

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 827 Session of  
2017

---

INTRODUCED BY KILLION, BROWNE, COSTA, FOLMER, HAYWOOD, HUGHES,  
LAUGHLIN, MCGARRIGLE, RAFFERTY, SCHWANK AND VULAKOVICH,  
JUNE 29, 2017

---

REFERRED TO JUDICIARY, JUNE 29, 2017

---

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, enacting the Revised  
3 Uniform Fiduciary Access to Digital Assets Act (2015);  
4 providing for user direction and agreements, for disclosure  
5 of digital assets and electronic communications, for  
6 functions of fiduciaries and for compliance and immunity for  
7 custodians of digital assets and electronic communications;  
8 making conforming amendments; and providing for functions of  
9 the Administrative Office of Pennsylvania Courts.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 711 of Title 20 of the Pennsylvania  
13 Consolidated Statutes is amended by adding a paragraph to read:

14 § 711. Mandatory exercise of jurisdiction through orphans'  
15 court division in general.

16 Except as provided in section 712 (relating to nonmandatory  
17 exercise of jurisdiction through the orphans' court division)  
18 and section 713 (relating to special provisions for Philadelphia  
19 County), the jurisdiction of the court of common pleas over the  
20 following shall be exercised through its orphans' court  
21 division:

1 \* \* \*

2 (23) Digital assets.--All matters pertaining to Chapter  
3 39 (relating to uniform fiduciary access to digital assets).

4 Section 2. Title 20 is amended by adding a chapter to read:

5 CHAPTER 39

6 UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS

7 Sec.

8 3901. Short title of chapter.

9 3902. Definitions.

10 3903. Applicability.

11 3904. User direction for disclosure of digital assets.

12 3905. Terms-of-service agreement.

13 3906. Procedure for disclosing digital assets.

14 3907. Disclosure of content of electronic communications of  
15 deceased user.

16 3908. Disclosure of other digital assets of deceased user.

17 3909. Disclosure of content of electronic communications of  
18 principal.

19 3910. Disclosure of other digital assets of principal.

20 3911. Disclosure of digital assets held in trust when trustee  
21 is original user.

22 3912. Disclosure of contents of electronic communications held  
23 in trust when trustee not original user.

24 3913. Disclosure of other digital assets held in trust when  
25 trustee not original user.

26 3914. Disclosure of digital assets to guardian of the estate.

27 3915. Fiduciary duty and authority.

28 3916. Custodian compliance and immunity.

29 3917. Uniformity of application and construction.

30 3918. Relation to Electronic Signatures in Global and National

1 Commerce Act.

2 § 3901. Short title of chapter.

3 This chapter may be cited as the Revised Uniform Fiduciary  
4 Access to Digital Assets Act (2015).

5 § 3902. Definitions.

6 The following words and phrases when used in this chapter  
7 shall have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 "Account." An arrangement under a terms-of-service agreement  
10 in which a custodian:

11 (1) carries, maintains, processes, receives or stores a  
12 digital asset of the user; or

13 (2) provides goods or services to the user.

14 "Agent." As defined in section 5601(f) (relating to general  
15 provisions).

16 "Carries." Engages in the transmission of an electronic  
17 communication.

18 "Catalog of electronic communications." Information which  
19 identifies:

20 (1) each person that has had an electronic communication  
21 with a user;

22 (2) the time and date of the electronic communication;  
23 and

24 (3) the electronic address of the person under paragraph  
25 (1).

26 "Conservator." A guardian of the estate.

27 "Content of an electronic communication." Information  
28 concerning the substance or meaning of the electronic  
29 communication which:

30 (1) has been sent or received by a user;

1       (2) is in electronic storage by a custodian providing an  
2 electronic communication service to the public or is carried  
3 or maintained by a custodian providing a remote computing  
4 service to the public; and

5       (3) is not readily accessible to the public.

6       "Custodian." A person that carries, maintains, processes,  
7 receives or stores a digital asset of a user.

8       "Designated recipient." A person chosen by a user using an  
9 online tool to administer digital assets of the user.

10       "Digital asset." An electronic record in which an individual  
11 has a right or interest. The term does not include an underlying  
12 asset or liability unless the asset or liability is itself an  
13 electronic record.

14       "Electronic." Relating to technology having electrical,  
15 digital, magnetic, wireless, optical, electromagnetic or similar  
16 capabilities.

17       "Electronic communication." As defined in 18 U.S.C. §  
18 2510(12) (relating to definitions).

