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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Angela L. De Jean.

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## DIGEST

Peacock (SB 461)

Present law provides that a succession representative is a fiduciary with respect to the succession, and shall have the duty of collecting, preserving, and managing the property of the succession in accordance with law. He shall act at all times as a prudent administrator, and shall be personally responsible for all damages resulting from his failure so to act.

Present law provides that a nonresident succession representative may execute a power of attorney appointing a resident of the state to represent him in all acts of his administration. A resident succession representative who will be absent from the state temporarily similarly may appoint an agent to act for him during his absence. In either case, the power of attorney appointing the agent shall be filed in the record of the succession proceeding.

Proposed law provides that except where the testament provides otherwise, any restrictions provided in a valid testament of a decedent or a contrary order of a court of competent jurisdiction, a succession representative shall have the power and authority to take control of, handle, conduct, continue, distribute, or terminate any digital account of the decedent.

Proposed law provides that any person that electronically stores, maintains, manages, controls, operates or administers the digital accounts of a decedent shall transfer, deliver, or provide a succession representative access or possession of any digital account of a decedent within 30 days of its receipt of either a death certificate of the decedent and letters testamentary evidencing the appointment of the succession representative or a copy of the court order appointing the succession representative.

Proposed law provides that it supersedes any contrary provision in the terms and conditions of any service agreement and a succession representative shall be considered an authorized user with lawful consent of the decedent for purposes of accessing or possession of the decedent's digital accounts.

Proposed law provides that for purposes of proposed law, the term "digital account" includes any account of the decedent on any social networking Internet website, web log Internet website, microblog service Internet website, short message service Internet website, electronic mail service Internet website, financial account Internet website, or any similar electronic services or records, together with any words, characters, codes, or contractual rights necessary to access such digital assets and any text, images, multimedia information, or other personal property stored by or through such digital account.

Effective August 1, 2014.

(Amends C.C.P. Art. 3191)