

Regular Session, 2014

HOUSE BILL NO. 287

BY REPRESENTATIVE THOMPSON

SUCCESSIONS: Provides for the administration of a digital account of a deceased minor

1 AN ACT

2 To enact R.S. 9:1518, relative to the administration of digital accounts of a deceased minor;
3 to provide for definitions; to authorize access to certain records; to provide for
4 exceptions; to provide for limitations of certain actions; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:1518 is hereby enacted to read as follows:

8 §1518. Administration of digital accounts; definitions; authority; provision of
9 records; exceptions; limitation of actions

10 A. As used in this Section, unless the context clearly indicates otherwise:

11 (1) "Digital account" means an electronic account maintained, managed,
12 controlled, or operated by a minor in accordance with a terms of service agreement
13 legally executed by such minor and includes blogging, e-mail, multimedia, personal,
14 social networking, and other online accounts or comparable items as technology
15 develops. "Digital account" excludes contracts of deposit of funds between a
16 depositor and a financial institution, financial institution holding company, or
17 affiliate or subsidiary of a financial institution.

18 (2) "Personal representative" means the executor or the administrator of the
19 estate of the decedent, whether testate or intestate, and any person who is put in
20 possession of the digital account by order of the court.

1 (3) "Terms of service agreement" means any legally executed agreement that
2 controls a relationship between a minor and any person or entity that maintains,
3 manages, or supervises a digital account of a minor.

4 B. A personal representative of a deceased minor who was domiciled in this
5 state at the time of his death may assume the deceased minor's terms of service
6 agreement for a digital account with an Internet service provider, communications
7 service provider, or other online account service provider for purposes of consenting
8 to and obtaining the disclosure of the contents of the deceased minor's
9 communications and subscriber records pursuant to 18 U.S.C. 2702, unless such
10 access is contrary to the express provisions of a testament, trust instrument, power
11 of attorney, or court order. Such access shall be subject to the same license,
12 restrictions, or legal obligations of the deceased minor.

13 C. An Internet service provider, communications service provider, or other
14 online account service provider shall provide to the personal representative access
15 to the deceased minor's communications and subscriber records pursuant to
16 Subsection B of this Section within sixty days from the receipt of a written request
17 for such access by the personal representative and a copy of the death certificate of
18 the deceased minor. If the Internet service provider, communications service
19 provider, or other online account service provider receives notice of a claim or
20 dispute regarding providing access to the deceased minor's communications and
21 subscriber records pursuant to this Subsection, such provider is not required to
22 comply with any written request received pursuant to this Subsection until a final
23 nonappealable judgment is rendered by a court of competent jurisdiction determining
24 the rights in or entitlement to any content in the deceased minor's digital account.

25 D. Nothing in this Section shall be construed to require an Internet service
26 provider, communications service provider, or other online account service provider
27 to disclose any information in violation of any applicable state or federal law.

- 1 E. No person may maintain a cause of action against an Internet service
 2 provider, communications service provider, or other online account service provider
 3 for acting in compliance with this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Thompson

HB No. 287

Abstract: Provides for the access to and administration of a digital account of a deceased minor.

Proposed law defines "digital account", "personal representative", and "terms of service agreement".

Proposed law provides that a personal representative of a deceased minor who was domiciled in this state at the time of his death may assume the deceased minor's terms of service agreement for a digital account with an Internet service provider, communications service provider, or other online account service provider consistent with 18 U.S.C. 2702, which provides for the voluntary disclosure of customer communications.

Proposed law shall not apply if such access is contrary to the express provisions of a testament, trust instrument, power of attorney, or court order.

Proposed law provides that an Internet, communications, or other online account service provider shall provide to the personal representative access to the deceased minor's communications and records pursuant to proposed law within 60 days from the receipt of a written request for such access by the personal representative and a copy of the death certificate of the deceased minor.

Proposed law provides that if the Internet, communications, or other online account service provider receives notice of a claim or dispute, such provider is not required to comply with any written request received pursuant to proposed law until a final nonappealable judgment is rendered by a court of competent jurisdiction.

Provides that nothing in proposed law shall be construed to require an Internet, communications, or other online account service provider to disclose any information in violation of any applicable state or federal law.

(Adds R.S. 9:1518)