trust, power of attorney, or other  
 16 record evidencing the user's consent to disclosure of the  
 17 content of electronic communications.

18 (5) If requested by the custodian:

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

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

23 (C) a finding by the court that:

24 (i) the user had a specific account with the custodian,  
 25 identifiable by the information specified in clause (A);

26 (ii) disclosure of the content of electronic  
 27 communications of the user would not violate 18 U.S.C.  
 28 2701 et seq., 47 U.S.C. 222, or other applicable law;

29 (iii) unless the user provided direction using an online  
 30 tool, the user consented to disclosure of the content of  
 31 electronic communications; or

32 (iv) disclosure of the content of electronic  
 33 communications of the user is reasonably necessary for  
 34 administration of the user's estate.

35 **Sec. 5. Unless the user prohibited disclosure of the user's digital**  
 36 **assets or a court directs otherwise, a custodian shall disclose to the**  
 37 **personal representative of the estate of a deceased user a catalogue**  
 38 **of electronic communications sent or received by the user and**  
 39 **digital assets, other than the content of electronic communications,**  
 40 **of the user, if the personal representative gives the custodian:**

41 (1) a written request for disclosure in physical or electronic  
 42 form;



- 1           (2) a certified or authenticated copy of the death certificate of
- 2           the user;
- 3           (3) a copy of the letters (as defined in IC 29-1-1-3(a)(17)) of
- 4           the personal representative or of the order of no supervision
- 5           or order of unsupervised administration issued to the
- 6           personal representative under IC 29-1-7.5; or
- 7           (4) if requested by the custodian:
- 8                (A) a number, username, address, or other unique
- 9                subscriber identifier or account identifier assigned by the
- 10               custodian to identify the user's account;
- 11               (B) evidence linking the account to the user;
- 12               (C) an affidavit stating that disclosure of the user's digital
- 13               assets is reasonably necessary for administration of the
- 14               user's estate; or
- 15               (D) a finding by the court that:
- 16                   (i) the user had a specific account with the custodian,
- 17                   identifiable by the information specified in clause (A); or
- 18                   (ii) disclosure of the user's digital assets is reasonably
- 19                   necessary for administration of the user's estate.

20           **Sec. 6.** To the extent that a power of attorney expressly grants

21           an attorney in fact authority over the content of electronic

22           communications sent or received by the principal, and unless

23           directed otherwise by the principal or a court, a custodian shall

24           disclose to the principal's attorney in fact the content of the

25           electronic communications of the principal if the attorney in fact

26           gives the custodian:

- 27               (1) a written request for disclosure of the electronic
- 28               communications in physical or electronic form;
- 29               (2) an original or copy of the power of attorney expressly
- 30               granting the attorney in fact authority over the content of
- 31               electronic communications of the principal;
- 32               (3) a certification by the attorney in fact, under penalty of
- 33               perjury, that the power of attorney is in effect; and
- 34               (4) if requested by the custodian:
- 35                   (A) a number, username, address, or other unique
- 36                   subscriber identifier or account identifier assigned by the
- 37                   custodian to identify the principal's account; or
- 38                   (B) evidence linking the account to the principal.

39           **Sec. 7.** Unless otherwise ordered by a court, directed by the

40           principal, or provided by a power of attorney, a custodian shall

41           disclose to an attorney in fact having specific authority over the

42           principal's digital assets or general authority to act on behalf of the



1 principal a catalogue of electronic communications sent or received  
 2 by the principal and the digital assets, other than the content of  
 3 electronic communications, of the principal if the attorney in fact  
 4 gives the custodian:

5 (1) a written request for disclosure of the catalogue of  
 6 electronic communications and the digital assets in physical  
 7 or electronic form;

8 (2) an original or a copy of the power of attorney giving the  
 9 attorney in fact specific authority over the principal's digital  
 10 assets or general authority to act on behalf of the principal;

11 (3) a certification by the attorney in fact, under penalty of  
 12 perjury, that the power of attorney is in effect; and

13 (4) if requested by the custodian:

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

17 (B) evidence linking the account to the principal.

18 Sec. 8. Unless otherwise ordered by a court or provided in the  
 19 trust, a custodian shall disclose to a trustee that is an original user  
 20 of an account any digital asset of the account that is held in trust,  
 21 including:

22 (1) a catalogue of electronic communications of the trustee;  
 23 and

24 (2) the content of the electronic communications of the  
 25 trustee.