19       "Electronic communication service." A custodian that  
20 provides to a user the ability to send or receive an electronic  
21 communication.

22       "Electronic communications system." As defined in 18 U.S.C.  
23 § 2510(14).

24       "Guardian of the estate." A person appointed by a court to  
25 manage the estate of a living individual. The term includes a  
26 limited guardian of the estate.

27       "Information." Data, text, images, videos, sounds, codes,  
28 computer programs, software, databases or the like.

29       "Online tool." An electronic service provided by a custodian  
30 which allows the user, in an agreement distinct from the terms-

1 of-service agreement between the custodian and user, to provide  
2 directions for disclosure or nondisclosure of digital assets to  
3 a third person.

4 "Person." Any individual, estate, business or nonprofit  
5 entity, public corporation, government or governmental  
6 subdivision, agency or instrumentality; or other legal entity.

7 "Power of attorney." A record which grants an agent  
8 authority to act in the place of a principal.

9 "Principal." An individual who grants authority to an agent  
10 in a power of attorney.

11 "Protected person." An individual for whom a guardian of the  
12 estate has been appointed. The term includes an individual for  
13 whom an application for the appointment of a guardian of the  
14 estate is pending.

15 "Record." Information that is inscribed on a tangible medium  
16 or that is stored in an electronic or other medium and is  
17 retrievable in perceivable form.

18 "Remote computing service." A custodian that provides to a  
19 user computer-processing services or the storage of digital  
20 assets by means of an electronic communications system.

21 "Terms-of-service agreement." An agreement which controls  
22 the relationship between a user and a custodian.

23 "Trustee." A fiduciary with legal title to property under an  
24 agreement or declaration which creates a beneficial interest in  
25 another. The term includes a successor trustee.

26 "User." A person that has an account with a custodian.

27 § 3903. Applicability.

28 (a) Time.--This chapter applies to:

29 (1) a fiduciary acting under a will or power of attorney  
30 executed before, on or after the effective date of this

1 section;

2 (2) a personal representative acting for a decedent who  
3 died before, on or after the effective date of this section;

4 (3) a proceeding for the appointment of a guardian of  
5 the estate commenced before, on or after the effective date  
6 of this section; and

7 (4) a trustee acting under a trust created before, on or  
8 after the effective date of this section.

9 (b) Residence of user.--This chapter applies to a custodian  
10 if the user resides in this Commonwealth or resided in this  
11 Commonwealth at the time of the user's death.

12 (c) Employers.--This chapter does not apply to a digital  
13 asset of an employer used by an employee in the ordinary course  
14 of the employer's business.

15 § 3904. User direction for disclosure of digital assets.

16 (a) Use of online tool.--

17 (1) A user may use an online tool to direct the  
18 custodian to disclose or not to disclose some or all of the  
19 user's digital assets, including the content of electronic  
20 communications.

21 (2) If the online tool allows the user to modify or  
22 delete a direction at all times, a direction regarding  
23 disclosure using an online tool overrides a contrary  
24 direction by the user in a will, trust, power of attorney or  
25 other record.

26 (b) Nonuse of online tool.--If a user has not used an online  
27 tool to give direction under subsection (a) or if the custodian  
28 has not provided an online tool, the user may, in a will, trust,  
29 power of attorney or other record, allow or prohibit disclosure  
30 to a fiduciary of some or all of the user's digital assets,

1 including the content of electronic communications sent or  
2 received by the user.

3 (c) User's direction.--A user's direction under subsection  
4 (a) or (b) overrides a contrary provision in a terms-of-service  
5 agreement which does not require the user to act affirmatively  
6 and distinctly from the user's assent to the terms of service.  
7 § 3905. Terms-of-service agreement.

8 (a) Alteration of rights under this chapter.--This chapter  
9 does not change or impair a right of a custodian or a user under  
10 a terms-of-service agreement to access and use digital assets of  
11 the user.

12 (b) Additional rights under this chapter.--This chapter does  
13 not give a fiduciary or designated recipient any new or expanded  
14 rights other than those held by the user for whom, or for whose  
15 estate, the fiduciary acts or represents.

16 (c) Absence of direction.--A fiduciary's access to digital  
17 assets may be modified or eliminated by a user, by Federal law,  
18 or by a terms-of-service agreement if the user has not provided  
19 direction under section 3904 (relating to user direction for  
20 disclosure of digital assets).

21 § 3906. Procedure for disclosing digital assets.

