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# Christie Signs Digital Fiduciary Act

Michael Booth, New Jersey Law Journal

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Gov. Chris Christie on Wednesday signed legislation recognizing a fiduciary heir's right to obtain control of a decedent's digital assets.

The legislation was proposed in 2014 by the National Conference of Commissioners on Uniform State Laws. The commission said 23 states already have enacted a version of the legislation, while 18 others are in the process of doing so.

The state Assembly gave final legislative passage to [A-3433](#), known as the Uniform Fiduciary Access to Digital Assets Act, in July. The bill [passed both houses](#) of the Legislature without opposition.

"If a custodial party wants to guard their digital assets, they should be able to without regulatory barriers. Digital property such as email accounts, social media accounts and Internet-based currency is just as important as any other asset a person may have," said the lead sponsor, Assembly Majority Leader Louis Greenwald, D-Camden. "This will help individuals protect digital properties as they would their physical assets."

Under the UFADAA, the traditional power of a fiduciary to manage a person's tangible property when that person dies or loses the ability to manage his own property would be extended to include digital assets.

The act defines the term "digital assets" as a person's digital property and electronic communications. Some examples of digital assets are financial accounts, such as online bank accounts; email accounts and social media accounts; computer files; web domains; and virtual currency.

The UFADAA allows fiduciaries to manage digital property but restricts a fiduciary's access to electronic communications such as email, text messages and social media accounts unless the original user consented to such access in a will, trust, power of attorney or other record, the sponsors said.

The act covers four types of fiduciaries: Executors or administrators of deceased persons' estates, court-appointed guardians of incapacitated persons, agents appointed under powers of attorney, and trustees.

The bill does not apply to digital assets of an employer used by an employee.

Also under the UFADAA, fiduciaries for digital assets are subject to the same fiduciary duties that normally apply to tangible assets. For example, an executor would not be authorized to publish the decedent's confidential communications or impersonate the decedent by sending email from the decedent's account.

The sponsors noted that a fiduciary's management of digital assets may also be governed by other law. For example, a fiduciary may not copy or distribute digital files in violation of copyright law, and may not exceed the user's authority under the account's terms of service.

To gain access to digital assets, a fiduciary will be required to send a request to the custodian, with a copy of the document granting fiduciary authority, such as a letter of appointment, court order or certification of trust.

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*Contact the reporter at [mbooth@alm.com](mailto:mbooth@alm.com).*

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