



Digital Will/ Management of Digital Assets

WHAT IS A DIGITAL ASSET?

- A digital asset is often described as anything that exists only in digital form and has value, established ownership, and is discoverable. These assets can have both monetary and sentimental value.
- Digital assets include online accounts like:
 - Email, social media, cloud storage
 - Digital property (like cryptocurrency, domain names)
 - Files or information or funds stored electronically like photos and documents and PSP accounts

PREPARING AHEAD OF TIME TO MANAGE DIGITAL ASSETS AFTER YOU DIE

- ☐ Make a list of your digital accounts and assets. You can do this electronically in a spreadsheet or manually on paper. Choose a method easy for you to change and share as account information changes.

Include the following for each digital asset:

- Account details, login information like username, pin number, last 4 of SS# and passwords.
- Specify access/disclosure policies of your online providers and asset holders and any specific wishes you have.
 - Some digital assets have restrictions that need special attention and documentation like assigning a legacy contact in your social media accounts to gain access. You'll find these in the service providers terms and conditions of usage.

- ☐ Select and formally name a Digital Executor
 - Choose a trusted individual who is named in a formal legal document to be your Digital Executor. This can be the same person as the Executor for your Last Will and Testament or a different person to assist your standard Executor. You will want to formally assign this person in a legal document such as a Will or a Durable Power of Attorney and give them specific instructions.

Example for Social Media Accounts:

"I have legally documented (NAME) as my Digital Executor and Legacy Contact to manage my social media accounts after I die. I would like to allow family and friends to post and share things about me after I'm gone, and then after a few months, have the accounts put into Legacy Mode and memorialize them."

- ☐ Share Your Digital Asset List with your Digital Executor
 - Once you've created a list of all your assets, share it in a secure and private way with your Digital Executor.

GAINING ACCESS TO PHONE, COMPUTERS AND ELECTRONIC DEVICES AFTER SOMEONE DIES

If you HAVE password and account information for a loved one's phone or electronic device, before you access those devices, consider the following.

- Logging in to someone else's computer or online account, acting as the account owner without authorization and documented rights to do so, is illegal under the Computer Fraud and Abuse Act.
 - Typically, only the inheritor of the estate or legally named Digital Executor — as determined by a state's intestate-succession laws — can request access to locked devices/accounts.
- If you are the inheritor of the estate, or the assigned Digital Executor you still need to abide by the terms of service for each account to see if the contents are legally transferrable. Even then, you may not receive the level of access you desire based on a service providers terms of use.

If you DO NOT have password and account information for a loved one's phone or electronic device, the following actions can be taken.

- If you want to access a loved one's phone or computer, as a legally documented representative, you can request to obtain stored data from companies like Google, Meta, Apple, Microsoft.
 - Death certificates, Letters Testamentary and other documentation is typically required.
 - Data requested might include: photos, contacts, texts and revolving bills/subscriptions.
 - It is not guaranteed service providers will share this data, but with the right documentation, it can be possible.

IDENTIFYING AND CANCELING CHARGES ON DEVICES

To prevent the recurrence of charges in your loved one's name, you may want to do the following (if you have access and formal documentation to manage their digital accounts on their behalf).

- Search smartphone to identify reoccurring expenses.
 - On an iPhone or iPad, open Settings > Apple Account > Subscriptions.
 - For Android devices, open the Google Play app, tap the profile button in the upper-right corner, and then navigate to Payments & subscriptions.
- Search app library to see if there are other services that need to be cancelled or given attention to like PayPal or Venmo and subscriptions like streaming and music services like Netflix or Spotify.
 - If you can gain access to email or texts, you can use search filters to find which utilities, subscriptions, bills, and financial accounts the decedent is responsible for.

LAWS TO HELP PROTECT DIGITAL ASSETS

Many states now have laws to protect citizens' privacy and digital assets. For example, Washington State has adopted the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA). This law provides:

- A framework for accessing and managing digital assets after death or incapacitation
- Individuals to grant permission for a legal named representative to access their digital assets
- Acknowledgement that service providers (like Google, Meta, Apple, etc.) have their own terms of service that may limit access.

In many states, what constitutes a "digital asset" is still unclear, as well as whether those assets are subject to the same probate laws as the rest of a person's estate. And when someone dies intestate — that is, without a will in place — the rules pertaining to ownership of digital accounts and assets is more difficult.