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Where do tweets go when you die – hint, not to heaven

Guest Column
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When your life flashes before your eyes moments before you die, you likely won't be thinking about your tweet count, your Farmville assets, your Bitcoins, your iTunes play-lists, or how many "likes" your last status update received. However, a new law is aimed at helping your family access and manage those accounts after you die. Called the "Uniform Fiduciary Access to Digital Assets Act," it is a model law, which means that it serves as a blueprint to help states address this growing issue.

This legislation is sorely needed. According to McAfee, a global leader in computer security technology, Americans estimate that their digital assets are worth approximately $55,000. These digital assets include music, movies, gaming credits, client lists and photographs. It has never been clear exactly what happens to those items when you die or who could access to them. News headlines often contain stories about parents or spouses who sought access to their loved ones' social media accounts for personal or financial reasons, only to be stonewalled by Facebook, Twitter and other platforms that required a court order before turning over any account information.

The act seeks to address these issues by recognizing that people have property rights in digital assets. It then allows a person's trustee or executor to access those digital assets without a court order. Finally, the act tries to strike a balance between facilitating a fiduciary's access while respecting the intent of the deceased account holder.

The act broadly defines a "digital asset" simply as "an electronic record." Thus, basically anything stored electronically – emails, bank statements, account balances, photos, tweets, etc. – is covered by the act.

The act also says that unless a court or decedent provides otherwise (such as in a will), his or her personal representative (i.e., trustee, executor, etc.) can access these digital assets. Notably, however, decedents always control whether anyone can access their digital assets after death. If decedents want no one to access their digital assets after death, they could say this in their wills.

Here are some practical tips to consider regardless of whether the act is adopted in Rhode Island.

- Take an inventory of your digital assets. You will probably be surprised to discover their nature and extent.
- Consider amending your will or trust to make clear who can access your digital assets and under what conditions. For example, you might want to give your executor access to your banking and account

records, but perhaps not your social media accounts. You may adjust your wishes as the nature of your digital assets changes over time.

- Few people are aware that since 2007 Rhode Island is one of only a handful of states that permits executors to access a deceased person's email accounts. All your executor needs to do after you die is send a copy of a death certificate and proof of their appointment as executor to an email service provider. The provider must then provide access to your emails. However, the act – if adopted in Rhode Island – will take this one step further and expand this access to all of your digital assets.

The General Assembly would be wise to consider adopting the act in its current form so that spouses and surviving loved ones can efficiently administer a deceased person's estate, which increasingly includes digital assets. •

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