22 (a) Authority of custodian.--When disclosing digital assets  
23 of a user under this chapter, the custodian has the sole  
24 discretion to:

25 (1) grant a fiduciary or designated recipient full  
26 access to the user's account;

27 (2) grant a fiduciary or designated recipient partial  
28 access to the user's account sufficient to perform the tasks  
29 with which the fiduciary or designated recipient is charged;

30 or

1 (3) provide a fiduciary or designated recipient a copy  
2 in a record of any digital asset which, on the date the  
3 custodian received the request for disclosure, the user could  
4 have accessed if the user were alive and had full capacity  
5 and access to the account.

6 (b) Charge.--A custodian may assess a reasonable  
7 administrative charge for the cost of disclosing digital assets  
8 under this chapter.

9 (c) Deleted digital assets.--A custodian need not disclose  
10 under this chapter a digital asset deleted by a user.

11 (d) Segregation.--If a user directs or a fiduciary requests  
12 a custodian to disclose under this chapter some, but not all, of  
13 the user's digital assets, the custodian need not disclose the  
14 digital assets if segregation of the digital assets would impose  
15 an undue burden on the custodian. If the custodian believes the  
16 direction or request imposes an undue burden, the custodian or  
17 fiduciary may seek an order from the court to do any of the  
18 following:

19 (1) Disclose a subset limited by date of the user's  
20 digital assets.

21 (2) Disclose all of the user's digital assets to the  
22 fiduciary or designated recipient.

23 (3) Disclose none of the user's digital assets.

24 (4) Disclose all of the user's digital assets to the  
25 court for review in camera.

26 § 3907. Disclosure of content of electronic communications of  
27 deceased user.

28 If a deceased user consented or a court directs disclosure of  
29 the content of electronic communications of the user, the  
30 custodian shall disclose to the personal representative of the

1 estate of the user the content of an electronic communication  
2 sent or received by the user if the personal representative  
3 gives the custodian:

4 (1) a written request for disclosure in physical or  
5 electronic form;

6 (2) a certified copy of the death certificate of the  
7 user;

8 (3) a certified copy of the letters;

9 (4) unless the user provided direction using an online  
10 tool, a copy of the user's will, trust, power of attorney or  
11 other record evidencing the user's consent to disclosure of  
12 the content of electronic communications; and

13 (5) if requested by the custodian:

14 (i) any number, username, address or other unique  
15 subscriber or account identifier, assigned by the  
16 custodian to identify the user's account;

17 (ii) evidence linking the account to the user; or

18 (iii) a finding by the court that:

19 (A) the user had a specific account with the  
20 custodian, identifiable by the information specified  
21 in subparagraph (i);

22 (B) disclosure of the content of electronic  
23 communications of the user would not violate 18  
24 U.S.C. Ch. 21 (relating to stored wire and electronic  
25 communications and transactional records access),  
26 section 222 of the Communications Act of 1934 (48  
27 Stat. 1064, 47 U.S.C. § 222) or other applicable law;

28 (C) unless the user provided direction using an  
29 online tool, the user consented to disclosure of the  
30 content of electronic communications; or

1                   (D) disclosure of the content of electronic  
2                   communications of the user is reasonably necessary  
3                   for administration of the estate.

4 § 3908. Disclosure of other digital assets of deceased user.

5       (a) Obligations of representative.--Unless the user  
6 prohibited disclosure of digital assets or the court directs  
7 otherwise, a custodian shall disclose to the personal  
8 representative of the estate of a deceased user a catalog of  
9 electronic communications sent or received by the user and any  
10 digital assets, other than the content of electronic  
11 communications, of the user, if the personal representative  
12 gives the custodian:

13           (1) a written request for disclosure in physical or  
14 electronic form;

15           (2) a certified copy of the death certificate of the  
16 user;

17           (3) a certified copy of the letters; and

18           (4) if requested by the custodian:

19               (i) any number, username, address or other unique  
20 subscriber or account identifier, assigned by the  
21 custodian to identify the user's account;

22               (ii) evidence linking the account to the user;

23               (iii) an affidavit by the personal representative  
24 stating that disclosure of the user's digital assets is  
25 reasonably necessary for administration of the estate; or

26               (iv) a finding of the court that:

27                   (A) the user had a specific account with the  
28 custodian, identifiable by the information specified  
29 in subparagraph (i); or

30                   (B) disclosure of the user's digital assets is

1 reasonably necessary for administration of the  
2 estate.