26 Sec. 9. Unless otherwise ordered by a court, directed by the user,  
 27 or provided in the trust, a custodian shall disclose to a trustee that  
 28 is not an original user of an account the content of an electronic  
 29 communication sent or received by an original user or a successor  
 30 user and carried, maintained, processed, received, or stored by the  
 31 custodian in the account of the trust if the trustee gives the  
 32 custodian:

33 (1) a written request for disclosure of the content of the  
 34 electronic communication in physical or electronic form;

35 (2) a certified copy of the trust instrument or a certification of  
 36 the trust under IC 30-4-4-5 that includes consent to disclosure  
 37 to the trustee of the content of electronic communications  
 38 carried, maintained, processed, received, or stored in the  
 39 account of the trust;

40 (3) a certification by the trustee, under penalty of perjury,  
 41 that the trust exists and the trustee is a currently acting  
 42 trustee of the trust; and



1 (4) if requested by the custodian:

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

5 (B) evidence linking the account to the trust.

6 Sec. 10. Unless otherwise ordered by the court, directed by the  
7 user, or provided in the trust, a custodian shall disclose, to a trustee  
8 that is not an original user of the account, a catalogue of electronic  
9 communications sent or received by an original user or successor  
10 user and stored, carried, or maintained by the custodian in an  
11 account of the trust and any digital assets, other than the content  
12 of electronic communications, in which the trust has a right or  
13 interest if the trustee gives the custodian:

14 (1) a written request for disclosure of the catalogue of  
15 electronic communications and digital assets in physical or  
16 electronic form;

17 (2) a certified copy of the trust instrument or a certification of  
18 the trust under IC 30-4-4-5;

19 (3) a certification by the trustee, under penalty of perjury,  
20 that the trust exists and the trustee is a currently acting  
21 trustee of the trust; and

22 (4) if requested by the custodian:

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

26 (B) evidence linking the account to the trust.

27 Sec. 11. (a) After an opportunity for a hearing under IC 29-3, a  
28 court may grant a guardian access to the digital assets of the  
29 protected person.

30 (b) Unless otherwise ordered by a court or directed by the user,  
31 a custodian shall disclose to a guardian the catalogue of electronic  
32 communications sent or received by the protected person and any  
33 digital assets, other than the content of electronic communications,  
34 in which the protected person has a right or interest if the guardian  
35 gives the custodian:

36 (1) a written request for disclosure of the catalogue of  
37 electronic communications and the digital assets in physical  
38 or electronic form;

39 (2) a certified copy of the court order giving the guardian  
40 authority over the digital assets of the protected person; and

41 (3) if requested by the custodian:

42 (A) a number, username, address, or other unique



- 1 subscriber identifier or account identifier assigned by the  
 2 custodian to identify the account of the protected person;  
 3 or  
 4 (B) evidence linking the account to the protected person.
- 5 (c) A guardian with general authority to manage the assets of a  
 6 protected person may, for good cause, request that the custodian  
 7 of the digital assets of the protected person suspend or terminate  
 8 an account of the protected person. A request made under this  
 9 subsection must be accompanied by a certified copy of the court  
 10 order giving the guardian authority over the protected person's  
 11 property.
- 12 **Sec. 12. (a) The legal duties imposed on a fiduciary charged with**  
 13 **managing tangible property, including:**
- 14 (1) the duty of care;  
 15 (2) the duty of loyalty; and  
 16 (3) the duty of confidentiality;
- 17 also apply to a fiduciary charged with managing digital assets.
- 18 (b) A fiduciary's or designated recipient's authority with respect  
 19 to a digital asset of a user:
- 20 (1) except as otherwise provided in section 1 of this chapter,  
 21 is subject to the applicable terms of service;  
 22 (2) is subject to other applicable law, including copyright law;  
 23 (3) is limited by the scope of the fiduciary's duties; and  
 24 (4) may not be used to impersonate the user.
- 25 (c) A fiduciary with authority over the property of a decedent,  
 26 protected person, principal, or settlor has the right to access any  
 27 digital asset:
- 28 (1) in which the decedent, protected person, principal, or  
 29 settlor had a right or interest; and  
 30 (2) that is not held by a custodian or subject to a  
 31 terms-of-service agreement.
- 32 (d) A fiduciary acting within the scope of the fiduciary's duties  
 33 is an authorized user of the property of the decedent, protected  
 34 person, principal, or settlor for the purpose of applicable computer  
 35 fraud and unauthorized computer access laws, including  
 36 IC 24-4.8-2, IC 24-5-22, IC 35-43-1-7, IC 35-43-1-8, IC 35-43-2-3,  
 37 and IC 35-45-13.
- 38 (e) A fiduciary with authority over the tangible, personal  
 39 property of a decedent, protected person, principal, or settlor:
- 40 (1) has the right to access the property and any digital asset  
 41 stored in the property; and  
 42 (2) is an authorized user for the purpose of computer fraud



1 and unauthorized computer access laws, including  
2 IC 24-4.8-2, IC 24-5-22, IC 35-43-2-3, and IC 35-45-13.

