WEST VIRGINIA CODE: §44-5B-2

§44-5B-2. Definitions.

In this article:

“Account” means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user;

“Agent” means an attorney-in-fact granted authority under a durable or nondurable power of attorney;

“Carries” means engages in the transmission of an electronic communication;

“Catalogue of electronic communications” means information that identifies each person with whom a user has had an electronic communication, the time and date of the communication, and the electronic address of the person;

“Conservator” means a person appointed by a court to manage the estate and financial affairs of a protected person. The term includes a limited conservator and temporary conservator;

“Content of an electronic communication” means information concerning the substance or meaning of the communication which:

(1) Has been sent or received by a user;

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

(3) Is not readily accessible to the public;

“Court” means the circuit court of the county having jurisdiction over the fiduciary or designated recipient;

“Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of a user;

“Designated recipient” means a person chosen by a user using an online tool to administer digital assets of the user;

“Digital asset” means an electronic record in which an individual has a right or interest. The

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term does not include an underlying asset or liability, unless the asset or liability is itself an electronic record;

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

“Electronic communication” has the meaning set forth in 18 U.S.C. § 2510(12);

“Electronic communication service” means a custodian that provides to a user the ability to send or receive an electronic communication;

“Fiduciary” means an original, additional or successor personal representative, conservator, agent, or trustee;

“Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like;

“Online tool” means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person;

“Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity;

“Personal representative” means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this article;

“Power of attorney” means a record that grants an agent authority to act in the place of a principal;

“Principal” means an individual who grants authority to an agent in a power of attorney;

“Protected person” means an individual for whom a conservator has been appointed. The term includes an individual for whom an application for the appointment of a conservator is pending;

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

“Remote computing service” means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14);

“Terms of service agreement” means an agreement that controls the relationship between a user and a custodian;

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"Trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee;

"User" means a person that has an account with a custodian; and

"Will" includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

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