3 (b) Finding of the court.--For the purposes of disclosure to  
4 the personal representative of the estate of a deceased user of  
5 a catalog of electronic communications, the issuance of letters  
6 testamentary or letters of administration to the personal  
7 representative by a register under section 901 (relating to  
8 register's jurisdiction) shall, unless otherwise provided by  
9 rules of court or a court order, have the same force and effect  
10 as a finding of the court under subsection (a) (4) (iv) and  
11 section 3916(e) (relating to custodian compliance and immunity),  
12 if the personal representative:

13 (1) files with the register an affidavit subject to  
14 penalties under 18 Pa.C.S. § 4904 (relating to unsworn  
15 falsification to authorities) setting forth the information  
16 required by subsection (a) (4) (i), (ii) and (iii) regarding  
17 records of electronic communications in the custody or  
18 control of the custodian; and

19 (2) upon request, provides to the custodian a copy of  
20 the affidavit bearing evidence of filing with the register.

21 (c) Form of affidavit.--The affidavit required by subsection  
22 (a) (4) (iii) or (b) (1) may be provided by:

23 (1) an averment in the petition under section 3153  
24 (relating to contents of petition) or the affidavit under  
25 section 3154 (relating to affidavit and oath); or

26 (2) a supplement to the petition under section 3153 or  
27 the affidavit under section 3154 which is filed with and  
28 sworn before the register.

29 § 3909. Disclosure of content of electronic communications of  
30 principal.

1 To the extent a power of attorney expressly grants an agent  
2 authority over the content of electronic communications sent or  
3 received by the principal and unless directed otherwise by the  
4 principal or the court, a custodian shall disclose to the agent  
5 the content of an electronic communication if the agent gives  
6 the custodian:

7 (1) a written request for disclosure in physical or  
8 electronic form;

9 (2) an original or a copy of the power of attorney  
10 expressly granting the agent authority over the content of  
11 electronic communications of the principal;

12 (3) a certification by the agent, under penalty of  
13 perjury, that the power of attorney is in effect; and

14 (4) if requested by the custodian:

15 (i) any number, username, address or other unique  
16 subscriber or account identifier, assigned by the  
17 custodian to identify the principal's account; or

18 (ii) evidence linking the account to the principal.

19 § 3910. Disclosure of other digital assets of principal.

20 Unless otherwise ordered by the court, directed by the  
21 principal or provided by a power of attorney, a custodian shall  
22 disclose to an agent with specific authority over digital assets  
23 or general authority to act on behalf of a principal a catalog  
24 of electronic communications sent or received by the principal  
25 and any digital assets, other than the content of electronic  
26 communications, of the principal if the agent gives the  
27 custodian:

28 (1) a written request for disclosure in physical or  
29 electronic form;

30 (2) an original or a copy of the power of attorney that

1 gives the agent specific authority over digital assets or  
2 general authority to act on behalf of the principal;

3 (3) a certification by the agent, under penalty of  
4 perjury, that the power of attorney is in effect under  
5 section 5606 (relating to proof of continuance of powers of  
6 attorney by affidavit); and

7 (4) if requested by the custodian:

8 (i) any number, username, address or other unique  
9 subscriber or account identifier, assigned by the  
10 custodian to identify the principal's account; or

11 (ii) evidence linking the account to the principal.

12 § 3911. Disclosure of digital assets held in trust when trustee  
13 is original user.

14 Unless otherwise ordered by the court or provided in a trust,  
15 a custodian shall disclose to a trustee that is an original user  
16 of an account any digital asset of the account held in trust,  
17 including a catalog of electronic communications of the trustee  
18 and the content of electronic communications.

19 § 3912. Disclosure of contents of electronic communications  
20 held in trust when trustee not original user.

21 Unless otherwise ordered by the court, directed by the user  
22 or provided in a trust, a custodian shall disclose to a trustee  
23 that is not an original user of an account the content of an  
24 electronic communication sent or received by an original or  
25 successor user and carried, maintained, processed, received or  
26 stored by the custodian in the account of the trust if the  
27 trustee gives the custodian:

28 (1) a written request for disclosure in physical or  
29 electronic form;

30 (2) a certified copy of the trust instrument or a

1 certification of the trust under section 7790.3 (relating to  
2 certification of trust - UTC 1013), which includes consent to  
3 disclosure of the content of electronic communications to the  
4 trustee;

5 (3) a certification by the trustee, under penalty of  
6 perjury, that the trust exists and the trustee is a currently  
7 acting trustee of the trust; and

8 (4) if requested by the custodian:

9 (i) any number, username, address or other unique  
10 subscriber or account identifier, assigned by the  
11 custodian to identify the trust's account; or

12 (ii) evidence linking the account to the trust.

