

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend the Code of Virginia by adding in Chapter 1 of Title 64.2 an article numbered 3,
3 consisting of sections numbered 64.2-109 and 64.2-110, relating to personal representative access to
4 digital accounts.

5 [H 1752]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That the Code of Virginia is amended by adding in Chapter 1 of Title 64.2 an article numbered**
9 **3, consisting of sections numbered 64.2-109 and 64.2-110, as follows:**

10 *Article 3.*11 *Personal Representative Access to Digital Accounts.*12 **§ 64.2-109. Definitions.**13 *As used in this article, unless the context requires otherwise:*

14 *"Digital account" means an electronic account maintained, managed, controlled, or operated by a*
15 *minor in accordance with a terms of service agreement legally executed by such minor and includes*
16 *blogging, email, multimedia, personal, social networking, and other online accounts or comparable*
17 *items as technology develops. "Digital account" excludes accounts as such term is defined in § 6.2-604*
18 *to which a financial institution, financial institution holding company, or affiliate or subsidiary of a*
19 *financial institution is a party.*

20 *"Personal representative" has the same meaning as provided in § 64.2-100.*

21 *"Terms of service agreement" means any legally executed agreement that controls a relationship*
22 *between a minor and any person or entity that maintains, manages, or supervises a digital account of a*
23 *minor.*

24 **§ 64.2-110. Power granted to personal representative.**

25 *A. A personal representative of a deceased minor who was domiciled in the Commonwealth at the*
26 *time of his death may assume the deceased minor's terms of service agreement for a digital account*
27 *with an Internet service provider, communications service provider, or other online account service*
28 *provider for purposes of consenting to and obtaining the disclosure of the contents of the deceased*
29 *minor's communications and subscriber records pursuant to 18 U.S.C. § 2702 unless such access is*
30 *contrary to the express provisions of a will, trust instrument, power of attorney, or court order. Such*
31 *access shall be subject to the same license, restrictions, or legal obligations of the deceased minor.*

32 *B. An Internet service provider, communications service provider, or other online account service*
33 *provider shall provide to the personal representative access to the deceased minor's communications and*
34 *subscriber records pursuant to subsection A within 60 days from the receipt of (i) a written request for*
35 *such access by the personal representative and (ii) a copy of the death certificate of the deceased minor.*
36 *However, if the Internet service provider, communications service provider, or other online account*
37 *service provider receives notice of a claim or dispute regarding providing access to the deceased*
38 *minor's communications and subscriber records pursuant to this subsection, such provider is not*
39 *required to comply with any written request received pursuant to this subsection until a final*
40 *nonappealable judgment is rendered by a court of competent jurisdiction determining the rights in or*
41 *entitlement to any content in the deceased minor's digital account.*

42 *C. Nothing in this section shall be construed to require an Internet service provider, communications*
43 *service provider, or other online account service provider to disclose any information in violation of any*
44 *applicable state or federal law.*

45 *D. No person may maintain a cause of action against an Internet service provider, communications*
46 *service provider, or other online account service provider for acting in compliance with this section.*