

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 461 By Senator Peacock**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

SUCCESSIONS. Provides relative to electronic assets of a decedent. (8/1/14)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Changed "contrary order of the court" to "order of the court" for the purposes of authorizing a succession representative to take control of a digital account of the decedent, unless the decedent has provided restrictions in a valid testament or upon order of a court of competent jurisdiction.
2. Adds provision prohibiting a cause of action against a provider of digital account services for actions taken to disclose or access the contents of a digital account under proposed law.
3. Makes technical changes.

Peacock

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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 subject to any restrictions provided in a valid testament of a decedent or an 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, except as provided in proposed law and to the extent permitted by federal law, 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 after receipt of letters testamentary, letters of administration, or letters of independent administration evidencing the appointment of the succession representative.

Proposed law provides that provisions of the Louisiana Banking Law (R.S. 6:325 or R.S. 6:767) shall control how federally insured financial institutions provide Internet or other electronic access to an authorized succession representative for the administration of a decedent's estate.

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 possessing the decedent's digital accounts.

Proposed law prohibits any cause of action in any court of this state against a provider of digital account service, including its officers, directors, employees, agents, members, or other specified persons for any action taken to disclose or otherwise provide access to the contents of a digital account.

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.

Provides that the authority provided in proposed law shall be specifically subject to copyright law and shall not increase the scope of the license granted in the terms of service of any digital account. Proposed law further provides that the agent, representative or fiduciary shall be personally responsible for any infringement of third party copyrights that occurs in the transfer or distribution of any digital account or its contents.

Effective August 1, 2014.

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

Thomas L. Tyler
Deputy Chief of Staff