13 § 3913. Disclosure of other digital assets held in trust when  
14 trustee not original user.

15 Unless otherwise ordered by the court, directed by the user  
16 or provided in a trust, a custodian shall disclose to a trustee  
17 that is not an original user of an account a catalog of  
18 electronic communications sent or received by an original or  
19 successor user and stored, carried or maintained by the  
20 custodian in an account of the trust and any digital assets,  
21 other than the content of electronic communications, in which  
22 the trust has a right or interest if the trustee gives the  
23 custodian:

24 (1) a written request for disclosure in physical or  
25 electronic form;

26 (2) a certified copy of the trust instrument or a  
27 certification of the trust under section 7790.3 (relating to  
28 certification of trust - UTC 1013);

29 (3) a certification by the trustee, under penalty of  
30 perjury, that the trust exists and the trustee is a currently

1 acting trustee of the trust; and

2 (4) if requested by the custodian:

3 (i) any number, username, address or other unique  
4 subscriber or account identifier, assigned by the  
5 custodian to identify the trust's account; or

6 (ii) evidence linking the account to the trust.

7 § 3914. Disclosure of digital assets to guardian of the estate.

8 (a) Access.--After an opportunity for a hearing, the court  
9 may grant a guardian of the estate access to the digital assets  
10 of a protected person.

11 (b) Disclosure.--Unless otherwise ordered by the court or  
12 directed by the user, a custodian shall disclose to a guardian  
13 of the estate the catalog of electronic communications sent or  
14 received by the protected person and any digital assets, other  
15 than the content of electronic communications, in which the  
16 protected person has a right or interest if the guardian of the  
17 estate gives the custodian:

18 (1) a written request for disclosure in physical or  
19 electronic form;

20 (2) a certified copy of the court order which gives the  
21 guardian of the estate authority over the digital assets of  
22 the protected person; and

23 (3) if requested by the custodian:

24 (i) any number, username, address or other unique  
25 subscriber or account identifier, assigned by the  
26 custodian to identify the account of the protected  
27 person; or

28 (ii) evidence linking the account to the protected  
29 person.

30 (c) Account activity.--A guardian of the estate with general

1 authority to manage the assets of a protected person may request  
2 a custodian of the digital assets of the protected person to  
3 suspend or terminate an account of the protected person for good  
4 cause. A request made under this subsection must be accompanied  
5 by a certified copy of the court order giving the guardian of  
6 the estate authority over the protected person's property.  
7 § 3915. Fiduciary duty and authority.

8 (a) Duties.--The legal duties imposed on a fiduciary charged  
9 with managing tangible property apply to the management of  
10 digital assets, including:

- 11 (1) the duty of care;  
12 (2) the duty of loyalty; and  
13 (3) the duty of confidentiality.

14 (b) Authority.--A fiduciary's authority with respect to a  
15 digital asset of a user:

- 16 (1) except as otherwise provided in section 3904  
17 (relating to user direction for disclosure of digital  
18 assets), is subject to the applicable terms of service;  
19 (2) is subject to other applicable law, including  
20 copyright law;  
21 (3) is limited by the scope of the fiduciary's duties;  
22 and  
23 (4) may not be used to impersonate the user.

24 (c) Access.--A fiduciary with authority over the property of  
25 a decedent, protected person, principal or settlor has the right  
26 to access any digital asset:

- 27 (1) in which the decedent, protected person, principal  
28 or settlor had a right or interest; and  
29 (2) which is not held by a custodian or subject to a  
30 terms-of-service agreement.

1 (d) Authorized user.--A fiduciary acting within the scope of  
2 the fiduciary's duties is an authorized user of the property of  
3 the decedent, protected person, principal or settlor for the  
4 purpose of applicable computer fraud and unauthorized computer  
5 access laws, including 18 Pa.C.S. Ch. 76 (relating to computer  
6 offenses).

7 (e) Tangible, personal property.--A fiduciary with authority  
8 over the tangible, personal property of a decedent, protected  
9 person, principal or settlor:

10 (1) has the right to access the property and any digital  
11 asset stored in it; and

12 (2) is an authorized user for the purpose of computer  
13 fraud and unauthorized computer access laws, including 18  
14 Pa.C.S. Ch. 76.