3 (f) A custodian may disclose information in an account to a  
4 fiduciary of the user when the information is required to terminate  
5 an account used to access digital assets licensed to the user.

6 (g) A fiduciary of a user may request that a custodian terminate  
7 the user's account. A request for termination must be in writing, in  
8 either physical or electronic form, and must be accompanied by:

9 (1) if the user is deceased, a certified or authenticated copy of  
10 the death certificate of the user;

11 (2) a copy of:

12 (A) the letters (as defined in IC 29-1-1-3(a)(17)) of the  
13 personal representative or of the order of no supervision or  
14 order of unsupervised administration issued to the  
15 personal representative under IC 29-1-7.5;

16 (B) the court order;

17 (C) the power of attorney; or

18 (D) the trust;

19 giving the fiduciary authority over the account; and

20 (3) if requested by the custodian:

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

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

25 (C) a finding by the court that the user had a specific  
26 account with the custodian, identifiable by the information  
27 specified in clause (A).

28 Sec. 13. (a) Not more than sixty (60) days after receipt of the  
29 information required under sections 4 through 11 of this chapter,  
30 a custodian shall comply with a request under this chapter from a  
31 fiduciary or designated recipient for:

32 (1) the disclosure of digital assets; or

33 (2) the termination of an account.

34 If the custodian fails to comply with the request, the fiduciary or  
35 designated recipient may apply to a court for an order directing  
36 compliance.

37 (b) An order directing compliance for which a fiduciary or  
38 designated recipient applies under subsection (a) must contain a  
39 finding that compliance is not in violation of 18 U.S.C. 2702.

40 (c) A custodian may notify a user that a request for disclosure  
41 of the user's digital assets or to terminate an account of the user  
42 has been made under this chapter.





1           (d) A custodian may deny a request under this chapter from a  
 2 fiduciary or designated recipient for disclosure of digital assets or  
 3 to terminate an account if the custodian is aware of any lawful  
 4 access to the account that occurs after the custodian's receipt of the  
 5 request.

6           (e) This chapter does not limit a custodian's ability to obtain, or  
 7 to require a fiduciary or designated recipient requesting the  
 8 disclosure of digital assets or the termination of an account under  
 9 this chapter to obtain, a court order that:

10           (1) specifies that the account belongs to the protected person  
 11 or principal;

12           (2) specifies that there is sufficient consent from the protected  
 13 person or principal to support the requested disclosure; and

14           (3) contains a finding required by law other than this chapter.

15           (f) A custodian and its officers, employees, and agents are  
 16 immune from liability for an act done or omission made in good  
 17 faith in compliance with this chapter.

18           Sec. 14. In applying and construing this chapter, consideration  
 19 must be given to the need to promote uniformity of the law with  
 20 respect to its subject matter among states that enact the Revised  
 21 Uniform Fiduciary Access to Digital Assets Act.

22           Sec. 15. This chapter:

23           (1) modifies, limits, or supersedes the Electronic Signatures in  
 24 Global and National Commerce Act, 15 U.S.C. 7001 et seq.;  
 25 but

26           (2) does not:

27           (A) modify, limit, or supersede Section 101(c) of the  
 28 Electronic Signatures in Global and National Commerce  
 29 Act, 15 U.S.C. 7001(c); or

30           (B) authorize electronic delivery of any of the notices  
 31 described in Section 103(b) of the Electronic Signatures in  
 32 Global and National Commerce Act, 15 U.S.C. 7003(b).

33           SECTION 15. IC 34-30-2-140.4 IS ADDED TO THE INDIANA  
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2016]: Sec. 140.4. IC 32-39-2-13(f)  
 36 (Concerning an act done or omission made in good faith in  
 37 compliance with the Revised Uniform Fiduciary Access to Digital  
 38 Assets Act).



## COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 253, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 5, delete "(a)".

Page 3, line 21, delete "(b)".

Page 3, line 21, strike "A custodian".

Page 3, line 21, delete "(as defined in IC 32-39-1-8)".

Page 3, line 21, strike "may not destroy".

Page 3, strike lines 22 through 23.

Page 3, line 24, strike "or order under".

Page 3, line 24, delete "IC 32-39-2".

Page 15, line 4, delete "communications." and insert **"communications to a designated recipient."**

Page 15, line 30, after "fiduciary" insert **"or designated recipient"**.

Page 15, line 32, after "fiduciary" insert **"or designated recipient"**.

Page 15, line 33, delete "fiduciary;" and insert **"fiduciary or designated recipient;"**.

Page 21, line 17, after "fiduciary's" insert **"or designated recipient's"**.

and when so amended that said bill do pass.

(Reference is to SB 253 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