15 (f) Disclosure by custodian.--A custodian may disclose  
16 information in an account to a fiduciary of the user when the  
17 information is required to terminate an account used to access  
18 digital assets licensed to the user.

19 (g) Termination of account.--A fiduciary of a user may  
20 request a custodian to terminate the user's account. A request  
21 for termination must be in writing, in either physical or  
22 electronic form, and be accompanied by:

23 (1) if the user is deceased, a certified copy of the  
24 death certificate of the user;

25 (2) a certified copy of the letters, court order, power  
26 of attorney or trust, giving the fiduciary authority over the  
27 account; and

28 (3) if requested by the custodian:

29 (i) any number, username, address or other unique  
30 subscriber or account identifier, assigned by the

1 custodian to identify the user's account;  
2 (ii) evidence linking the account to the user; or  
3 (iii) a finding by the court that the user had a  
4 specific account with the custodian, identifiable by the  
5 information specified in subparagraph (i).

6 § 3916. Custodian compliance and immunity.

7 (a) Requirement.--Not later than 60 days after receipt of  
8 the information required under sections 3907 (relating to  
9 disclosure of content of electronic communications of deceased  
10 user) through 3915 (relating to fiduciary duty and authority), a  
11 custodian shall comply with a request under this chapter from a  
12 fiduciary or designated recipient to disclose digital assets or  
13 terminate an account. If the custodian fails to comply, the  
14 fiduciary or designated representative may apply to the court  
15 for an order directing compliance.

16 (b) Court order.--An order under subsection (a) directing  
17 compliance must contain a finding that compliance is not in  
18 violation of 18 U.S.C. § 2702 (relating to voluntary disclosure  
19 of customer communications or records).

20 (c) Notification.--A custodian may notify the user that a  
21 request for disclosure or to terminate an account was made under  
22 this chapter.

23 (d) Lawful access following termination request.--A  
24 custodian may deny a request under this chapter from a fiduciary  
25 or designated recipient for disclosure of digital assets or to  
26 terminate an account if the custodian is aware of any lawful  
27 access to the account following the receipt of the fiduciary's  
28 request.

29 (e) Additional court orders.--This chapter does not limit a  
30 custodian's ability to obtain or require a fiduciary or

1 designated recipient requesting disclosure or termination under  
2 this chapter to obtain a court order which:

3 (1) specifies that an account belongs to the protected  
4 person or principal;

5 (2) specifies that there is sufficient consent from the  
6 protected person or principal to support the requested  
7 disclosure; and

8 (3) contains a finding required by law other than this  
9 chapter.

10 (f) Immunity.--A custodian and its officers, employees and  
11 agents are immune from liability for an act or omission done in  
12 good faith in compliance with this chapter.

13 § 3917. Uniformity of application and construction.

14 In applying and construing this uniform act, consideration  
15 must be given to the need to promote uniformity of the law with  
16 respect to its subject matter among states that enact it.

17 § 3918. Relation to Electronic Signatures in Global and  
18 National Commerce Act.

19 To the extent permitted by section 102 of the Electronic  
20 Signatures in Global and National Commerce Act (Public Law 106-  
21 229, 15 U.S.C. § 7002), this chapter may supersede provisions of  
22 that act.

23 Section 3. Section 5601.4(a) of Title 20 is amended by  
24 adding a paragraph to read:

25 § 5601.4. Authority that requires specific and general grant of  
26 authority.

27 (a) General rule.--An agent under a power of attorney may do  
28 the following on behalf of the principal or with the principal's  
29 property only if the power of attorney expressly grants the  
30 agent the authority and exercise of the authority is not

1 otherwise prohibited by another agreement or instrument to which  
2 the authority or property is subject:

3 \* \* \*

4 (9) Access the electronic communications and digital  
5 assets of the principal. As used in this paragraph, the  
6 following words and phrases shall have the meanings given to  
7 them in this subsection unless the context clearly indicates  
8 otherwise:

9 "Digital assets." As defined in section 3902  
10 (relating to definitions).

11 "Electronic communication." As defined in section  
12 3902.

13 \* \* \*

14 Section 4. The Administrative Office of Pennsylvania Courts  
15 may promulgate rules and forms to implement the addition of 20  
16 Pa.C.S. § 3908(a)(4)(iv) and (b).

17 Section 5. The addition of 20 Pa.C.S. § 5601.4(a)(9) shall  
18 apply to a power of attorney executed on or after the effective  
19 date of this section.

20 Section 6. This act shall take effect in 60 days.